



Information and Frequently Asked Questions for advisors to students adjudicated through the Office of the Dean of Students and Office of Residence Life

The student conduct process promotes learning and student development by adjudicating alleged student misconduct; contributes to the educational mission and core values of the university community through adjudication of the Code of Student Conduct; and assures standards of acceptable behavior that protects students' health, safety, welfare, and property.

The student conduct process is not comparable to a court of law, criminal proceeding or civil proceeding and therefore the role of the attorney is also dissimilar. The role of the advisor is one of a friendly observer. This friendly observer is not an active participant and may not participate in the hearing. They can attend the hearing as a support to the student and can guide or advise the student on what questions to ask or answer during their university hearing.

Advisors assisting students as they navigate the student conduct process are encouraged to familiarize themselves with the Code of Student Conduct (found at www.msmary.edu/studentconduct). This document describes in detail, the scope of the code of conduct, procedures, prohibited conduct, and possible sanctions.

“...The attempted analogy of student discipline to criminal proceedings against juveniles and adults is not sound. The nature and proceedings of the (campus) disciplinary process...should not be required to conform to federal processes of criminal law, which are far from perfect, and designed for circumstances and ends unrelated to the academic community.” 44F.R.D. (142) (W.D. Mo.) General Order on Judicial Standards of Procedures and Substance of Student Discipline in Tax Supported Institutions of Education

Pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), and the implementing regulations, the Office of Student Conduct & Civility Education cannot discuss a student's record with an outside agent without written permission granted by the student. This Disciplinary Record Authorization Form can be found at: www.towson.edu/judicialaffairs. Absent this form, staff members are limited to discussing university policies and procedures and not the specifics of any student's disciplinary record.



Frequently Asked Questions

Q: I have been asked to advise a student in the conduct process and I qualify and/or have been approved as an acceptable advisor as stated in the Code of Student Conduct. How do I establish this with the university?

A: It is the practice of the Office of Residence Life and the Office of the Dean of Students to correspond at all times directly through the student and not through any third party. In order for a member from the Office of Residence Life or the Dean of Students to communicate with you, we first need a signed Disciplinary Record Authorization Form (see above) from the student. Once this has been submitted, we can speak with you about any Code of Conduct charges against your student and their status in the student conduct process.

Q: What happens if a student refuses to participate in the student conduct process?

A: As per the Code of Student Conduct, if the accused student refuses to participate in the student conduct process, the university hearing will take place in the absence of the student. If a student chooses not to attend or not to speak during the hearing, the conference authority will make a decision based on information available during the conduct conference. The student may not use his or her refusal to participate as a later ground for appealing a decision.

FAQ for Attorneys

Q: Why isn't my client afforded the same protections that he/she would receive in the criminal process?

A: The student disciplinary system is not judging criminal guilt, but rather whether a student has violated campus policies. The courts have long recognized the differing interests of the University community from that of the criminal justice process. Although there are basic concepts of fairness that apply to student disciplinary proceedings, the student disciplinary system serves administrative and educational functions relating to the mission of Mount St. Mary's University. Therefore, many of the intricate rules and processes found in a court system are not applicable to university disciplinary procedures.



Q: The incident took place off campus. What interest does the university have in the incident?

A: The behavior demonstrated by Mount St. Mary's students reflects not only on themselves but also the university community. Therefore, students are subject to action taken against them by the University off-campus behavior as well as for on-campus behavior. The jurisdiction of the Code of Student Conduct can be found by visiting www.msmary.edu/studentconduct

Q: My client is charged with a crime off campus. Can I get the proceedings delayed until the criminal matter is concluded?

A: The University's disciplinary process will normally proceed independently of pending criminal charges. Students charged with a violation of local, state, or federal laws for off-campus behavior may be disciplined by the university without a university hearing. If a request is made by a student with pending criminal charges to delay the university's disciplinary process, the university reserves the right to take interim or emergency action against the student pending the outcome of the disciplinary process.

Q: What is the burden of proof in the conduct process?

A: The burden of proof in the student conduct process is preponderance of the evidence.

Q: Who makes the decision regarding my client's innocence or guilt?

The University disciplinary does not recognize "guilty" or "innocence" as an outcome for a student conduct process. A student can be found responsible by either a university conference authority or a university administrative panel (for cases that could typically result in suspension or expulsion from the university).

Q: What is the appeal process?

A: Students found responsible for a violation of the Code of Student Conduct will be given a deadline for appeal within their decision letter. Appeals are made in writing to the Dean of



Students or Executive Vice President and will be considered by the appropriate party. The basis for appeal must be one of the following:

- a. A flaw in the student's right of due process.
- b. Inconsistent or overly severe sanction imposed
- c. New evidence or insufficient consideration of all aspects of the situation.

Q: What other resources available for me to learn more about the law as it relates to campus conduct proceedings?

A: Here is a list of publications that may be useful:

- Kaplin, William A. & Barbara A. Lee. (2006). The law of higher education, (4th ed.). San Francisco: Jossey-Bass.
- Bickel, Robert D. & Lake, Peter F. (1999). The rights and responsibilities of the modern university: Who assumes the risk of college life? Durham, NC: Carolina Academic Press
- Paterson, B.G. & Kibler, W.L. (1998). The administration of campus discipline: Student, organizational, and community issues. Asheville, NC: College Administration Publications, Inc.