

Administration of University Code of Conduct

I. BASIC POLICY

The judicial process at Salisbury University exists to provide a living and learning environment which reflects the values of the institution. Through it, SU seeks to guide students living on and off campus toward the development of personal responsibility, respect for others and mature behavioral standards. While the University's judicial system may have some similarities with the legal system established in the broader community, it is essentially educative and administrative in nature and is not governed by narrow legalisms or the same restrictions found in criminal or civil proceedings.

II. JUDICIAL AUTHORITIES

A. Authority of the President

The authority for discipline is vested in the President by action of the Board of Regents. The President has empowered the Dean of Students and/or designees and the Provost or designee to adjudicate charges of alleged misconduct by students and to levy fair sanctions as provided in these procedures. The Dean of Students reserves at all times the right to designate other persons or to appoint special committees as necessary to aid in the judicial function.

B. Dean of Students

The Dean of Students is responsible for the implementation and coordination of the University judicial system. Specific duties include, but are not limited to,:

1. interpretation of judicial system policies and procedures;
2. ruling on questions of judicial system policies and procedures, and appeals;
3. maintenance of accurate records of all judicial cases;

4. filling vacancies on boards by making interim appointments from among the pool of available board members or other eligible members of the University faculty, administration or student body;
5. attendance (or designee) at board hearing in an ex officio and nonvoting capacity;
6. determining the disposition of certain cases for hearing; and
7. conducting administrative hearings in certain cases.

C. University Attorney

The University Attorney may attend judicial hearings which involve serious allegations, complex procedural issues and/or which may result in the suspension or expulsion of a student. The role of the University Attorney is to ensure that due process requirements are met, to assist in the findings of fact and to provide counsel concerning legal questions which arise during the judicial process. The University Attorney's role is neither to bring charges nor present the case nor assist in deliberations.

D. Case Administrators

Upon receipt of a complaint of misconduct, the Dean of Students or designee will assign to a staff member from the Division of Student Affairs the primary responsibility for the investigation and resolution of the complaint. The staff member will hereafter be referred to as the Case Administrator. Case Administrators include, but are not limited to, the Dean of Students, Graduate Assistant for Judicial Affairs, Student Affairs Administrators and Area Directors.

E. Community Hearing Board

The Community Hearing Board hears cases referred to it by the Dean of Students either on appeal or as an original hearing.

Membership to the Community Hearing Board is usually comprised of two faculty, two administrators appointed by the Dean of Students and two students appointed by the University Judicial Administrator with the support of the President of the Student Government Association.

The Community Hearing Board shall usually consist of five members, at least one of whom must be a student. Board decisions shall be made by majority vote.

III. JUDICIAL PROCEDURES

A. Complaints of Misconduct

1. A complaint of misconduct alleging that a violation of University policy has occurred may be made against a student or a student organization by a fellow student, by a member of the faculty, administration or support staff, by a visitor or a guest to the campus community, by campus or local police reports, or by a member of the local community. The Dean of Students may also bring charges against a student or student organization on behalf of the University when such conduct or behavior is in violation of University policy or would otherwise threaten the safety or integrity of the institution.
2. Complaints of misconduct must be in writing and shall be filed with a member of the University Police, Residence Life Staff, the Office of the Dean of Students, or, in the case of a complaint against a student organization, the Office of Student Activities.
3. Complaints should be submitted as soon as possible after the alleged violation of University regulations. If an alleged violation is not reported within four months of the time it becomes known by the complainant, it may be considered untimely unless the appropriate Student Affairs administrator concludes that there has been good cause for the delay and that it is still feasible to hold a fair hearing.
4. When a written complaint of misconduct is received, the appropriate Student Affairs administrator shall determine if the alleged violation is unfounded or frivolous or requires further judicial action.
5. A preponderance of evidence does not require evidence that is beyond a reasonable doubt. Rather it is defined as that degree of proof which will produce a firm belief in the allegation sought to be established. A preponderance of evidence is supported by documentation, oral statements or images that the alleged violation did more than likely occur.

B. Informal Conference

1. If the allegation is not dismissed, the accused student or official representative of the accused student organization shall be directed to appear for an informal conference with

a case administrator. The informal conference is an opportunity for the student to receive information about the judicial process, including options for adjudication, and to discuss the complaint with the case administrator and respond on his or her behalf, or on behalf of a student organization, although a student is not required to make any statement.

2. After the informal conference and any appropriate investigation, the case administrator may dismiss the complaint if unfounded or pursue further judicial action.
3. If a student fails to appear at the informal conference after being properly notified (see Address of Record), the case administrator may further investigate and dismiss the complaint if unfounded, place a hold on an accused student's records (which prevents a student from registering or engaging in other transactions with the University), or prepare written charges pursuant to Section D, below, and notify the student or representative of the student organization (hereafter referred to as the "charged party") that they are required to appear for a hearing.

C. Adjudication Options

1. **If a case of alleged misconduct is not dismissed** after the informal conference, the student or student organization, through its official representative, except as provided below, may elect to resolve the case through one of the following three options:
 - a. **Informal Proceedings:** If the student or student organization chooses not to dispute the facts and executes a written waiver of a hearing, the case will be resolved informally and the case administrator shall assess a sanction and appropriately inform the student.
 - b. **Administrative Hearing:** The student or student organization may elect to resolve the case through a hearing with the case administrator.
 - c. **Community Hearing:** The student or student organization may elect to resolve the case through a committee hearing.

If the case administrator determines that a case cannot be resolved through an informal process, the case administrator can mandate that a hearing take place. The type of hearing must be jointly agreed upon by the case administrator and the charged student (except in cases of Sexual Misconduct where

a modified hearing may be offered for Alleged Violations of Sexual Misconduct Policy). If an agreement cannot be reached, the Dean of Students will decide how the case will be handled.

2. **Timeline.** The student or student organization, through its official representative and the case administrator, will normally have up to two working days to decide upon an adjudication option unless the case administrator grants an extension for good cause or the nature of the incident requires immediate action. Once made, the election is irreversible. If the charged party does not inform the case administrator of his or her election, the case will be resolved informally with the sanction chosen by the case administrator.
3. **Level of Seriousness.** Regardless of the method of adjudication, each case is classified as a “less serious” case or a “more serious” case. Less serious cases are those cases in which the alleged offense might be punishable by a penalty less than social probation, including, but not limited to, allegations of violation of residence hall regulations. More serious cases are those cases in which the alleged offense might be punishable by a penalty of removal from the University’s residence halls, probation with loss of privileges, or suspension or another form of separation from the University. Classification of a case’s level of seriousness shall be determined by the Dean of Students.
4. **Appeal.** The right of appeal is assured regardless of the method of adjudication. Upon appeal, the file and material related to the student’s previous violations of University regulations, if any, are forwarded to the appropriate appellate authority. Depending upon the method of adjudication, the grounds for appeal may be limited. (See “Appeals of Judicial Actions.”)

- a. the Dean of Students grants a postponement, or
- b. the judicial committee to which the case has been assigned, or the administrator hearing the case, grants the accused a postponement, or
- c. when a break makes a hearing impractical. A case may not be heard in fewer than two working days unless the student waives in writing the two working days time period.

3. **Authority of the Board.** The Community Hearing Board is empowered to determine responsibility for the charges issued and to assess sanctions if the student is found responsible. Decisions will be reached by a preponderance of evidence.

The case administrator will ordinarily present the information supporting the charge and will assign appropriate sanctions if a finding of responsibility is reached.

4. **Hearing Records.** There shall be a record such as a tape recording or written summary of all hearings. The record shall be the exclusive property of the University. The recorder and the chair will summarize the evidence presented and the findings of the Board including the reasons for the finding and sanction if the student is found responsible. This summary should be filed in the Office of Student Affairs usually within two working days of the hearing.
5. **Case Review and Notification.** The Dean of Students will return to the Board any finding and/or sanction that is inconsistent with University policy or practice. The Dean of Students will notify the student in writing of the decision of the Board usually within two working days after the Board’s summary is filed.
6. **Appeal.** Appeals of Community Hearing decisions will be reviewed by the Dean of Students or designee in accordance with the principles outlined under “of Judicial Actions.”

D. Procedures for Community Hearing and Administrative Hearing

1. **Charges.** If a student or student organization, through its official representative, chooses to resolve a case through a hearing, the case administrator will prepare formal written charges and notify the student.
2. **Timeline.** All charges of violations of University policies will normally be heard within 10 working days of when charges are brought except in unusual cases where

E. Determination of Responsibility and Burden of Proof

The Community Hearing Board will meet in closed session to determine whether or not the charged party has violated the regulation(s) as charged. For a charged party to be found responsible for a violation, a majority opinion by the Board members must conclude that the charge is supported by a preponderance of evidence.

A preponderance of evidence does not require evidence that is beyond a reasonable doubt. Rather it is defined as that degree of proof which will produce a firm belief in the allegation sought to be established. A preponderance of evidence is supported by documentation, oral statements or images that the alleged violation did more than likely occur.

1. **Determination of Sanctions.** Once a finding regarding responsibility is reached, the Board will notify the charged party of the decision. If the charged party is found responsible, the Board will receive information from the case administrator on any previous violations of University regulations by the student, any precedent for similar situations, any additional relevant information concerning the charged party's character and any administration recommendations concerning sanction. The charged party will be given an opportunity during the hearing to make a statement concerning the alleged violation, and if desired, to call character witnesses. The number of character witnesses may be limited by the Board and is usually limited to one. The Board will again meet in closed session to determine an appropriate sanction and will reconvene and announce its decision. The sanction imposed must be agreed to by a majority opinion of the Hearing Board. The sanction imposed is not final until the Dean of Students issues a written decision to the charged student and any appeal procedure is complete.

2. **Appeal.** As soon as possible after written confirmation of the results of the hearing, normally within two working days, the Dean of Students or designee will be available to a student found responsible for a violation to discuss the impact of the decision on the charged party and to review the appeal process. (See the "Appeals of Judicial Action" section in this publication.)

3. **Reinstatement Hearing.** When a Board assigns the sanction of contingent dismissal, another Board will be appointed by the Dean of Students or designee at the appropriate time to determine whether the charged party has met the conditions necessary for reinstatement.

The Board will be given access to all file materials from the original hearing, may require the charged party to make a personal appearance before the committee and may

solicit other information to reach a decision. The same general procedures employed in the original hearing will be followed with the same rights assured for reinstatement.

4. **Administrative Hearing.** In those instances where a student is charged with a violation of a University regulation and elects to have the charges heard in an administrative hearing, the steps outlined under "Procedures for Community Hearing and Administrative Hearing" above shall be followed with appropriate allowances for the difference in structure.

IV. SANCTIONS

The sanctions listed below are categorized as primary and secondary. At least one primary sanction and any combination of primary and secondary sanctions may be imposed for any single violation. A due date will be given with any task, fine and/or restitution penalty. All other sanctions are effective immediately upon completion of the appeal or appeal period, unless the Dean of Students authorizes an exception. Students appealing a sanction of separation must comply with the restrictions noted in the Appeals section.

Primary Sanctions

► Permanent Dismissal*

Involuntary separation of the student from the University without future readmission. The student must leave the campus, usually within 24 hours, and is not eligible to participate in classes or any University-sponsored or related activities. The sanction of dismissal is permanently noted on the student's transcript.

► Contingent Dismissal*

An involuntary separation from the University during which time the student must leave the campus and is not eligible to participate in classes or any sponsored or related activities, with a date determined by a committee or administrative officer when the student may petition for reinstatement. In such instances, the student must first satisfy the committee or administrative officer by his/her conduct and record that he/she is in fact entitled to reinstate-

ment. During the period of separation, the student is not permitted on campus without prior written consent from the Dean of Students or designee. The sanction of contingent dismissal is noted on the student's transcript but is removed if the student is reinstated to good standing at the University.

▶ **Suspension***

An involuntary separation from the University for a period determined by the appropriate committee or administrative officer during which time the student must leave the campus, usually within 24 hours, and is not eligible to participate in classes or any University-sponsored or related activities. The student is not permitted to return to the campus without prior written consent from the Dean of Students or designee. At the end of the period of suspension, the student is automatically eligible for readmission provided there is no other encumbrance upon his/her return and the stated conditions for return have been met. The sanction of suspension is noted on the student's transcript but is removed once the period of suspension has been completed.

▶ **Disciplinary Probation***

A specified period during which a student or student organization will face severe disciplinary sanctions, most likely suspension or expulsion, for any subsequent violations occurring during the probationary period.

▶ **Probation with Restricted Privileges***

Enrollment but exclusion from participation in University, fraternal, and/or other student extracurricular or social activity for a specified period of time. Such probation also constitutes a warning that further misconduct or violation of University regulations during the period of probation will be referred to the appropriate committee or administrative officer and will most likely result in the student's separation from the University.

▶ **Suspension from University Housing***

Continued enrollment in the University but with the loss of privilege to reside in campus housing, usually within 24 hours, for a specified period of time. During any period of suspension from housing, the student may also be prohibit-

ed from being present in the residence hall(s). Students removed from campus housing may also be subject to removal from the University.

▶ **Probation***

Continued enrollment but under stated conditions. Probation constitutes a warning that further misconduct or violation of regulations during the period of probation will be referred to the appropriate committee or administrative officer and may result in more severe sanctions, including the student's separation from the University.

▶ **Warning**

An oral or written notification confirming that a violation of University regulations has occurred and that future violations may result in a more severe sanction.

▶ **Withholding a Degree**

When charges of misconduct cannot be adjudicated by the date of graduation, Salisbury University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Code of Conduct and/or the completion of all sanction imposed, if any.

Secondary Sanctions

▶ **Loss or Restriction of Privileges**

Limitation or removal of social or personal privileges including, but not limited to, loss or restriction of computer privileges, entertainment of guests in the private areas of a residence hall, participation in social activities sponsored by the University or a residence hall, and/or the right to operate an automobile on campus, provided the penalty is consistent with the offense committed.

▶ **Chemical Assessment**

Requiring a student to complete a Chemical Assessment and to follow through with the recommendations of a qualified Counselor.

▶ **Educational Requirements**

Requiring a student to complete a specific educational requirement directly related to the violation committed.

► Task/Community Service

Requiring a student to participate in assigned tasks that are appropriate to the regulation violated or behavior displayed.

► Restitution

Requiring a student to reimburse the University, appropriate individual or organization for damage, personal injury or misappropriation. A monetary assessment in the amount of pecuniary damage or loss occurring as a result of misconduct. In the case of damage to University property the student will be billed a minimum of \$25.

► Fines

A monetary assessment not connected with pecuniary damage or loss. Fines may be imposed as a result of violations including, but not limited to:

1. Failure to satisfactorily complete sanctions by the imposed date will normally result in a \$25 fine.
2. Off-campus misconduct (individual or student organization) detrimental to University interests. In such cases, fines will range from \$50-\$200.
3. Students found responsible for an alcohol-related violation that does not put themselves or someone else's health or safety at risk will normally be assessed a fine of \$75.
4. Students found responsible for an alcohol-related violation in which the student put themselves or someone else's health or safety at risk will normally be assessed a fine of \$150. Such offenses include, but are not limited to, DUIs, providing alcohol to minors, medical response, vomiting, blacking out/passing out, causing an injury to themselves or others, and engaging in risky behavior.
5. Violations relating to drugs or drug paraphernalia (see "Drug Policy" section for definitions) will normally result in a fine of \$150.

****These sanctions may be administered even though the student may not currently be on probation, has not previously been placed on probation or has not otherwise been disciplined.***

► Interim Suspension

The President has empowered the Dean of Students to suspend a student in extraordinary circumstances pending a full hearing before the appropriate judicial body or administrator. Such action is authorized when it is necessary to preserve the educational process or the health or safety of the student or of other members of the University community. In such instances, the student will be afforded an opportunity to confer informally with the Dean of Students or designee and an opportunity to show why his/her continued presence does not pose a threat sufficient to impose the suspension. A full hearing will be scheduled for the student within 10 working days or as soon as the student's condition permits. When the sanction of interim suspension is imposed, the student must leave the campus immediately and may not participate in academic, extracurricular or other activities of the University except as may be authorized by the Dean of Students or designee. During the period of interim suspension, a student is not permitted on the campus without prior written consent from the Dean of Students or designee. (See also "Medical and Emotional Emergencies Protocol.")

Policy on Student Organizations

► Procedures

The judicial process for student organizations will generally follow the procedures outlined for individual students. The process may be modified in certain cases involving student organizations.

University recognized organizations which include, but are not limited to, Greek organizations, athletic or club sports, and/or other student interest organizations may have its members sanctioned according to the aforementioned sanctions, and as an organization may have one of the following sanctions imposed:

Suspension: The withdrawal, for a specified period of time, of the charter or privileges of a group found in violation of University regulations, including the inability to use University facilities, publicize events or participate in University-sponsored activities. Such suspensions may include conditions for the reinstatement of the organizational privileges.

Suspension of a charter or organization may result (when specified) in the complete suspension of the activities of the group. Violation of the conditions of the group's suspension may result in revocation of the charter or dissolution of the group or organization.

Revocation of Charter: The permanent cancellation of the charter or privileges of a group that violated University, Student Government or Office of Student Activities policies and/or terms of previous disciplinary action.

V. APPEALS OF JUDICIAL ACTION

Students may appeal judicial decisions in accordance with the following provisions:

1. Students are entitled to no more than one appeal review.
2. Students electing to appeal a judicial decision must file a written appeal, including the reasons for the appeal, with the Dean of Students and/or Office of Student Affairs, within five working days of being given notice of the results of the original hearing.
3. Appeals must be in writing and must state specific grounds for the appeal. Grounds for appeal are limited to the following:
 - a) the sanction(s) imposed are grossly disproportionate to the offense;
 - b) specified procedural errors or errors in interpretation of University regulations were so substantial as effectively to deny the student a fair hearing;
 - c) new and significant evidence became available and could not have been discovered by a properly diligent student before or during the original hearing; or
 - d) the finding is unsupported by any evidence.
4. The appeal review will be assigned to the appropriate board or administrator by the Dean of Students.
5. The appeal body will review all documentation associated with the case and determine whether sufficient grounds exist to reconsider the case. If sufficient grounds do not exist, the finding(s) and sanction(s) from the original hearing will stand and no further appeal will be provided. If sufficient grounds exist to reopen the case, the appeal body may elect to hear the case in part, or in total and is not bound by the finding(s) or sanction(s) of the

original hearing body.

6. Appeals of suspension or expulsion will be directed to the Dean of Students or designee.

► Student Status Pending Final Action

Disciplinary actions which are appealed are held in abeyance pending action by the appellate hearing body. The University reserves the right to temporarily remove a student from the residence halls and/or the campus pending judicial action in cases where the continued presence of the accused may constitute a real and present danger to people and/or property or is disruptive to the conduct of University business.

► Refunds

Students who are dismissed or suspended from the University for disciplinary reasons shall not be entitled to any refund of tuition or fees. Similarly, students whose housing or boarding contracts are terminated for disciplinary reasons are not eligible for refunds.

► Disciplinary Records

Disciplinary records are retained in the Office of Student Affairs for a period of five years from the date of final action on each case, after which they are destroyed. Exceptions to this policy are cases which result in the suspension or expulsion of a student, the files of which are retained permanently. Students of senior standing with judicial sanctions of probation or less who have maintained good disciplinary standing for at least one year prior to their final semester may request to have their disciplinary records expunged.

Procedures for Appeal by Charged Party

► 1. Appeals of Informal Resolutions

- a. Appeals of informal processes decisions are considered by the Dean of Students or designee.
- b. The Appeal Body may decide one of the following:
 - There is no basis for the appeal. The appeal is then dismissed, and the original decision stands.
 - An incorrect finding of responsibility was reached. The Appeal Body will then dismiss the case.

- The sanction administered is unfair or inappropriate. The Appeal Body then determines a penalty fair to the facts of the case. The Dean is not empowered to increase the level of the sanction, but may refer the case to an appropriate hearing body.

- Modify the sanction to be fair to the facts of the case; and/or
 - Uphold the decision(s) of the original hearing body.
- The Dean of Students or designee may not increase the level of the sanction.

► 2. Appeals of Administrative Hearings

- Appeals of administrative hearings decisions are considered by the Dean of Students or designee. (In cases where the Dean of Students serves as the administrative hearing officer, the Vice President of Student Affairs or designee will consider student appeals.)
- The Appeal Body may decide one of the following:
 - There is no basis for the appeal. The appeal is then dismissed, and the original decision stands.
 - An incorrect finding of responsibility was reached. The Appeal Body will then dismiss the case.
 - The sanction administered is unfair or inappropriate. The Appeal Body then determines a penalty fair to the facts of the case. The Dean is not empowered to increase the level of the sanction, but may refer the case to an appropriate hearing body.

► 3. Appeals of Community Hearing Board

- Appeals of Community Board decisions will be considered by the Dean of Students or by an appointed committee.
- The committee is empowered to determine one of the following:
 - The appeal is without merit. A decision of no merit in an appeal by the accused is a final action.
 - The appeal has merit.
 - The finding of responsibility should be reviewed.
 - The sanction should be reviewed.
- If the committee decides that the appeal has merit, then the appeal is considered by the Dean of Students or designee. The Dean of Students or designee may:
 - Reverse a finding of responsibility;
 - Order a rehearing before a new hearing board;

► 4. Continued Enrollment During Appeal

- Students appealing judicial action involving involuntary separation from the University may not take part in any University function including scheduled classes while the appeal is pending without the written permission of the Dean of Students. Where appropriate, the Dean of Students may also restrict a student from parts of the University or specific functions or activities during the appeal period.
- In those cases where the committee or administrator (with the concurrence of the Dean of Students) determines that the continued presence of the student constitutes a risk to the educational process, the University, to him/herself, or to others, class attendance may also be prohibited.