

# Adelphi University Code of Conduct

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NEW YORK



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# INTRODUCTION

Adelphi University has a clear mission:

*Our University transforms the lives of all students by creating a distinctive environment of intellectual rigor, research, creativity and deep community engagement across four core areas of focus: arts and humanities, STEAM and social sciences, the professions, and health and wellness.*

The ability and freedom to teach, learn and develop depends upon appropriate opportunities and conditions in the classroom, in the residence hall, elsewhere on campus, and in the greater academic community. The University has developed procedures and policies to safeguard this process and to maintain an environment conducive to the learning process.

Although no such document can be exhaustive, the purpose of a code of conduct is to set out standards of conduct, to give notice of expectations and prohibited behavior, and to identify the procedures the University may employ to resolve breaches of those standards. These policies and procedures are not meant to address simple differences of opinions or inhibit freedom of expression.

This *Code* applies to all members of the University community, as well as all others on University premises. Although exceptions for conduct apply to the entire community, the adjudication and related processes in this *Code* only apply to students. Further information regarding the enforcement of this *Code* may be found in Section 12.

The filing of a complaint under this *Code* is independent of any criminal investigation or proceeding. Individuals may be accountable to both civil and/ or criminal authorities and to the University for acts that constitute violations of law and of this *Code*. Proceedings under this *Code* may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Disciplinary action at the University will not be subject to challenge or delays on the grounds that criminal or civil charges involving the same incident have been dismissed, reduced or are pending.

Students are asked to assume positions of responsibility in the University disciplinary system in order that they might contribute insights and develop skills in the resolution of disciplinary cases.

All members of the University community are expected to maintain the highest standards of personal and academic integrity and are also asked to consider seriously their responsibility for shaping prevailing community standards. Everyone is encouraged to confront deviations in community standards or violations of policy in constructive ways, including the appropriate application of this *Code*. They are also encouraged to make reasonable efforts to prevent violations of policy or standards when it can be done in a safe manner.

Adelphi University believes that the procedures, policies, and safeguards described herein are indispensable to maintaining an academic environment appropriate to teaching, learning, and development.

This *Code of Conduct* is subject to change. The University will review this *Code* per Section 32 to ensure that it is up-to-date, applicable, and consistent with the University's mission.

Parts of this *Code of Conduct* have been inspired by suggestions for model codes by Gary Pavela and Ed Stoner and the *Code of Conduct* of Polytechnic University.

## 1. Definition of Terms

- **Affirmative Consent** is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

The following six principles, along with the above definition, will be used to evaluate whether affirmative consent was given:

- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.
- **Business days** mean days that University offices are open for business (excluding weekends). Class days and business days may not correspond.
- **Complainant** means a person who makes a complaint or reports a violation of the *Code of Conduct* or other University regulations and policies.
- **Confidentiality** may only be offered by some individuals, specifically, those who are not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers, and pastoral counselors are examples of institution employees who may offer confidentiality.
- **Dating Violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship shall be determined based on consideration of the following factors: the length of the relationship and the frequency of interaction between the persons involved in the relationship.
- **Disciplinary Conference** means an informal process designed to gather and consider relevant information regarding alleged violations of the *Code* and to determine a sanction, if applicable.
- **Disciplinary Hearing** means a formal process conducted by the University Hearing Board or another appropriate hearing office or body. This formal process is designed to gather and consider relevant information regarding an alleged violation of the *Code* and to determine a sanction, if appropriate.

Students who are accused of offenses that may result in a penalty of suspension or expulsion from the University are subject to a disciplinary hearing.

- **Distribution** means any form of sale, exchange, or transfer.
- **Domestic Violence** is violence committed by a current or former spouse of the victim or a person who is cohabitating romantically with the victim. It can be defined as a pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.
- **Faculty Advocates** refer to designated members of the faculty who are available to students to assist them through the disciplinary process. Faculty Advocates are appointed by the Provost.
- **Group** means a number of persons who are associated with each other, but who have not complied with University requirements for recognition as an organization.
- **Institution** and **University** mean Adelphi University and its entire undergraduate and graduate schools, colleges, divisions, and programs (whether on the Garden City campus, any other Adelphi campus or off campus).
- **Intentional** means deliberate.
- **Organization** means a number of persons who have complied with University requirements for recognition.
- **Privacy** means that even offices and employees who cannot guarantee confidentiality under the law will maintain the privacy of students to the greatest extent possible. The information provided to a nonconfidential resource, such as but not limited to a Student Conduct Officer, will be relayed only as necessary for the Title IX Coordinator and required administrators to investigate and/or seek a resolution.
- **Reckless** means careless or heedless of the potentially harmful consequences of one's behavior, where the risk of harm to persons, property or normal University operations can be reasonably foreseen.
- **Reporting Individual** as used in this *Code* shall refer to an individual who brings forth a report of a violation.
- **Respondent** means a person who has been accused of violating the *Code of Conduct*.
- **Sexual Assault** means any nonconsensual sexual intercourse and/or any nonconsensual sexual contact. For further explanation, see Sections 5b and 5c of the University's *Anti-Discrimination, Harassment (Including Sexual Misconduct), Dating Violence, Domestic Violence, Stalking, and Retaliation Policy*.
- **Stalking** is a course of unwanted and repeated conduct directed at a specific person designed for no legitimate purpose and which would cause a reasonable person to be in fear for his or her own safety, or the safety of others, or to suffer

substantial emotional distress. Stalking may include but is not limited to unwanted: following, communication (including electronic), visits, and gifts.

- **Student** means any currently enrolled person (or person enrolled at the time of an alleged violation) for whom the institution maintains education records, as defined by the Family Educational Rights and Privacy Act of 1974 and related regulations. A person who is currently not enrolled, but who is still pursuing a degree and has not withdrawn from the University (e.g., between fall and spring semester, over the summer, while studying abroad) is considered a student for the purpose of this *Code*. A person who was a student at the time of an incident is considered a student for the purpose of this *Code*.
- **Student Conduct Officer** refers to the Dean of Student Affairs or the administrator designated by the Dean of Student Affairs. The Student Conduct Officer is responsible for administering the day-to-day application of this *Code*. An individual wishing to make a complaint regarding violations of this *Code*, or seeking information regarding this *Code* or its application, should contact the Office of the Dean of Student Affairs.
- **University-Sponsored Activity** means any authorized activity on or off University premises that is initiated, aided, authorized, or supervised by the University or recognized student organizations.
- **Weapon** means any object or substance designed to wound, cause injury, or incapacitate persons or animals, or damage property, including, but not limited to, firearms, ammunition, explosives, other lethal weapons, and chemicals such as Mace and tear gas. Within the provisions of Article 265 of the New York State Penal Code, firearms and other dangerous weapons include, without limitation, a billy, blackjack or bludgeon, cane/sword, chuka stick, pistol, revolver, rifle, shotgun, machine gun, switchblade knife, gravity knife, pilum ballistic knife, metal knuckle knife, electronic dart gun, Kung Fu star, electronic stun gun, metal knuckles, sand bag, sand club, wrist-brace type slingshot or slungshot, dagger, dangerous knife, imitation pistol, or any other instrument or weapon. Also included are air-guns, spring guns or any other instrument or weapon in which the propelling force is a spring, air, piston, or CO2 cartridge. A harmless instrument designed to look like a firearm, explosive, or other weapon is expressly included within the meaning of weapon.
- **University Hearing Board**, which may be referred to as “the board” or “hearing board” is a group comprising three faculty members, three administrators, and three students designated by the University for formal disciplinary hearings.

## 2. Classroom and Field Placement Standards

The individual faculty member has primary responsibility for managing the classroom environment. If a student engages in any behavior that results in disruption of a class, he or she may be directed by the faculty member to leave the class for the remainder of the class period.

An instructor may make a request to the Associate Provost in the Office of Academic Services and Retention to withdraw a student from a course if the student’s behavior continues to disrupt the course. The Associate Provost will seek to resolve the issue by attempting to find a resolution that is agreeable to both the student and the professor. However, the Associate Provost will inform the Student Conduct Officer in all cases of inappropriate behavior, even

if a resolution is implemented, and the Student Conduct Officer may need to take additional action. If the Associate Provost is unsuccessful at finding a resolution, the Associate Provost will then refer the matter to the Student Conduct Officer, who will proceed in accord with the *Code of Conduct*.

The Student Conduct Officer will make every attempt to resolve the matter quickly, and whenever possible within seven business days. The student will not be allowed to return to the class until the matter is resolved by the Student Conduct Officer. The Student Conduct Officer will work with the Associate Provost in the Office of Academic Services and Retention to arrive at an outcome that preserves the integrity of the classroom, the authority of the professor and the rights of the student.

Individual schools and departments may have behavioral codes and expectations of professional standards that apply to classroom, clinical, field or other settings. Students in these schools or departments are accountable for those standards as well as the *Code of Conduct*.

### **3. Academic Honesty**

Academic integrity occupies the very center of the educational enterprise. Adelphi University encourages academic excellence in an environment that promotes honesty, integrity, and fairness. All members of the University community are expected to exercise honesty and integrity in their academic work and interactions with members of the University community. Each member of the University community shares the responsibility for securing and respecting an environment conducive to academic integrity. For additional information and resources concerning Academic Honesty please refer to the Committee for Academic Honesty: [operations.adelphi.edu/policies/academic-honesty](https://operations.adelphi.edu/policies/academic-honesty).

Academic dishonesty will not be tolerated, and persons who breach academic integrity will face disciplinary action. First-time violations of the University's *Code of Academic Honesty* will be resolved by the faculty member who reported the violation. Students who disagree with the faculty member's resolution may consult the faculty member's immediate supervisor (course coordinator, department chairperson, assistant dean, etc.).

Second violations of the University's *Code of Academic Honesty* will be referred to the Office of Student Conduct and Community Standards for possible disciplinary action as prescribed by the *Code of Conduct*. All previous cases of academic dishonesty involving the student will be considered in determining an appropriate sanction(s).

### **4. Identification Cards**

Each member of the University community is issued a picture identification card or temporary pass and must carry it with him or her at all times while on University premises or at University-sponsored activities. Identification cards must be presented upon request of any University official or agent in the normal conduct of University business.

- 4.1** Identification cards are not transferable. The owner of the card will be called upon to account for any fraudulent use of his or her identification card and will be subject to disciplinary action by the University if he or she has aided such fraudulent use. A card will be forfeited if the person to whom it was issued allows any other person to use the card.



- 4.2** If a student is suspended or expelled from the University, the identification card must be surrendered to the Student Conduct Officer.

## **5. Visitors and Guests**

Visitors, including invitees or licensees, shall conduct themselves, at all times, in a manner which is consistent with the maintenance of order on University premises pursuant to this *Code*; their privileges to remain on University property shall terminate upon violation of this *Code*. The University reserves the right to withdraw at any time the privileges of invitees or licensees to be on University premises. Trespassers have no privileges of any kind on University premises, but will be subject to the University's regulations governing the maintenance of order.

Additionally, students will be held accountable for the acts of misconduct of their guests while on University premises or at University-sponsored activities.

## **6. Office of the Dean of Student Affairs**

The Dean of Student Affairs, through the Student Conduct Officer, directs the efforts of students and staff members in matters involving student discipline. In addition, the Student Conduct Officer will provide opportunities for education, ethical development, outreach, and assessment in the areas of student conduct, conflict resolution, and civility. The responsibilities of the Student Conduct Officer include:

- 6.1** Determining on a case-by-case basis the disciplinary charges that apply pursuant to this *Code*.
- 6.2** Interviewing, advising, and assisting parties involved in disciplinary proceedings and arranging for a balanced presentation at disciplinary conferences or before the University Hearing Board.
- 6.3** Maintaining student disciplinary records.
- 6.4** Developing procedures for conflict resolution.
- 6.5** Resolving cases of student misconduct, as specified in this *Code*.
- 6.6** Creating, revising and maintaining forms necessary to implement this *Code*.
- 6.7** Developing, disseminating, interpreting, and enforcing campus regulations.
- 6.8** Maintaining a fair, reasonable and balanced environment when addressing student behavior and in processes associated with this *Code* and its proceedings. As such, the Student Conduct Officer will be a part of disciplinary conferences and hearings.
- 6.9** Whenever possible, providing learning opportunities for students found responsible for violating standards.
- 6.10** Helping foster students' ethical and personal development.

# **PARKING/TRAFFIC OFFENSES**

## **7. Parking/Traffic Enforcement**

The Department of Public Safety and Transportation is responsible for creating and enforcing parking and traffic regulations on campus. All members of the University community and their guests are responsible for obeying University, local, and State parking/traffic regulations. Those who do not are

subject to summonses, fines, towing, or immobilizing of their vehicle at the owner's expense. The University will not be responsible for damages caused by immobilizing or towing. A complete list of campus parking and traffic regulations can be found at [safety.adelphi.edu/parking/regulations](https://safety.adelphi.edu/parking/regulations).

## **8. Parking/Traffic Offense Appeal Officer**

Those receiving summonses may appeal those summonses. The Assistant Vice President of Public Safety and Transportation, or his or her designee, shall serve as the Parking/Traffic Offense Appeal Officer. This Appeal Officer shall hear and decide all appeals of nondisciplinary parking/traffic summonses issued. The decision of the Appeal Officer is final and not subject to further review.

## **9. Repeat or Serious Violators**

Repeated violations of parking/traffic regulations, or those deemed very serious, are subject to disciplinary proceedings as outlined in this *Code*.

# **DISCIPLINE**

## **10. Prohibited Conduct**

All members of the University community are prohibited from engaging in conduct resulting in or leading to any of the behaviors listed below. The following violations are not listed in any particular order, including the seriousness of the violation or possible sanction.

Although exceptions for conduct apply to the entire community, the adjudication and related processes in this *Code* only apply to students. Further information regarding the enforcement of this *Code* may be found in Section 12.

### **10.1A Assault and Physical Violence**

Intentionally or recklessly causing physical harm to any person including oneself. This section includes but is not limited to physical fights, intentionally or recklessly causing injuries, or any physical acts of aggression.

### **10.1B Endangerment, Threatening Behavior, or Intimidation**

All members of the University community, as well as visitors and guests, are required to treat each other with courtesy, consideration, and professionalism. The prohibited behavior includes intentionally or recklessly endangering, threatening, or causing reasonable apprehension of physical or mental harm to any person including oneself. This section also includes stalking or harassing behavior that includes, but is not limited to, threatening language, bullying, physical, verbal, or written intimidation, including cyberharassment. The behavior in question is typically such that, if left unaddressed, the person would be denied the ability to participate in or benefit from some educational or other experience.

### **10.1C Sexual Misconduct**

Any sexual behavior that occurs without the consent of the victim or that occurs when the victim is unable to give consent. See Adelphi University's *Anti-Discrimination, Harassment (Including Sexual Misconduct, Dating Violence,*

*Domestic Violence, Stalking) and Retaliation Policy: [hr.adelphi.edu/title-ix/university-policy](http://hr.adelphi.edu/title-ix/university-policy).*

Complaints of sexual misconduct made against students shall be investigated and adjudicated in accordance with this *Code* and consistent with Title IX of the Education Amendments of 1972, as amended, and Adelphi University's *Anti-Discrimination, Harassment (Including Sexual Misconduct, Dating Violence, Domestic Violence, Stalking) and Retaliation Policy*.

## **10.2 Weapons**

Unauthorized use, possession, or storage of any weapon, whether or not a federal or state license to possess the weapon has been issued to the possessor. Persons who are licensed and obligated to carry firearms should obtain written permission from the Associate Vice President of Public Safety and Campus Transportation or designee to bear such on University premises or at University-sponsored activities. See Section 1 for the University's definition of a weapon.

## **10.3 Interference With University Operation**

Intentionally or recklessly interfering with normal University operation or University-sponsored activities including, but not limited to, studying, teaching, research, and emergency services.

## **10.4 Violation of Disciplinary Sanction**

Knowingly violating terms of any disciplinary sanction imposed in accordance with this *Code*.

## **10.5 False Information**

Intentionally furnishing false information to the University or to University officials. This includes, but is not limited to, providing untrue or misleading information in a disciplinary conference or hearing, pursuant to this *Code*.

## **10.6A Alcohol**

The unlawful manufacture, distribution, dispensing, possession, or use of alcohol. In addition, possession of alcohol and alcohol containers is further regulated by University policy. This section also includes intoxication anywhere on any of Adelphi's campuses. See the Adelphi University Policies, Rules, and Standards Regarding Illicit Drugs and Alcohol in the *Guide to Student Life* for complete information: [operations.adelphi.edu/policies/illicit-drugs-and-alcohol](http://operations.adelphi.edu/policies/illicit-drugs-and-alcohol). Complaints involving alcohol shall be investigated and adjudicated in accordance with the provisions of this *Code*.

## **10.6B Drugs**

The unlawful manufacture, distribution, dispensing, possession, or improper use of either illicit or prescription drugs. This section also includes intoxication, regardless of substance, anywhere on Adelphi's campuses or at any Adelphi activities. See the Adelphi University Policies, Rules, and Standards Regarding Illicit Drugs and Alcohol in the *Guide to Student Life* for complete information: [operations.adelphi.edu/policies/illicit-drugs-and-alcohol](http://operations.adelphi.edu/policies/illicit-drugs-and-alcohol). Complaints involving drugs shall be investigated and adjudicated in accordance with the provisions of this *Code*.

**10.7 Forgery, Unauthorized Use of Documents**

Forgery, unauthorized alteration, or unauthorized use of any University document or electronic transmission (or such form or transmission used or relied upon by the University), or instrument of identification, or academic and nonacademic record, signature, seal, or stamp thereof.

**10.8 Fire-Safety**

Intentionally or recklessly causing a fire. Intentionally or recklessly activating a smoke detector, heat detector or sprinkler system. Tampering with fire equipment. Failing to evacuate in a timely manner during a fire alarm. Knowingly filing a false report or alarm of a fire, explosion, or another emergency.

**10.9 Theft**

Taking property or services without proper permission.

**10.10 Property Damage or Destruction**

Intentionally or recklessly destroying, damaging or defacing University property or the property of others.

**10.11 Failure to Comply With Official Direction**

Failure to comply in a timely manner with reasonable written or verbal direction of University officials including, but not limited to, Public Safety officers, residence hall staff, and Student Conduct staff acting in performance of their duties.

**10.12 Violation of University Regulations and Policies**

Violating other published University regulations or policies. Such regulations or policies may include, but are not limited to, residence hall agreements and accompanying regulations as well as those regulations relating to entry and use of University facilities, campus demonstrations, parking rules and regulations, solicitation and advertising/posting, regulations governing student organizations, and smoking restriction or prohibition.

**10.13 Fireworks**

Unauthorized use or possession of fireworks.

**10.14 Unauthorized Access to Facilities**

Unauthorized access or entry to, or use of, University facilities, equipment or restricted areas.

**10.15 Unauthorized, Mischievous, Malicious or Inappropriate Use of Computer or Electronic Communication Devices**

Unauthorized access to, or unauthorized, mischievous, malicious or inappropriate use of, computer equipment or networks, or electronic communication devices, or the use of such equipment or devices to gain unauthorized access to, and/or use of, off-campus computer equipment. Knowing transmission of computer viruses, and unauthorized or illegal

duplication of software or other electronic content is also prohibited. For a complete list of Information Technology Policies, see [it.adelphi.edu/policies](http://it.adelphi.edu/policies). Complaints of unauthorized, mischievous, malicious or inappropriate use of a computer or electronic communication devices shall be investigated and adjudicated in accordance with the provisions of this *Code*.

#### **10.16 Provoking Others to Misconduct**

Intentionally using words or actions to provoke or encourage others to violent or retaliatory behavior, or other acts of misconduct.

#### **10.17 Hazing**

Any action or conduct, on or off the campus, with or without consent, which recklessly, intentionally or unintentionally endangers the mental or physical health or safety of a student, or creates risk of injury or causes discomfort, embarrassment, harassment, humiliation or ridicule, or which willfully destroys or removes public or private property, or causes any misconduct for the purpose of initiation, admission or affiliation with, or as a condition for continued membership in, any organization, team or other group, whether recognized by the University or not. Adelphi University's complete *Hazing Policy* may be viewed at [operations.adelphi.edu/policies/hazing](http://operations.adelphi.edu/policies/hazing). Complaints of hazing shall be investigated and adjudicated in accordance with the provisions of this *Code*.

#### **10.18 Identification Cards**

Failure to carry, produce or surrender the identification card upon the request of a University official or agent.

#### **10.19 Animals**

Bringing into or having an animal (including, but not limited to, cats, dogs and birds) in any University building, with the exception of service animals, animals used for authorized laboratory purposes or animals for which express permission has been granted.

#### **10.20 Demonstrations**

Demonstrations exceeding the bounds of free assembly, and demonstrations engaging in unlawful acts that cause or imminently threaten injury to person or property, or that obstruct or interfere with normal University operations.

#### **10.21 Harassment and/or Discrimination**

The University forbids harassment and discrimination based on race, creed, color, national origin, ethnicity, sex, sexual orientation, disability, genetic predisposition or carrier status, age, religion, marital status, veteran status, or any other basis protected by applicable local, state or federal laws. This also includes any sexual behavior that creates an intimidating, hostile or offensive campus, educational or working environment for another person. This includes unwanted, unwelcome or inappropriate sexual or gender-based activities. See the *Anti-Discrimination, Harassment (Including Sexual Misconduct, Dating Violence, Domestic Violence, Stalking) and Retaliation Policy* for complete information: [hr.adelphi.edu/title-ix/university-policy](http://hr.adelphi.edu/title-ix/university-policy). Complaints of harassment and discrimination shall be investigated and adjudicated in accordance with the provisions of this *Code*, which is consistent with Adelphi

University's *Anti-Discrimination, Harassment (Including Sexual Misconduct, Dating Violence, Domestic Violence, Stalking) and Retaliation Policy*.

## 10.22 Local, State, Federal Laws and Ordinances

Violation of a local, state or federal law or ordinance.

## 10.23 Academic Dishonesty

Any action or behavior that can be broadly described as lying, cheating or stealing in the academic arena. Violations of this section will include the following:

1. Fabricating data or citations
2. Collaborating in areas not approved by the professor
3. Unauthorized multiple submission of one's own work
4. Sabotage of others' work, including library vandalism or manipulation
5. Plagiarism
6. The creation of unfair advantage
7. The facilitation of dishonesty
8. Tampering with or falsifying records
9. Cheating
10. Any other forms of academic dishonesty

## 10.24 Retaliation

The University forbids acts of retaliation perpetrated against persons who file complaints or report violations of this *Code*, including, but not limited to, complaints involving sexual misconduct, harassment or discrimination. See the Adelphi University *Anti-Discrimination, Harassment (Including Sexual Misconduct, Dating Violence, Domestic Violence, Stalking) and Retaliation Policy* for complete information: [hr.adelphi.edu/title-ix/university-policy](http://hr.adelphi.edu/title-ix/university-policy). Complaints of retaliation shall be investigated and adjudicated in accordance with the provisions of this *Code*.

## 10.25 Other Improper Behavior

Any list of prohibited conduct cannot be exhaustive. Therefore, other forms of behavior considered improper through the application of this *Code* but not specifically listed herein are also prohibited and subject to the procedures outlined in this *Code*.

## 11. Off-Campus Conduct

Conduct occurring off University premises is ordinarily not subject to University discipline. However, the University may extend the reach of the provisions of this *Code* to conduct that takes place off campus if, in the University's view, such conduct:

- a) Seriously affects the interests of the University or any member of the University community, or
- b) Occurs in close proximity to University premises and is connected with offensive conduct on University premises, or
- c) Occurs at University-sponsored activities off University premises.

In accordance with New York State Education Law, Article 129-B (Enough Is Enough), when cases involve sexual assault, domestic violence, dating

violence, and stalking, all institutional services and protections afforded to the reporting individuals shall also be made available to all involved students and are applicable to any conduct that has a reasonable connection to the University. When such conduct involves students or employees from two or more institutions, Adelphi University officials may work collaboratively with officials of involved institutions to address the conduct, provided that such collaboration complies with FERPA. See Sections 12.2.1 and 12.2.2 for more information regarding procedures for employee matters.

## **12. Enforcement of This Code**

**12.1 Visitors, Invitees, Licensees, or Trespassers** whose behavior violates the maintenance or order within the University community will be asked to leave University premises. Failure to leave University premises promptly upon request will result in the University using all reasonable means, including calling for the assistance of the police, to effect removal. Additionally, students will be held accountable for the acts of misconduct of their guests while on University premises or at University-sponsored activities. Students who are taking only continuing education course(s) or any other noncredit-bearing courses shall be considered visitors for the purpose of this *Code*.

**12.2 Members of the University community** who are charged with violations of this *Code* are subject to appropriate disciplinary action as follows:

**12.2.1** When **Faculty** are charged with violations of this *Code*, the charges are considered and determined administratively in accordance with established practices of the University and/or collective bargaining agreements, as applicable. To the extent that there is anything in this *Code* that is inconsistent with the Collective Bargaining Agreement, the Collective Bargaining Agreement controls.

**12.2.2** When **Administrators and Staff** are charged with violations of this *Code*, the charges are considered and determined administratively in accordance with established practices of the University and/or collective bargaining agreements, as applicable.

**12.2.3 Students** who are charged with violations of this *Code* are subject to disciplinary action pursuant to Sections 13 through 31 of this *Code*.

## **13. Sanctions**

A student found responsible in accordance with the adjudication procedures of this *Code* (Sections 17 through 26) is subject to one or more sanctions as listed below. These sanctions are not listed in order of severity.

**13.1 Warning:** Written notice to the offender that continuation or repetition of prohibited conduct may be cause for further disciplinary action.

**13.2 Censure:** A written reprimand for violation of specified regulations, including a warning that continuation or repetition of prohibited conduct may result in further disciplinary action.

**13.3 Educational Sanction:** The required completion of one or more assignments, projects, activities, and/or other endeavors, which are determined appropriate to the offense and is designed to provide the student with a better understanding of his or her behavior and that behavior's impact on others.

- 13.4 Disciplinary Probation:** A period of increased scrutiny of a student's behavior. This may include exclusion from participation in privileged or cocurricular activities for a specified period; additional restrictions or conditions may be imposed. Violations of disciplinary probation terms, or any other *Code* violation during the probation period, will normally result in suspension or expulsion from the University.
- 13.5 Residence Probation:** A period of increased scrutiny of a resident student's behavior to determine if the student should remain in housing. This may also include exclusion from participation in privileged residence hall activities for a specified period.
- 13.6 Restitution:** Repayment to the University or to an affected party for damages resulting from a violation of this *Code*.
- 13.7 Fines:** In certain instances, students may be required to pay a monetary fine if found to have violated certain policies.
- 13.8 Termination of Employment:** Loss of a specific job on campus, or the privilege of working on campus in general.
- 13.9 Removal of Privileges/Restriction From Facilities and Activities:** Exclusion from designated privileges, facilities, and/or activities.
- 13.10 Community Service:** Designated service to the University or to another entity designed to compensate the University community for violations of this *Code*.
- 13.11 Rehabilitation/Counseling:** Mandatory completion of a rehabilitation program for drug- or alcohol-related offenses and/or mandatory completion of a counseling program for anger-related or other violations. The student may be responsible for paying a fee for such a program.
- 13.12 Suspension:** Exclusion from classes and other privileges and activities as set forth in a written notice for a definite period of time, usually not exceeding one year. A suspended student is *persona non grata* (banned) from all University facilities, grounds, buildings, programs, and activities. As a condition of suspension, credits earned elsewhere during the period of suspension may not be transferable to Adelphi and will be determined on a case-by-case basis.
- 13.12A Residence Suspension:** Exclusion from residence halls for a specified period.
- 13.12B Permanent Removal From Housing:** Permanent exclusion from residence halls.
- 13.12C Expulsion:** Termination of student status and permanent exclusion from University privileges and activities. An expelled student is permanently *persona non grata* (banned) from all University facilities, grounds, buildings, programs, and activities.
- 13.13 Other sanctions** as deemed appropriate to the situation.
- 14. Standards of Fairness in University Disciplinary Proceedings**

The purpose of a disciplinary proceeding is to provide a fair evaluation of the evidence surrounding a charge of misconduct. Although formal rules of evidence do not apply, procedures shall comport with standards of fairness and the provisions of appropriate sections of this *Code*. Harmless deviations from the prescribed procedure shall not invalidate a decision or proceeding.



## **15. Interim Measures**

Remedial and protective measures may be available regardless of whether a complainant pursues a complaint or investigation under this *Code*. When the University receives a report of alleged misconduct, the University may take immediate steps to protect the complainant, other affected parties, and the community. In this regard, interim measures are limited to action necessary to reach the desired effort involving protection of the community, complainant, and respondent. They are also limited in time to the adjudication of the policy violation(s) in question and should be designed to cause the least harm possible. Interim measures may include issuance of a no-contact order, or a change in housing, academics, transportation, campus employment, campus involvement, activities, or overall student status.

The Dean of Student Affairs or designee may remove from University housing, or suspend a student from the University for an interim period pending disciplinary proceedings or medical evaluation, which shall be scheduled at the earliest possible time. When taking such interim measures, the University will, to the extent practical, minimize the burden on the complainant. The interim removal/suspension shall become immediately effective without prior notice whenever there is evidence that the continued presence of the student on campus poses a substantial and immediate threat to himself, herself, or to others, or interferes with normal University operation or activities as specified in Section 10.3 of this *Code*. The student so removed/suspended may contest the evidence relied upon to make this decision by requesting a conference with the Dean of Student Affairs or designee. Such request does not delay the removal/suspension.

The respondent and/or the complainant will, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for, and terms of an interim measure including potential modification, and will be allowed to submit evidence in support of his or her own request.

## **16. Discipline in the Residence Halls**

- 16.1** Students subject to sanctions for acts within the residence halls that would constitute a violation of a residence hall agreement or policy will be referred to a disciplinary conference with the responsible administrator in the Department of Residential Life and Housing. Determination of sanctions affecting a student's residential status will be made by the responsible administrator conducting the conference.

Additionally, determination of sanctions affecting a student's status with the University, including suspension and expulsion, will be referred by the Student Conduct Officer for a formal hearing. Students may be subject to both residence hall disciplinary proceedings and University proceedings for the same act of misconduct.

- 16.2** Any sanction emanating from residence hall disciplinary proceedings that involves the loss of housing may be appealed by the student to the Dean of Student Affairs, who will consider the appeal or refer it to a designee for consideration. A student appealing such sanction must submit a written request for the appeal within 48 hours of receipt of this sanction, including sufficient grounds for the appeal. If sufficient grounds are not presented the appeal will not proceed and the sanction will stand.

# ADJUDICATION

## 17. Adjudication Process for Students

Regardless of the method of adjudication, all students have: the right to have their case heard under regular procedures used for all similar cases, the right to receive notice of the charges against them, the right to hear a description of the University's evidence against them, and the right to present their account to the Office of Student Conduct and Community Standards or University Hearing Board.

### 17.1A Reporting a Violation or Making a Complaint

Any person may report students or student groups or organizations suspected of violating this *Code* to the Dean of Student Affairs or his designee. Allegations of violations occurring within residence halls should be referred to the responsible administrator in the Office of Residential Life and Housing. Those reporting violations are normally expected to serve as complainant and to present relevant evidence in disciplinary hearings or conferences. In extenuating circumstances, an affidavit may be accepted in lieu of a personal appearance.

Typically, the Student Conduct Officer will request that the complainant completes a *Notice of Complaint* form. This form includes a brief statement of the complaint, the nature of the evidence and names of witnesses. If the Complainant is unwilling or unable to complete a *Notice of Complaint* form, the Student Conduct Officer who meets with the Complainant will complete such form with information provided by the Complainant. Once the Student Conduct Officer is aware of an alleged violation of this *Code* by a student, the Student Conduct Officer will investigate as necessary and determine if further action is warranted.

An investigation will occur once a Student Conduct Officer becomes aware of an alleged violation of this *Code* regardless of whether or not a Complainant completes a *Notice of Complaint* form or requests action. Upon completion of the investigation, a completed copy of the *Notice of Complaint* will then be sent to the respondent, if appropriate. Deliveries will be made in accordance with practices described in Section 25.2 of this *Code*.

In cases involving discrimination, harassment (including sexual misconduct, dating violence, domestic violence or stalking), and retaliation, any person may make an anonymous complaint at [hr.adelphi.edu/title-ix/report](https://hr.adelphi.edu/title-ix/report).

### 17.1B Amnesty

The health and safety of every student at Adelphi University are of utmost importance. The University recognizes that students who have been drinking alcohol and/or using drugs (whether such use is voluntary or involuntary) at the time violence occurs, including but not limited to domestic violence, dating violence, stalking, or sexual assault, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Adelphi University strongly encourages students to report domestic violence, dating violence, stalking, sexual assault, and other violence to University officials. A bystander acting in good faith or a reporting individual acting in good faith

who discloses any incident of domestic violence, dating violence, stalking, sexual assault, and other violence to University officials or law enforcement will not be subject to the University's *Code of Conduct* action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, sexual assault, and/or other violence.

## **17.2 Answering a Complaint**

An *Answer to the Complaint* form is then completed by the respondent. If the respondent contests the complaint, he or she provides a brief statement of explanation, including the nature of the evidence and names of witnesses. If the respondent does not contest the complaint, he or she acknowledges that a sanction may then be imposed. Once received by the respondent, the *Answer to the Complaint* must be returned to the Student Conduct Officer within three business days. The completed *Answer to the Complaint* is then forwarded to the complainant within three business days. If the *Answer to the Complaint* is not received within the allotted time, and the student has not requested and received an extension for good cause by the Student Conduct Officer, the Student Conduct Officer will proceed with the matter as the case indicates. This usually means that the conference or hearing will be scheduled as called for in this *Code*. Additional charges may be brought against the student pursuant to Section 10.11 of this *Code*.

The respondent will be made aware of the option to consult with a Faculty Advocate. In serious cases (where the result may be suspension or expulsion):

- (1) At the meeting when the complaint is presented, the Student Conduct Officer will recommend that the respondent consult with a Faculty Advocate,
- (2) The respondent will be informed that he or she may change his or her mind regarding the use of a Faculty Advocate,
- (3) To allow time for reflection, an *Answer to the Complaint* will not be accepted before 24 hours (and the maximum limit of three days still applies). See Section 22 for more information on Faculty Advocates.

## **17.3 Requests to Appear Regarding Disciplinary Matters**

Students may be required to personally appear regarding disciplinary matters. Failure to comply with a request to appear may subject the student to disciplinary action. Delivery of such requests to appear will be made to the current address as provided by the student to the University. A reasonable attempt to deliver to said address will constitute acceptable notice to the student.

## **17.4 Time Frame for Reporting Violations and Making Complaints**

The University will consider all alleged violations of this *Code*. Individuals are encouraged to report violations as soon as possible in order to maximize the University's ability to effectively address the matter.

## **17.5 Process for Referring Cases**

The Student Conduct Officer may seek an informal resolution or agreement if appropriate, or refer the matter to a disciplinary conference or hearing based on the particulars of the case. (See Section 18.)

## **17.6 Reporting Violations of Law to Police**

Should a complaint made pursuant to this *Code* also be a violation of law, the complainant will normally be advised of his or her legal right to pursue the matter with the police and will be assisted to the University's ability should the student wish to contact the police. In certain cases, the University may opt to refer violations of law to appropriate law enforcement agencies. Such referral does not preclude University action for the same violations. A student complainant also has the right to request the assistance of the University in obtaining an order of protection from either the Family or Criminal Court. If an order of protection is granted, the parties will have the right to receive a copy of the order of protection when the order is received by the University. The parties will also have the opportunity to meet or speak with an appropriate University employee who can explain the order and the consequences for violating the order, and answer any questions about the order. Additionally, if the order of protection is violated the student complainant may receive assistance from the University in calling local law enforcement to inform them of the violation.

## **18. Hearing Referrals**

Students subject to suspension or expulsion from the University will be referred for a formal hearing, pursuant to Section 23 of this *Code*. Students subject to any other sanction will be referred to a disciplinary conference, pursuant to Section 22 of this *Code*.

Students referred for a hearing before a hearing board may request instead to have their cases resolved through a disciplinary conference. This option may be selected when completing the *Answer to the Complaint*. Should the respondent decide to seek a hearing waiver subsequent to the submission of this form, he or she may make this request to the Student Conduct Officer for consideration. In cases adjudicated this way, the full range of sanctions may be imposed, including suspension or expulsion from the University.

In the event a student admits responsibility for the behavior in question, the sanction will be determined through a disciplinary conference, rather than a hearing, and the full range of sanctions may be imposed, including suspension and expulsion.

## **19. Student Withdrawing Prior to Completion of Proceedings**

If a student withdraws from the University prior to the completion of disciplinary proceedings, proceedings will be scheduled and held as indicated in this *Code*.

## **20. Advocates and Advisers**

The University makes a Faculty Advocate available, by assignment, to respondents or complainants in disciplinary matters. The overarching purpose of the Faculty Advocate is to guide the individual toward a constructive outcome. The Faculty Advocate is available to students once a complaint has been made against a student. Students will be advised of their ability to use the services of the Faculty Advocate throughout the process. During the process, he or she may assist in the preparation for a hearing or conference, the hearing or conference itself, or in an attempt at an informal or alternative resolution. Students are expected to speak for themselves at disciplinary proceedings. The Faculty Advocate will make every effort to respect the student's privacy.

In addition, any student may seek out a Faculty Advocate at any time to discuss any action or circumstance that may potentially violate this *Code*.

Representation is not permitted in University disciplinary hearings or conferences. In addition to a Faculty Advocate (if desired by the student), respondents and complainants may be accompanied by an adviser of their choosing, only in the following circumstances:

- a) The respondent is referred for a formal hearing or
- b) The respondent is assigned to an informal disciplinary conference and criminal charges arising out of the same incident have been filed.
- c) In cases involving sexual assault, dating violence, domestic violence and stalking.

Under such circumstances, students have the right to be accompanied by an advisor of their choice throughout all stages of the University investigatory and disciplinary proceedings, including all meetings and hearings related to such proceedings, who may advise and assist the complainant or respondent. An adviser of choice may be a member from within or outside the University community and may include, among other people, a family member or an attorney.

Advisers and Faculty Advocates cannot actively participate or speak on behalf of the complainant or respondent. If any adviser's conduct is not consistent with these guidelines, he or she may be excluded from the conduct process.

Advisers may not address nor question anyone else at a hearing or conference. A Faculty Advocate, with the consent of the student, may provide clarification and other relevant information in the course of a proceeding.

A person who will function as a witness in a proceeding may not also act as the student's Faculty Advocate or adviser.

## **21. Burden of Proof**

Determination of the responsibility of the respondent for the charge(s) against him or her shall be established by a preponderance of the evidence. A preponderance of the evidence means such evidence that, when considered and compared with that opposed to it, creates the belief that what is sought to be shown is more likely true than not true.

## **22. Disciplinary Conference**

Students accused of offenses that may result in penalties less than expulsion or suspension from the University are subject to a disciplinary conference with the Student Conduct Officer. A disciplinary conference is a process designed to gather and consider relevant information regarding alleged violations of the *Code* and to determine a sanction, if applicable. Students accused of offenses that may result in suspension or expulsion from the University will be referred for a formal hearing to the appropriate hearing board.

In the event a student admits responsibility for the behavior in question, the sanction will be determined through a disciplinary conference, rather than a hearing, and the full range of sanctions may be imposed, including suspension and expulsion.

A student subject to a disciplinary conference shall receive written notification of the outcome of the conference, including findings of responsibility and

sanctions (if found responsible). This notification shall be sent within five business days following the completion of the Student Conduct Officer's deliberations. Notification of the outcome is not usually communicated to the complainant and/or victim, except as allowed by the Family Educational Rights and Privacy Act (FERPA). Notification will be sent to University personnel who have been determined by the Student Conduct Officer to have a legitimate educational interest.

## **23. University Hearing Board**

### **23.1 General Description**

A University Hearing Board is designated by the University for formal disciplinary hearings. The board comprises three faculty members, three administrators, and three students. The quorum for a hearing shall be one faculty, one administrator and one student with the following exception.

In cases where increased sensitivity and privacy is indicated, such as bias and sexual assault, the Student Conduct Officer may convene a hearing only with board members who, in the Student Conduct Officer's judgment, have a level of training appropriate for such cases.

### **23.2 Training**

In addition to hearing specific cases, the University Hearing Board shall be convened for training and other related purposes.

Training will cover the *Code of Conduct*, including policy violations and adjudication procedures, as well as other University policies. The University Hearing Board will also receive training on impartiality, the right of the complainant and respondent (including the right to a presumption that the respondent is "not responsible" until a finding of responsibility), the preponderance of evidence standard as the burden of proof, the effects of trauma, and the dynamics of sexual assault, dating violence, domestic violence and stalking.

### **23.3 Appointments**

**23.3.1 Faculty** shall be appointed as follows. Faculty members will serve staggered periods of two years. Each April, the Faculty Senate shall designate members to serve for the following year(s) based on anticipated openings. Appointments will generally be made for two years. In some cases, appointments may be made for one year so openings can be staggered. In the case of unexpected vacancies, the Faculty Senate shall make appointments as the need arises. If vacancies are not filled, the Chair of the Faculty Senate shall appoint an ad hoc member.

**23.3.2 Administrators** shall be appointed as follows. Administrators shall serve staggered periods of two years. Each April, the Assistant Vice President for Human Resources and Labor Relations, in consultation with the Dean of Student Affairs, shall appoint administrators based on anticipated openings. The administrators will serve for the following year(s) based on anticipated openings. Appointments will generally be made for two years. In some cases, appointments may be made for one year so openings can be staggered. In the case of unexpected vacancies, appointments shall be made as the need arises.

**23.3.3 Students** shall be appointed as follows. Students shall serve periods of one year. Each April, the Student Government Association shall recommend

students to serve for the following year. (Students may be recommended to serve a second year.) As student board members are expected to be exemplary members of the campus community, SGA recommendations shall be subject to approval by the Dean of Student Affairs. In the case of unexpected vacancies, additional recommendations shall be made as the need arises.

#### **23.4 Presiding Person**

For each hearing, the Student Conduct Officer shall select a presiding person from the hearing board members who will be present at that hearing.

#### **24. Ad Hoc Hearing Committees**

A three-person (minimum) ad hoc hearing committee may be appointed by the Dean of Student Affairs or designee whenever a hearing board is not constituted, is unable to obtain a quorum, or is otherwise unable to hear a case. Ad hoc committees may be composed of administrators, faculty and students, or any combination thereof.

#### **25. Procedure—Disciplinary Hearing**

A disciplinary hearing is a formal process conducted by the University Hearing Board or another appropriate hearing officer or body. This formal process is designed to gather and consider relevant information regarding alleged violations of this *Code* and to determine a sanction, if appropriate. Students who are accused of offenses that may result in a penalty of suspension or expulsion from the University are subject to a disciplinary hearing.

Once a case is referred for a disciplinary hearing, the following procedural guidelines shall be applicable:

- 25.1** Once the Student Conduct Officer receives the *Answer to the Complaint* from the respondent, a hearing shall be scheduled within 10 business days, whenever possible.
- 25.2** Complainants, respondents and/or victims shall be given notice of the hearing time, date and place and the specific charge(s) against them as well as any witnesses known at that time at least three business days in advance. Additional evidence and witnesses may become available at a later time and be considered by the Student Conduct Officer, or their representative. All other parties to the hearing shall also be given prior notice of the time, date and place of the hearing. Delivery will be made to the current address as provided by the student to the University. A reasonable attempt to deliver to said address will constitute acceptable notice to the student.
- 25.3** Complainants, respondents and/or victims will have reasonable access to the case file prior to and during the hearing; personal notes of University staff members or complainants are not included. The respondent may view, but not take or copy, contents of the case file. This file will be retained by the Student Conduct Officer.
- 25.4** Respondents and complainants, as well as the hearing board members, may request witnesses to appear at the hearing. The Student Conduct Officer shall summon witnesses. University students and employees are expected to comply with such requests unless compliance would result in significant and unavoidable personal hardship or substantial interference with normal University activities.

- 25.5** In the event that the respondent fails to appear after proper notice, the hearing will proceed, as scheduled, in the absence of the respondent.
- In the event that the complainant and/or witnesses do not appear, the hearing may proceed in their absence, at the hearing board's discretion.
- 25.6** Hearings will be closed to the public.
- 25.7** The presiding person shall exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the hearing. Any person, including the respondent, who disrupts a hearing may be excluded by the presiding person.
- 25.8** Hearings shall be tape-recorded. The recording is to be the sole record of the proceedings and is the property of Adelphi University. Such tapes may not be duplicated. No other recordings of the proceedings may be made. Deliberations and executive sessions of the hearing board are not recorded.
- 25.9** Any party may challenge a member of the hearing board on grounds of personal bias at the appropriate time as indicated by the Student Conduct Officer or their representative. Ad hoc committee members may be disqualified by the Dean of Student Affairs or designee, and hearing board members may be disqualified upon majority vote of the remaining members of the board.
- 25.10** Witnesses shall be informed that their own testimony must be truthful and they may be subject to charges of intentionally providing false information to the University, pursuant to Section 10.5 of this *Code*.
- 25.11** Prospective witnesses, other than the complainant and the respondent, shall be excluded from the hearing during the testimony of other witnesses. All parties shall be excluded during board deliberations with the exception of the Student Conduct Officer, who will be present as a nonvoting member for the purpose of addressing procedural issues. The hearing board may go into executive session at any time during the proceedings. An executive session is a private, unrecorded meeting of the hearing board, and sometimes other invited individuals typically used to resolve procedural matters.
- 25.12** The case may not be discussed by any member of the hearing board outside of the hearing process. All parties to a hearing shall be expected to respect the privacy of other participants in the proceeding.
- 25.13** The hearing board's decision should be based only on information presented at the hearing.
- 25.14** Formal rules of evidence shall not be applicable in disciplinary proceedings conducted pursuant to this *Code*. Unduly repetitious or irrelevant evidence may be excluded, as determined by the hearing board with the advice of the Student Conduct Officer, or their representative.
- 25.15** Complainants and respondents may make opening and closing statements, with the complainant proceeding first. Complainants and respondents shall be accorded an opportunity to question those witnesses who speak for any party at the hearing. Hearing board members may question complainants, respondents or witnesses at any time during the hearing.
- 25.16** Written statements shall be considered by the hearing board only if the Student Conduct Officer determines that: (1) it is not possible for the individual to



appear at the hearing and (2) the identity of the person signing the statement can be ascertained. The Student Conduct Officer may require that such a written statement be notarized or signed in his or her presence. Hearing boards should take note that because written statements are not subject to challenge in the same way as live statements, written statements should be evaluated in that light. (See also Section 25.4.)

- 25.17** A determination of responsibility shall be followed by a deliberation as to sanction. The past disciplinary record of the respondent will only be supplied to the hearing board for consideration after a determination of responsibility.
- 25.18** The respondent shall receive written notification of the outcome of the hearing, including findings of responsibility and sanctions (if found responsible). In the event that suspension or expulsion is the sanction, the respondent shall also be notified of the option to appeal. The notification shall be sent within five business days following the completion of deliberations. Notification of the outcome of a hearing is not usually communicated to the complainant and/or victim, except as allowed by the Family Educational Rights and Privacy Act (FERPA). Notification will be sent to University personnel who have been determined by the Student Conduct Officer to have a legitimate educational interest. In addition, in cases involving Title IX, the Respondent and Complainant will be notified simultaneously. In such cases, the written notification will include findings of fact supporting the determination, rationale for the findings, sanctions imposed in the event of responsibility, and the rationale for the sanctions.

## **26. Student Groups and Organizations**

Student groups and organizations may be charged with violations of this *Code*.

- 26.1** A student group or organization and its officers may be held collectively and individually responsible when violations of this *Code* by those associated with the group or organization have received the consent or encouragement of the group or organization, or of the group's or organization's leaders or officers, or if the group or organization knew or should have known about the behavior and failed to make reasonable efforts to prevent it.
- 26.2** The officers or leaders or any identifiable spokesperson for a student group or organization may be directed by the Student Conduct Officer to take appropriate action designed to prevent or end violations of this *Code* by the group or organization or to educate the group or organization. Failure to make reasonable efforts to comply with the Student Conduct Officer's directive shall be considered a violation of Section 10.11 of this *Code*, both by the officers, leaders, or spokesperson for the group or organization and by the group or organization itself.
- 26.3** The officers or leaders of a student group or organization in violation of this *Code* will be subject to a disciplinary conference or hearing with the Student Conduct Officer.
- 26.4** Sanctions for group or organization misconduct may include revocation or denial of University recognition, as well as other appropriate sanctions, pursuant to Section 13 of this *Code*.

## **27. Appeals**

### **27.1 Who Can Appeal**

Respondents may appeal decisions arising out of a disciplinary hearing or conference that include suspension or expulsion from the University, with the following exceptions:

- a) In cases involving violations of Title IX, both the respondent and complainant may appeal regardless of the outcome.
- b) Appeals of decisions emanating from residence hall disciplinary proceedings that involve the loss of housing may be appealed as outlined in Section 16.2 of this *Code*.

### **27.2 Student Status Pending an Appeal**

Should a student properly appeal a decision as outlined in this section, sanctions that were imposed shall be held in abeyance pending the conclusion of the appeal process, with the following exceptions:

- a) The student was suspended on an interim/emergency basis.
- b) The student is determined to be a threat to himself or herself, to others, or to the stability and continuance of normal University functions, per Section 15 of this *Code*.

### **27.3 Appeal Process**

Requests for appeals of decisions arising out of a disciplinary hearing or conference must be submitted in writing to the Associate Vice President of Student Affairs or designee ("Associate Vice President") within three business days of receipt of the letter notifying the appealing party of the original decision. Failure to request an appeal within the allotted time will render the original decision final.

The Associate Vice President will consider the appeal. If the Associate Vice President determines that the appeal has established allowable grounds for a review of the matter (as set forth below), an appeal hearing will ensue. If appropriate grounds have not been established, the Associate Vice President may deny the appeal without any further proceedings, or may request clarification of one or more parts of the appeal, and then determine whether appropriate grounds have been established. If the Associate Vice President determines that an appeal hearing will ensue, a three-member board will be convened, comprising the Associate Vice President, the Chairperson of the Faculty Senate and the Chairperson of the Committee on the Judiciary of the Faculty (or their designees). In the event that any faculty mentioned above (or their designees) are not available for a particular appeal, the Provost or designee will appoint faculty to sit on the appeal board for that particular appeal. No member of the appeal board shall have previously acted as investigator, a member of the disciplinary conference or member of the Hearing Board on the same matter. This appeal hearing will normally be convened within five business days.

Participants in a hearing include the complainant and respondent, his or her Faculty Advocate (if used), the Student Conduct Officer, and any other persons requested at the discretion of the appeal board. Participants shall be notified of the time, date and place at least three business days prior to the appeal hearing.

The appealing party shall be allowed access to the documents and tape recording from the original hearing, but shall not remove nor copy any of the documents or tape recording.

The scope of the hearing is limited to the allowable grounds specified by the appealing party. New testimony is not heard on appeal and only verbatim audio records and other records that were presented or recorded at the initial hearing or conference can be considered. No recording is to be made during the appeal hearing.

The appeal board shall recognize that the hearing board or Student Conduct Officer is better able to determine responsibility and to assign appropriate sanctions. Determination of credibility is solely the obligation of the person(s) who found the facts at the hearing or conference, and who heard the witnesses and observed their demeanor.

#### **27.4 Grounds for Appeal**

The appeal board will not conduct a rehearing of the case, but will consider an appeal based only on the appealing party's substantiated claim of one or more of the following:

- a) A procedural error has occurred that significantly impacted the outcome (e.g., substantiated bias, material deviation from established procedures, etc.) This error must be described in the letter requesting an appeal. Minor or harmless deviations from the process will not invalidate the proceedings.
- b) The discovery of relevant new information that was unavailable during the original process, which has become available and could impact the outcome. A summary of this new evidence, why it was previously unavailable and its potential impact must be included in the request for appeal.
- c) The sanction imposed is clearly not appropriate for the violation.

#### **27.5 Appeal Outcome**

The appeal board may find that:

- a) The appeal does not have sufficient merit as to the grounds listed above. In this case, the finding stands, as does the sanction.
- b) The process in the original hearing or conference contained improprieties that substantially affected the outcome of the case. In this case, the matter will normally be returned to the original hearing body or person to reopen the hearing with instructions for further proceedings. In unusual cases, the appeal board may require a new hearing or conference.
- c) There is relevant new information that was not available at the time of the original hearing or conference. In this case, the matter will normally be returned to the original hearing body or person for consideration.
- d) The sanction is clearly inappropriate. In this case, it may, at its discretion, refer the matter back to the original hearing body or person, or modify the sanction.

The outcome of the appeal shall be communicated in writing to the appealing party, usually within five business days after the appeal board concludes its deliberations.

If the appeal board finds that it requires additional information, it may convene additional proceedings.

# MISCELLANEOUS

## **28. Delivery of Documents to Complainants, Respondents and Witnesses**

Notice of hearing, and notification of outcome, as called for in this *Code*, will be made to complainants, respondents and witnesses by a means that allows for documentation of delivery. This includes, but is not limited to, hand delivery, email, overnight delivery and certified mail.

Delivery will be made to the current address (local or permanent) as provided by the student to the University. A reasonable attempt to deliver to said address will constitute acceptable notice to the student.

## **29. Transcript Notations and Release**

Permanent notation of disciplinary action is made on the transcript whenever a student is expelled. If a student who is suspended or withdraws from the University fails to comply with a disciplinary sanction, that student's transcript shall not be released until the Office of the Registrar is authorized in writing by the Student Conduct Officer.

In cases involving sexual assault, domestic violence, dating violence and stalking, a sanction of suspension will result in the following notation on the student's transcript: "Suspended After a Finding of Responsibility for a *Code of Conduct* Violation," and a sanction of expulsion will result in the following notation on a student's transcript: "Expelled After a Finding of Responsibility for a *Code of Conduct* Violation." Students may request the removal of a suspension notation no sooner than one year after the conclusion of the suspension, while notations for expulsions may not be removed. Such requests must be made through the Office of Student Conduct and Community Standards. Furthermore, if a finding of responsibility is vacated for any reason, any such transcript notations shall be removed. Should a student withdraw from the University while such conduct charges are pending, and declines to complete the disciplinary process, the following notation will be added to the student's transcript: "Withdrew With Conduct Charges Pending."

## **30. Disciplinary Files and Records**

Disciplinary files and records are maintained by the Student Conduct Officer. A student's disciplinary records are routinely maintained for seven years after the student's graduation or after seven years of academic inactivity. In the event of suspension or expulsion, records are maintained indefinitely. Additionally, in the event of expulsion, a disciplinary notation will be included in the permanent student record maintained by the Office of the University Registrar.

## **31. Tuition and Fee Refunds**

Students who are suspended, expelled or removed from University housing pursuant to disciplinary action may request a refund for tuition, fees or room charges for the semester in which the sanction is imposed in accordance with the appropriate refund policy and schedule. Meal plan refunds are made in accordance with the schedule in effect at the time such a sanction is imposed.

## **32. Review/Amendment of This Code**

The Office of the Dean of Student Affairs shall conduct a regular review of the *Code of Conduct*. Appropriate committees of the Student Government Association (SGA) and Faculty Senate shall meet with the Dean of Student Affairs and other appropriate administrators for this review. This regular review shall take place approximately every three years. The SGA, Faculty Senate or the administration may make recommendations for change of this *Code* at any time.

Changes recommended through the regular review process, or the process just described, shall be considered by a committee consisting of representatives

from the SGA, Faculty Senate and administration. Recommendations of this joint committee shall then be brought before the Faculty Senate and SGA for approval. The President of the University (and the Board of Trustees, if it so requests) will also need to approve changes.

For explicit and time-sensitive changes required to the *Code of Conduct* due to federal, state, and local legislation, the University will conduct an alternative and expedited process. This process will rely on the Dean of Student Affairs, or designee, Chairperson of Faculty Senate, or designee, and President of Student Government Association, or designee, to draft and approve changes for general counsel's review. After general counsel's review and as needed, the Dean of Student Affairs, or designee, Chairperson of Faculty Senate, or designee, and President of Student Government Association, or designee, shall inform their constituencies of these provisional changes. The provisional changes are subject to subsequent ratification by the Faculty Senate and Student Government Association.

# APPENDIX

## A. Student Bill of Rights

The inclusion of the following Student Bill of Rights in this *Code* for cases involving domestic violence, dating violence, stalking and sexual assault, is required by Article 129-B of the New York State Educational Law, and can also be accessed at [hr.adelphi.edu/title-ix/student-bill-of-rights](http://hr.adelphi.edu/title-ix/student-bill-of-rights). All students have the right to:

1. Make a report to the local law enforcement and/or the state police;
2. Have disclosures of sexual assault, dating violence, domestic violence and stalking treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the University disciplinary process and/or criminal justice process free from pressure from the University;
4. Participate in a process that is fair, impartial and provides adequate notice and meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the University courteous, fair and respectful health care and counseling services where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations were committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few University representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the University, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the University;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an adviser of choice who may assist and advise a reporting individual, accused or respondent throughout the University disciplinary proceedings including all meetings and hearings related to such proceedings;
11. Exercise civil rights and the practice of religion without interference by the investigative, criminal justice or disciplinary proceedings of the University.



**This code was revised on May 12, 2017, and supersedes all previous versions.**