

# Student Rights and Responsibilities

STATEMENT NO-717

## Due Process in Student Discipline

**I. STATEMENT.** To protect its fundamental legal and moral integrity and the constitutional rights of its students, and to meet the elemental requirements of fairness, an educational institution should guarantee procedural safeguards to students involved in disciplinary cases.

Although disciplinary hearings on campus are not exactly like the proceedings in courts of law, they should be conducted with the aim of lessening the likelihood of error or prejudice. The procedure should incorporate the basic elements of what has become commonly recognized as due process while providing an opportunity to educate the student.

The Board of Trustees approved the following policy on July 21, 1976:

"The rights of students to due process of law shall not be abridged. In any situation which could possibly result in punitive action being taken against the student, the employees of the College are charged with the responsibility of ensuring that the situation is dispensed with in accordance with currently advisable procedures of due process. This responsibility implies the necessity of College employees to be informed concerning the requirements of procedural due process and the changing interpretations of the courts."

*For the purpose of this statement a "student" is defined as any person who is admitted, enrolled or registered for study at Mississippi Gulf Coast Community College for any academic period. Persons who are not officially enrolled for a particular term but who have a continuing student relationship with, or an educational interest in Mississippi Gulf Coast Community College are considered "students". A person shall also be considered a student during any period while the student is under suspension from the institution or when the person is attending or participating in any actively preparatory to the beginning of school including, but not limited to, orientation, placement testing, and resident hall check-in.*

## II. PROCEDURES AND RESPONSIBILITIES.

### A. The Code of Student Conduct

#### 1. General Policies

a. The College is dedicated not only to learning and the advancement of knowledge but also to the development of responsible persons. It seeks to achieve these goals through a sound educational program and policies governing student conduct that encourage independence and maturity.

b. The College distinguishes its responsibility for student conduct from the control functions of the wider community. When a student has been apprehended for the violation of a law of the community, the state, or the nation, the College will not request special consideration for the student because of the student's status as a student. The College will cooperate fully, however, with law enforcement and other agencies in any program for rehabilitation of the student.

c. The College will apply sanctions or take other appropriate action when student conduct directly and significantly interferes with the College's (1) primary educational responsibility of ensuring the opportunity of all members of the College community to attain their educational objectives, or (2) subsidiary responsibility of protecting the health and safety of persons in the College community, maintaining and protecting property, keeping records, providing living accommodations and other such services, and sponsoring non-classroom activities such as lectures, concerts, athletic events, and social functions.

d. These regulations apply to all students, whether in full or part-time attendance.

e. Unfamiliarity with institutional regulations or rules is no grounds for excusing infraction.

## 2. Student Conduct Regulations

a. All students enrolled in Mississippi Gulf Coast Community College are expected to conform to the ordinary rules of society; to be truthful; to respect the rights of others, and to have regard for the preservation of state and College property as well as the private property of others.

b. Some acts of misconduct which are unacceptable and subject the student to disciplinary action are listed below. These offenses are as follows:

- (1) Illegal possession, on campus or while present at or near any College-related activity, any weapon prohibited by law, any firearm, knife, razor or razor blade (except solely for personal shaving) or other object used as a weapon, including devices for firing blank cartridges or charges, or of any incendiary or explosive device or of stink bombs, tear gas or other dangerous chemicals, pellet or BB guns, bows and arrows, martial arts weapons or any other dangerous weapons
- (2) Attempted or actual theft of, and/or damage to property of a member of the College community or other personal or public property
- (3) Unauthorized possession, duplication or use of keys to any College premises or unauthorized entry to or use of College premises
- (4) Misuse of safety equipment by unauthorized use or alteration of firefighting equipment, safety devices, or other emergency equipment
- (5) Illegal possession, sale or distribution, on campus or at a College-sponsored activity, of marijuana, alcohol, or any other drug, narcotic or controlled substance and/or paraphernalia
- (6) Students who display intoxicated behaviors (including but not limited to glazed eyes, slurred speech, etc.), or students who require staff assistance due to their consumption of alcohol or illegal drugs
- (7) Gambling in any form
- (8) Littering
- (9) Dressing inappropriately as defined by the College Dress Code Policy
- (10) Failure to comply with directions of College officials, including Campus Police or law enforcement officers acting in performance of their duties and/or failure to identify oneself or provide appropriate identification to these persons when requested to do so
- (11) Failure to report a violation of the Code of Student Conduct
- (12) Engaging in a riot or other activity resulting in the disruption of the educational mission of the College, or hinders the free exercise by others of their lawful rights or discharge of their duties on and about the campus or in connection with any off-campus related activity
- (13) Disruption, obstruction, confrontational behavior, or interfering with College functions such as teaching, administration, and conduct proceedings, other College activities, including its public service functions on or off campus, or other authorized non-College activities, when the act occurs on College premises
- (14) Conduct which is disorderly, lewd, or indecent; a breach of the peace; assisting or procuring another person to breach the peace on College premises, or at functions sponsored by the College or in which the College participates
- (15) Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which damages or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization

(16) Mental or physical harm, threats of harm, verbal abuse of other students or staff members, fighting, except in lawful defense of one's self or another, coercion, rape, sexual assault, and/or conduct which threatens or endangers the health, safety or well-being of any person; "Any person" as used in this section may include oneself

(17) Acts of intolerance due to race, ethnicity, gender, religion, disability, or sexual orientation

(18) Harassment

a. Conduct, (not of a sexual nature), that creates an intimidating, hostile, or offensive environment for another person

b. Action(s) or statement(s) that threaten harm or intimidate another

c. Acts that invade the privacy of another person

d. Stalking, defined as: to follow or otherwise contact another person repeatedly, so as to put that person in fear for his or her life or personal safety

e. Verbal abuse of other students or staff members including but not limited to, actions that endanger the health, safety or well-being of one's self or another person or group; interference with the freedom of another person to move about in a lawful manner

(19) Use of profane, abusive or vulgar language and/or obscene gestures

(20) Making false statements or representations about any matter with respect to which the College has the right to inquire, including but not limited to altering, tampering, forging, removing or concealing without authorization or by falsifying any record or document of the College; including but not limited to meal cards, parking permits and student ID's; providing false statements, written or oral; and/or providing false information during any College proceeding or to any College official

(21) False report of emergency by causing, making or circulating a false report or warning of a fire, bomb, explosion, crime, or other catastrophe. This includes E-911 hang up calls

(22) Abuse of the College Conduct System, including but not limited to:

a. Failure to obey the summons of a conduct board or College official

b. Falsification, distortion, or misrepresentation of information to a conduct board or College official

c. Disruption or interference with the orderly conduct of a conduct proceeding

d. Instituting a conduct proceeding knowingly without cause

e. Attempting to discourage an individual's proper participation, or use of, the conduct system.

f. Attempting to influence the impartiality of a member of a conduct board prior to, and/or during the course of the conduct proceeding

g. Harassment (verbal or physical) and/or intimidation of a member of a conduct board prior to, during, and/or after a conduct proceeding

h. Failure to comply with the sanctions imposed under the Code of Student Conduct

i. Influencing or attempting to influence another person to commit an abuse of the conduct system

(23) Acts of academic dishonesty, including but not limited to, cheating on any test or examination, and plagiarism by the representation of previously written, published or creative work as one's own

(24) Theft or other abuse of computer time, including but not limited to:

a. Unauthorized entry into a file to use, read, or change the contents, or for any other purpose

b. Unauthorized transfer of a file

c. Unauthorized use of another individual's identification and password

d. Use of computing facilities to interfere with the work of another student, faculty member or College official

- e. Use of computing facilities to send or receive obscene or abusive messages
  - f. Use of computing facilities to interfere with normal operation of the College computing system
- (25) Viewing, photographing, audio recording, video recording, or creating a digital electronic file of another person without that person's consent in a place where he or she would have reasonable expectation of privacy
- (26) Violation of municipal, state or federal law, or of promulgated rules and regulations of the College or its Board of Trustees upon any campus of the College or off-campus activity, regardless of any decision or action by other public authority as to prosecution for such offense
- (27) Violation of any other policies, rules and regulations promulgated by the College. This section is intended to incorporate other College policies, rules and regulations and to address violations only if the violation warrants a process or sanction beyond what is available in other College policies, rules and regulations

### 3. Group Offenses

- a. Campus organizations, societies, clubs and similar organized groups are responsible for compliance with College regulations. Upon satisfactory proof that the group has encouraged violations, or did not take reasonable steps, as a group to prevent violations or student conduct regulations, the group may be subjected to permanent or temporary suspension of charter, social probation, denial of use of College facilities, or other like sanctions.
- b. All organizations are responsible for compliance with College regulations or discrimination. Upon satisfactory proof that the group has encouraged or did not take reasonable steps as a group to prevent violations of College regulations against discriminatory practices the group may be subjected to permanent or temporary suspension of charter, social probation, denial of use of College facilities or other like sanctions.
- c. The determination that a group is liable for sanction to be imposed, shall be made by the conduct committee at a hearing held for that purpose. The president or principal officer of the group must be given a reasonable notice of the time and place of said hearing and of the nature of the charges. The president or any other member of the group is entitled to attend and be heard at the hearing and to present evidence to refute the said charges.
- d. Nothing herein authorizes the imposition of individual sanctions on any person other than in accordance with the Code of Student Conduct.

### 4. Sanctions

- a. Sanctions, which may be imposed for the commission of College offenses shall include the following:
  - (1) Expulsion from the College: Permanent separation of the student from the College and all College functions or activities.
  - (2) Suspension from the College for a definite period of time. Temporary separation of the student from the College and all College functions or activities.
  - (3) Disciplinary probation with or without loss of designated privileges for a definite period of time. The violation of the terms of disciplinary probation may be grounds for suspension or expulsion from the College.
  - (4) Loss of such privileges as may be consistent with the offense committed and the rehabilitation of the student. Examples include but are not limited to, removal from the residence hall, suspension from campus activities, i.e. athletic contests, intramurals, other extra-curricular activities.
  - (5) Admonition and warning.
  - (6) Such other sanctions as may be approved by the conduct committee.

## B. Procedural Guide

The sole purpose of these regulations is to afford due process to students who are charged with disciplinary violations and this without unduly disrupting the academic and educational mission of the College. Students have a right to an efficient disposition of charges made against them and the committee shall in every case arrange a hearing within a reasonable time.

The student charged may opt to have counsel present during the proceedings. The counselor may not take over the proceedings or draw them out to excessive length. If the student(s) or counsel attempts to exploit any hearing for any other purpose than that stated above, the conduct administrator or committee may take whatever actions necessary to bring the proceedings back to order, including the expulsion of the offending student or counsel from the chamber. Expulsion from the chamber should be a matter of last resort.

### 1. Reporting of Incident

a. Any member of the College community may file a complaint against any student for violation of the Student Conduct Regulations. Complaints shall be prepared in writing and directed to those persons designated by the Campus Vice President. Any complaint should be submitted as soon as possible after the event takes place, preferably within one (1) month (28 days) of the knowledge of occurrence.

b. The College official designated by the Campus Vice President hereinafter referred to as conduct administrator may conduct an investigation to determine if the complaint has merit and/or if it can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to the conduct administrator. Such disposition shall be final and there shall be no subsequent proceedings.

c. Any conduct administrator, who has reason to believe that a violation of the Student Conduct Regulations may have occurred, is authorized to begin an investigation in the same manner as if a written complaint had been received. The Office of Housing and Discipline (Perkinston Campus) may investigate and charge students or organizations with misconduct when that office has reason to believe that a violation may have occurred.

d. A conduct administrator may issue a summons for a student or organization to appear for discussion about a case or for a hearing in a pending case. The summons may also include an order to produce records, which may be helpful in the course of an investigation. A summons may be written or verbal.

### 2. Temporary Suspension

In certain circumstances, the Dean of Student Services or designated administrator may impose a campus or residence hall suspension prior to a Disciplinary Conference.

a. Interim suspension may be imposed only:

(1) to ensure the safety and well-being of members of the College community or preservation of College property;

(2) to ensure the student's own physical or emotional safety and well-being; or

(3) if the student poses an ongoing threat of disruption of, or interference with, the normal operations of the College.

b. During the interim suspension, a student shall be denied access to the residence halls and/or to the campus (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible, as the Dean of Student Services or designated administrator may determine to be appropriate.

c. The interim suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through the appeals options, if requested.

### 3. Disciplinary Conference

- a. If sufficient cause has been established to proceed with the complaint, a disciplinary conference with the accused student is conducted.
- b. During the disciplinary conference, the student is provided the opportunity to review the complaint.
- c. The student will be advised of any charges resulting from the investigation of the complaint and requested to deny or accept the allegations.
- d. The student will be given the opportunity to present an explanation or written statement that may include any evidence and/or witnesses supporting either position. The conduct administrator may ask questions that may be deemed necessary.
- e. In the event the student has accepted responsibility for the allegations, the conduct administrator will levy appropriate sanctions, and will advise the student of these sanctions orally and in writing. It is at the discretion of the conduct administrator to seek additional information. These sanctions will not exceed College Disciplinary Probation as stated in II.A.4.a. (3). Removal from the residence hall may be applied as a loss of privilege under II.A.4.a. (4). The conduct administrator may defer sanctioning to the Campus Conduct Committee in cases where the student accepts responsibility for the accusations depending on the seriousness and circumstances of the violation.
- f. In the event the student denies responsibility of/for the allegations, the conduct administrator will refer the case to the Campus Conduct Committee.
- g. In the event the student has accepted responsibility for allegations but wishes to appeal sanctions levied by the conduct administrator, the student may provide a written request of appeal to the Dean of Student Services within three (3) school days from the date of receipt of the sanction levied by the conduct administrator. The appeal must be in writing with facts supporting the cause for appeal. The Dean of Student Services is responsible for arranging appeal hearings with the Campus Conduct Committee.

#### 4. Conduct Committee on Each Campus

- a. A Conduct Committee shall be set up on each campus and shall be composed of any two student leaders (Executive Student Government Association, Reflections Team Members, Phi Theta Kappa Officers, etc.) and at least three members consisting of faculty, staff and/or administrators appointed by the Campus Vice President. In the event of the absence of any member, the Campus Vice President may appoint a temporary replacement. The committee chairperson will be appointed by the Campus Vice President. Voting will be by secret ballot and ballots will be kept for future review. The committee will decide if the student is (1) responsible or not responsible and (2) the sanction(s) to be imposed, if any. A majority vote will constitute action of the committee.
  - b. If the student does not appear personally or through a representative at the hearing, the committee will dispose of the case based on the evidence presented.
  - c. If the case is disposed of and the committee subsequently determines the student was not reasonably able to appear and not reasonably able to give notice of this prior to or at the time of the hearing, the committee may set aside its disposition and set the case for hearing.
  - d. All hearings before the Conduct Committee shall be closed to the press and public except when the aggrieved student(s) waive the right to a closed hearing. There shall be a written and/or taped record of proceedings.
- #### 5. Procedures for the Conduct Committee

a. Conduct Committee Hearing

(1) Student(s) charged with violation(s) of the conduct code will be given written notice at least five (5) calendar days in advance of the hearing, the time of the hearing, the date of the hearing, the place of the hearing, a statement of the charges to be brought against him/her and possible sanctions or penalties, the opportunity to have an advisor at the hearing (if the advisor is an attorney, the hearing may be delayed until the College attorney can attend; attorneys may act as advisors only and may not enter into the process), the opportunity to have witnesses in his/her behalf and the opportunity to appeal as indicated in the Student Handbook.

(2) The Chairperson of the committee will read the charges against the student in the presence of the student.

(3) The student will be asked if they are "responsible" or "not responsible" to each charge as stated.

(4) If the student pleads "responsible," the committee in executive session will impose sanction(s).

(5) If the student pleads "not responsible," the evidence against the student shall be presented to the committee in the presence of the student.

(6) The student shall present evidence in his/her behalf and shall be allowed to cross-examine witnesses either directly or in a manner the committee deems appropriate based on the situation.

(7) The committee, after hearing all evidence, shall sit in executive session and by secret ballot vote on if they believe the student to be responsible or not responsible.

(8) If the student is found to be responsible, the committee will decide the sanction to be imposed.

(9) The decision of the committee shall be transmitted in a reasonable time period, in writing, to the Campus Vice President or designee who may approve, disapprove, reduce sanction or remand the decision to the committee for further study and give written notice to the student. Pending an appeal, sanctions under II.A.4.a., (3), (4), (5), or (6) imposed by the Campus Conduct Committee shall be held in force. Sanctions under II.A.4.a. (1), (2) shall not be imposed until either the time for appeal has been exhausted, until the entire appeal process is completed, or until the student voluntarily waives his or her further right to appeal in writing.

b. Appeals to Conduct Committee.

(1) Student(s) who are appealing the sanction levied by a conduct administrator will be given written notice at least five (5) calendar days in advance of the hearing, the time of the hearing, the date of the hearing, the place of the hearing, the right to have an advisor at the hearing (if the advisor is an attorney, the hearing may be delayed until the College attorney may attend; attorneys may act as advisors only and may not enter into the process), and the right to appeal as indicated in the Student Handbook.

(2) The chairperson will ask the student to read the appeal and/or make an oral presentation.

(3) The student will read the appeal and/or make an oral presentation.

(4) The conduct administrator will be in attendance to answer questions.

(5) After the conclusion of the presentation and questions, the Committee will sit in executive session to consider whether the sanction(s) imposed were appropriate for the violation.

(6) The Committee will vote by secret ballot and decide one of the following:

- a. Sustain the sanction.
- b. Reduce the sanction.
- c. Increase the sanction.
- d. Remand to conduct administrator

(7) A majority vote will constitute action by the Committee.

(8) The decision of the Committee shall be transmitted within a reasonable amount of time in writing to the Campus Vice President or designee who may approve, disapprove, reduce sanction, or remand the decision to the Committee for further study and give written notice to the student. Pending an appeal, the sanction imposed shall be held in force.

c. Right of Appeal

The notification of the conduct committee's decision shall include the fact that the student may appeal the committee's decision through the Campus Vice President to the College President. The appeal must be in writing with facts supporting the cause for appeal and must be in the Campus Vice President's office by 5:00 p.m. within five (5) days after receiving the Conduct Committee's ruling. The Campus Vice President will forward the record of the case to the College President where the case may be reviewed by the College Appeals Council and a recommendation made by the Council to the President for a final decision. The President will notify the Campus Vice President of the outcome of the appeal.

d. Appeal Procedures

(1) Students who have appeared before the Conduct Committee and feel that a technical error was committed in administering the due process procedure may appeal to the College President through the Campus Vice President as stated in c. where the case may be reviewed by the College Appeals Council and a recommendation made by the Council to the President for a final decision.

(2) Before the Council will examine the cause for appeal submitted by the aggrieved student, the student must provide evidence of one or more of the following:

\*If the student pleads responsible at the campus level, items (k), (i), and (j) do not apply.

(a) Were the charges valid i.e. a violation of one or more regulations under item II.A.2. of the Student Conduct Regulations in the Student Handbook?

(b) Was the sanction imposed valid as listed under II.A.4 in the Student Handbook?

(c) Was the Conduct Committee constituted as outlined in Section II. B. 4. a?

(d) Did the student receive written notice of the charges against him/her at least five (5) days before the hearing?

(e) Did the notice contain the time of the hearing, the date of the hearing, the place of the hearing, a statement of the charges, the possible sanctions or penalties, the opportunity to have an advisor at the hearing, the opportunity to have witnesses in his/her behalf and the opportunity to appeal?

(f) At the hearing, did the chairperson read the charges against the student?

(g) Was the student or a representative present when the charges were read? If no, did the Conduct Committee proceed as described in II.B.4.b?

(h) Did the student have the opportunity to enter a plea? If no, did the Conduct Committee proceed as described in II.B.4.b?

(i) Was evidence against the student presented in the student's presence? If no, did the Conduct Committee proceed as described in II.B.4.b?

(j) Did the student have the opportunity to cross-examine witnesses? If no, did the Conduct Committee proceed as described in II.B.4.b?

(k) Did the committee determine the student's responsibility by secret ballot in executive session?



- (l) Was the sanction imposed a committee decision and was the sanction in keeping with the severity of the offense?
- (m) Did the Campus Vice President give written notice of the sanction to be imposed?
- (n) Did the Vice President's written notice include the student's right to appeal the committee's decision through him/her to the College President and that such appeal must be in writing with facts supporting the cause for appeal and that it must be in the Campus Vice President's office by 5:00 p.m. on the within five (5) days after receiving the Conduct Committee's ruling?
- (o) Has evidence which would have substantially affected the outcome of the Campus Conduct Committee hearing been discovered since the hearing?
- (3) The College Appeals Council should answer the following questions when reviewing an appeal regarding an appeal hearing held by a Campus Conduct Committee.
- (a) Was the sanction imposed valid as listed under II.A.4. in the Student Handbook and was the sanction in keeping with the severity of the offense?
- (a) Was the Conduct Committee constituted as Section II. B. 4. a.?
- (b) Did the student receive written notice containing the time, date, place of the hearing, possible actions to be taken, the right to have an advisor, and the right to appeal, at least five (5) calendar days before the appeals hearing?
- (c) Did the student have the opportunity to read the appeal or make an oral presentation?
- (d) Was the decision a Committee decision determined by secret ballot in executive session?
- (e) Did the Campus Vice President give written notice of the Committee's decision also, containing the right to appeal the Committee's decision through him/her to the College President and that such appeal must be in writing with facts supporting the cause for appeal and that it must be in the Campus Vice President's Office by 5:00 pm on the fifth (5<sup>th</sup>) day after receiving the Conduct Committee's decision?
- (4) The College Appeals Council may recommend to the President the following actions:
- (a) Sustain and affirm the Campus Conduct Committee's decision.
- (b) Sustain and affirm the Campus Conduct Committee's decision, but remand to the Campus Conduct Committee for further consideration regarding sanctions.
- (c) Remand the case to the Campus Conduct Committee for further consideration on specific procedural issues.
- (d) Remand the case to the Campus Conduct Committee to consider new information not brought out in the original hearing because such information was not known to the student appealing at the time of the original hearing. Such information must be sufficient to alter the Campus Conduct Committee's decision.

The president's decision is final.