

STUDENT DISCIPLINARY CODE

INTRODUCTION

Missouri Western State University believes that students enrolling at this university have as their goal the pursuit of an outstanding higher educational experience. It is recognized, however, that occasionally a student or students will violate the rules and regulations of the institution and that disciplinary action will be needed.

Upon enrolling in this university, each student assumes an obligation to conduct her or himself in a manner compatible with the university's function as an educational institution and to obey the laws enacted by federal, state and local governments. If this obligation is neglected or ignored while on the campus or attending a university function or even while off-campus doing something not associated with the university, the university may, in the interest of fulfilling its function, institute appropriate disciplinary action. Inappropriate or unlawful conduct interferes with, impairs, or obstructs the mission and functions of the university, or adversely affects the interests of the university community.

It should be stressed that the university is not responsible for enforcing state and/or federal laws and that the following regulations and procedures concern university rules and policies. The University will take action however if it is informed of a student's violation of state and/or federal laws. Missouri Western State University is fortunate to have the benefit of the widely recognized "General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax Supported Institutions of Higher Education." This document, written by the Western District Court of Missouri en banc, endeavors to set forth the due process which must be accorded students in public college and university discipline and judiciary cases. The University has sought to fully comply.

Any conduct which violates University policies or regulations may subject a student to disciplinary action. It should be noted that the burden of proof concerning the violation of a university rule or policy rests with the institution. Because inappropriate conduct obstructs the mission and functions of the university, or adversely affects the interests of the university community or may even endanger members of the university community, disciplinary hearings and resulting sanctions may take place even if the alleged victim chooses to no longer participate. So that the student involved in a disciplinary hearing will be given every opportunity to present her or his case to the proper hearing agency, the following rules and regulations establishing judicial channels and authority are described.

Because they are considered to be particularly disruptive to the mission of the University, the following actions and similar actions could result in immediate temporary dismissal until review has occurred:

1. Physical assault or the threat of physical assault or verbal abuse of another student or students, faculty, or staff contributing to concerns about individual safety both on and off campus or potentially affecting the general safety of the campus. The instructions of Public Safety staff are to be complied with immediately and with no argument or disrespectfulness.
2. The brandishing or use of anything which can reasonably be construed as a weapon.
3. Efforts to intimidate individuals by groups of people.
4. The abuse of property including grossly negligent or irresponsible use of property whether it belongs to other individuals or Missouri Western State University.
5. Be in possession of enough illegal substances such as drugs including so-called party drugs or alcohol so as to warrant suspicion of intent to distribute.

It is the responsibility of the Dean of Student Development acting on behalf of the best interests of the University to implement through an *informal disposition* the judicial sanction of immediate temporary dismissal from the University. Because student conduct is the responsibility of the student, the university assumes no responsibility for any of the potential ramifications resulting from temporary or permanent disciplinary sanctions such as inability to participate in regularly scheduled academic activities including examinations; extracurricular activities such as athletics events; loss of financial aid or employment; how a student is perceived by peers or others on and off campus; or whether a student is able to continue her or his educational endeavors at other institutions of higher education.

GENERAL UNIVERSITY RULES AND REGULATIONS

It shall constitute a rule violation to:

1. Disrupt classes, seminars, research projects, or activities of the university.
2. Assault or threaten to assault any person, to engage in any unwelcome physical contact (which includes, but is not limited to, unwanted touching, even between acquaintances) with any person, to make unwelcome advances, or to engage in conduct which threatens or endangers the health or safety of any person.
3. Engage in lewd, indecent or obscene conduct or expression or to repeat, propose or request such conduct or expression, after being asked to stop.
4. Harass and and/or intimidate (which includes conduct causing alarm or recklessly creating a risk by threatening to commit crimes against persons or their property or the face to face use of “inflammatory words”) any person on university property or other property to which the student code applies. (“Inflammatory words” are those personally abusive epithets which, when directly addressed to an

- ordinary person, in the context used and as matter of common knowledge, are inherently likely to provoke an immediate violent reaction, whether or not they actually do. Such words include, but are not limited to, those terms widely recognized to be derogatory references to race, ethnicity, religion, sex, sexual orientation, disability and other personal characteristics. This also covers harassment or intimidation of university officials while they are discharging their official duties and responsibilities.)
5. Harass or intimidate university officials while they are discharging their official duties and responsibilities.
 6. Engage in disorderly conduct or expression, a breach of the peace or aid or incite another to a breach of the peace. Such conduct includes, but is not limited to, unwelcome physical contact, hazing, and boisterous conduct or threatening conduct which is unreasonable for the area, time or manner in which it occurs.
 7. Manufacture, grow, distribute, sell, possess, use, or offer for sale or use, on university property or at any university sponsored or supervised function, narcotic drugs, depressants or stimulant substances, hallucinogens, cannabis and/or derivatives, including synthetic derivatives.
 8. Exhibit such behavior or engage in activities, which endanger the safety of oneself or others. This includes, but is not limited to, destructive behavior by individuals and/or groups and self-destructive behavior.
 9. Possess, use or participate in an activity involving, on university property or at university-sponsored or supervised functions, firearms, fireworks, chemicals which are explosive, hazardous chemicals, other implements used as weapons, and other types of arms classified as weapons in the Missouri Revised Statutes.
 10. Possess, use or participate in an activity involving, on university property or at any university sponsored or supervised function, alcoholic beverages.
 11. Damage or attempt to damage, destroy or deface university property or property of any person as a result of deliberate action or as a result of reckless or imprudent behavior.
 12. Engage in acts of academic dishonesty, which include but are not limited to, cheating and plagiarizing.
 13. Steal or attempt to steal university property or property of any person and/or to be in possession of stolen property.
 14. Forge, alter, transfer, infringe on the copyright of, or misuse university documents, including identification cards.

15. Enter and use university facilities without authorization by appropriate university officials.
16. Engage in hazing, which is defined as an act which endangers the mental or physical health or safety of a student, or which destroys 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, constitutes a violation.
17. Make or assist in making unauthorized, obscene or annoying telephone calls or otherwise misusing or abusing telephone equipment.
18. Violate any of the restrictions, conditions or terms of any sanctions resulting from a previously held disciplinary hearing or agreed upon in an informal disposition.
19. Engage in computer abuse, which includes but is not limited to, plagiarism of programs, misuse of computer accounts, unauthorized destruction of files, creation of illegal accounts, possession of authorized passwords, the viewing or distribution of pornographic material, and disruptive or annoying behavior toward the university's computer system.
20. Provide false information in the application for admission, petitions, requests, disciplinary hearings, or other matters of record, and transactions with officials of the university.
21. Falsely report information of an emergency nature (i.e., false report of a bomb, fire, or other emergency) in any building, structure of facility.
22. Fail to identify oneself when requested to do so by a university official and/or surrender one's ID card when requested to do so. The usual means of identifying oneself is by producing the ID card, which must be in the student's possession at all times.
23. Use or possess any university key without proper authorization. No student is allowed, under any condition, to have a university key duplicated.
24. Sell a textbook that does not belong to oneself without prior authorization by the book's owner.
25. Misuse or use university property without proper authorization.
26. Commit any act, which is a violation of a criminal law of the United States, the State of Missouri or a municipal ordinance.
27. Fail to obey a reasonable order or request by a university official.

28. Allow a dog or pet to run at large (without a restraint) on campus or to enter any building on campus. Bonafide seeing-eye dogs are permitted with their masters anywhere on campus.
29. Fail to obey Housing Complex rules and regulations, whether or not one is a resident.
30. Conduct oneself in such a manner so as to reflect unfavorably upon the individual student or the university community.

RULES OF PROCEDURE IN STUDENT DISCIPLINARY CASES

Definitions

- (1) The term “**university**” means Missouri Western State University.
- (2) The term “**student**” includes all persons taking courses at the university, both full-time and part-time. Persons who are not officially enrolled for a particular term, but who have a continuing relationship with the university are considered students. Students can also be held responsible for the conduct of their guests whether they are students or not.
- (3) The term “**faculty member**” means any person hired by the university to conduct classroom activities.
- (4) The term “**university official**” includes any person employed by the university who performs assigned administrative, professional, support service, or classroom responsibilities. This includes certain student employees who act as agents of the university. University officials who may perform informal dispositions are the Dean of Student Development or his designee, the Director of Housing or his designee, the Director of Recreation Services or her designee, and the Director of Student Engagement or his designee.
- (5) The term “**member of the university community**” includes any person who is a student, faculty member, university official or any other person who is employed by the university.
- (6) The “**complainant**” shall mean the member of the university community who files a written, signed complaint against a student with the Dean of Student Development.
- (7) The term “**university premises**” includes all land, buildings, facilities and other property in possession of or owned, used or controlled by the university.
- (8) The term “**organization**” means any number of persons who have complied with the formal requirements for university recognition. In respect to the rights and

procedures outlined below, an “organization” shall have the same rights and requirements of an accused student.

- (9) The “**Hearing Panel**” is the body which is authorized to conduct hearings and to make determinations *after the informal disposition*. Appointed by the Vice President of Academic and Student Affairs, it will normally be concerned with cases which are serious enough to result in dismissal or expulsion. Students may appeal less serious sanctions than dismissal or expulsion. The Hearing Panel has the options of upholding the original sanction or recommending lesser or greater sanctions. There are four hearing panels to hear appeals based on which University official conducts the informal disposition:
1. Dean of Student Development Hearing Panel.
 2. Recreation Service Hearing Panel
 3. Residential Life Hearing Panel
 4. Student Organizations and Activities Hearing Panel
- (10) The “**Dean of Student Development**” or his authorized designee is the person designated by the University President to be responsible for the administration of the Student Disciplinary Code and for ensuring that all students are afforded due process.
- (11) The term “**policy**” is defined as the written regulations of the university as found in, but not limited to, the Student Handbook, Residence Life Handbook, and University Catalog.
- (12) The “**Appellate Panel**” is the body appointed by the University President to consider appeals of determination made by the Hearing Panels. The Appellate Panel has the options of upholding the decision of the Hearing Panel or imposing lesser or even greater sanctions. The Appellate Panel is the final appeal body available to students upon whom disciplinary sanctions have been imposed.
- (13) The term “**Student Code**” pertains to the rules, regulations and policies of the university, which apply to students and/or student organizations.
- (14) The term “**Informal Disposition**” refers to the process by which the Dean of Student Development or his designee may offer a student appropriate discipline, which the student has the right to accept or reject, for a rule infraction. The judicial sanction of immediate temporary dismissal from the University or university facilities takes place immediately subject to further review of the incident and may be appealed to the appropriate Hearing Panel.

Procedures

Section 1. Dean of Student Development

The Dean of Student Development or his/her designated representative, who shall not be an attorney, is the primary officer for administration of discipline for the violation of university rules and regulations. The Dean of Student Development may invoke such discipline or sanctions for violation of a university rule or regulation as set forth in Section 2 below. In cases where disciplinary action against a student(s) is sought or indicated as a result of the complaint of a member of the university community, the complainant shall make his/her complaint to the Dean of Student Development in writing setting forth the time, date, place and details giving rise to the complaint. Public Safety reports or reports from police departments may also be used in order to invoke discipline or sanctions for violation of a university rule or regulations.

Disciplinary action begins with an informal disposition where the facts surrounding the alleged violation are described and initial sanctions are imposed. These informal dispositions are conducted by the Dean of Student Development or his designee. Usually the informal disposition will be conducted by someone associated with the location where the infraction is alleged to have occurred such as the residence halls, recreation facilities, or at university sponsored events, activities, or the events and activities sponsored by student organizations. Customarily the Director of Recreation Services or her designee, the Director of Residential Life or his designee or the Director of Student Activities or his designee will conduct these informal dispositions. The Dean of Student Development will conduct all other informal dispositions and all informal dispositions serious enough to result in dismissal or expulsion from the university.

Students have the right to appeal the sanctions imposed during the *informal disposition*. These appeals will go to the appropriate *hearing panel*. Each *hearing panel* will consist of seven members, four of whom are students. After receiving the decision of the hearing panel, the final opportunity for a student to appeal is to the *appellate panel*. The appellate panel consists of two faculty members and one staff member.

Section 2. Sanctions

- A. The following sanctions or a combination thereof may be imposed upon any student found to have violated the Student Disciplinary Code:
- (1) Warning- a notice in writing to the student that the student is violating or has violated institutional regulations.
 - (2) Probation- a written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be violating any institutional regulation(s) during the probationary period. Probation may include an assignment of community service and may include one or more of the discretionary sanctions listed below. The Dean of Student Development or his designee may determine the length of community service. Failure to comply with any or all components of probation may be

considered cause for immediate dismissal from the university pending a hearing.

- (3) Loss of Privileges- denial of specified privileges for a designated period of time.
- (4) Restitution- compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
- (5) Discretionary Sanctions- work assignments, service to the university, service to the community, an oral or written apology, counseling or other related discretionary assignments. Failure to complete a discretionary sanction(s) will result in additional sanctioning.
- (6) Residence Hall Dismissal - separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- (7) Residence Hall Expulsion- permanent separation of the student from the residence halls.
- (8) University Dismissal - separation of the student from the university for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- (9) University Expulsion- permanent separation of the student from the university.

The foregoing is not meant to be an all-inclusive list of sanctions. More than one sanction may be imposed for any single violation.

B. The following sanctions or a combination thereof may be imposed upon groups or organizations found to have violated the Student Disciplinary Code:

- (1) Warning- a notice in writing to the organization that students comprising such organization are violating or have violated institutional regulations.
- (2) Probation- a written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the organization is found to be violating any institutional regulation(s) during the probationary period. Probation may include an assignment of community service and may include one or more of the discretionary sanctions listed below. The Dean of Student Development or his designee may determine the length of community service.. Failure to comply with any or all components of probation may be considered cause for immediate suspension from the university pending a hearing.
- (3) Loss of Privileges- denial of specified privileges for a designated period of time.
- (4) Restitution- compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement.
- (5) Discretionary Sanctions- work assignments, service to the university, service to the community, an oral or written apology, counseling, or other related discretionary assignments.

- (6) Deactivation- loss of all privileges, including university recognition, for a specified period of time.

The foregoing is not meant to be an all-inclusive list of sanctions. More than one sanction may be imposed for any single violation.

Section 3. Investigation

The Dean of Student Development or his designee shall investigate any reported student misconduct before initiating disciplinary sanctions and give the student the opportunity to present his/her personal version of the incident or occurrence. The Dean of Student Development or his designee may discuss, consult and advise with any student whose conduct is called in question, and the student shall attend such consultations as requested. The Dean of Student Development or his designee, in making his/her investigation and disposition, may utilize students, faculty or administrators to make recommendations to him/her which he/she shall consider in exercising the authority vested in him/her.

Section 4. Notice and Imposition of Sanctions/Right to Hearing

The Dean of Student Development or his designee , after investigation, shall have the authority to impose appropriate discipline. This is known as *informal disposition*. The student shall have five (5) business days to elect, in writing, to appeal the sanctions imposed or the sanction shall stand. Students requested to attend an informal disposition hearing may be accompanied by a family member or friend whose role is solely that of providing emotional support to the student.

Section 5. Temporary Dismissal

The Dean of Student Development or his designee may dismiss a student from university facilities, including dormitories, pending formal procedures when he/she finds or believes from information coming to his/her attention that the presence of the student would be seriously disruptive or would constitute a danger to the health, safety and welfare of the people present in said areas (The above mentioned dismissal does not include academic suspension.) Only the Dean of Student Development may dismiss a student from the campus. Although the temporary dismissal will be imposed at the informal disposition, the student has the right to appeal in writing dismissal from facilities or campus within five (5) business days. The appropriate Hearing Panel will be convened within 15 business days upon receipt of the student's appeal of the temporary dismissal. After temporarily dismissing a student, the Dean of Student Development may conduct an investigation lasting no more than six (6) weeks before imposing another sanction replacing the temporary dismissal. The President, or his/her representative, as authorized by the Board of Governors, may at any time dismiss or expel or deny readmission to a student from the university pending formal procedures when he/she finds and believes from information coming to his/her attention that the presence of a student on the campus would seriously disrupt the university or constitutes a danger to the health, safety or welfare of the university. The appropriate disciplinary procedures shall be initiated, at a

minimum, within five calendar days of such action; that is, the Dean of Student Development shall begin the official notification proceedings as described in Section 6.C.

Section 6. Formal Procedures and Disposition

A. Hearing Panels: Each Hearing Panel shall consist of seven (7) members of which four (4) must be students and shall be appointed from a pool of at least twenty-eight (28) by the Vice President for Academic and Student Affairs. This pool shall consist of at least sixteen (16) students, twelve (12) faculty members, and twelve (12) staff members. From this pool the Vice President for Academic and Student Affairs shall designate a Chairperson, and a substitute Chairperson in the event the original designee is disqualified or unable to serve. The Chairperson of the Hearing Panel will count as one member and will have, in addition to his/her authority as Chairperson, the same voting and other rights as other members of the panel. If neither the Chairperson nor the substitute Chairperson is available for the hearing, the Dean of Student Development shall appoint a temporary Chairperson for that particular hearing. An Panel quorum shall consist of five (5) members of whom three (3) must be students.

Neither the President nor any member of the President's Cabinet may be appointed to serve on any of the Hearing Panels nor may any member of the Dean of Student Development Office who works in an area or is in any way involved or affected by the activity related to the informal disposition.

B. General Statement of Procedures: A student charged with a breach of university rules or regulations or with conduct in violation of the university rules is entitled to an informal disposition and a written notice summarizing the contents and the sanctions imposed during the informal disposition. The procedures set forth below shall be interpreted and administered to accomplish this objective and provide for prompt consideration and disposition of student conduct cases. Disciplinary proceedings are not to be construed as judicial trials, but care shall be taken to comply as fully as possible with the spirit and intent of the procedural safeguards set forth herein.

C. Appeal Notice: Prior to initiating formal appeal proceedings with the Panel, the Dean of Student Development shall review the sanctions which have been imposed but are being appealed with the university attorney. The Dean of Student Development shall initiate formal appeal of the imposed sanctions by arranging with the Chairperson to call a meeting of the Panel by giving written notice, by certified mail or personal delivery, to the student accused of misconduct. This notice shall set forth the specific ground or grounds and the nature of the evidence on which proceedings are to be based, list of witnesses, and the date, time and place of hearing. Failure by the student to have his/her current, correct local address on record with the university shall not be construed to invalidate such notice. The notice shall be given at least ten (10) consecutive calendar days prior to the hearing. The Dean of Student Development may give a shorter or longer time of the notice for good cause. Any request for continuance shall be made in writing to the

Chairperson of the Panel, who shall have the authority, at her/his discretion, to continue the hearing if she/he determines the request is timely and made for good cause. The request shall be submitted to the Chairperson at least 24 hours in advance of the hearing and shall state the reason for the request. The Chairperson shall notify the Dean of Student Development and the student of the new date for the hearing, if any. If the student fails to appear at the scheduled time, the Panel may hear and determine the matter in her/his absence.

D. Conduct of: The shall proceed as follows:

Preliminary: All hearings shall be conducted in private. Admission of any person to the hearing shall be at the discretion of the Chairperson of the Panel. The Chairperson of the Panel shall preside at the meeting, call the hearing to order, call the roll of the panel in attendance and ascertain the presence of a quorum, establish for the record the presence of all persons present, read the Executive Summary of the informal disposition with the Dean of Student Development or his designee and report any updates pertaining to the matter since the informal disposition. The Chairperson shall call to the attention of the student and her/his adviser any special or extraordinary procedures to be employed during the , and permit the student to make suggestions or objections to any procedures for the panel to consider. The student will be asked whether she or he agrees with the events described in the Executive Summary and her or his role. The student will then be given the opportunity to describe why she or he is appealing the disciplinary sanctions imposed during the informal disposition. All statements shall be taken under oath or affirmation.

The hearing will then proceed as follows:

- (1) Presentation of Evidence: Each party shall have the right to make an opening statement outlining their case and the evidence they intend to present. The accused student has the prerogative to defer her/his opening statement to just before presenting her/his evidence.
 - (a) University Evidence: The Dean of Student Development shall then present his/her evidence.
 - (b) Student's Evidence: The accused student shall then present her/his evidence.
 - (c) Rebuttal Evidence: The Dean of Student Development may then offer any rebuttal evidence.
- (2) Rules of Evidence: No formal rules of evidence shall apply. However, each party, as well as members of the Panel, shall be permitted to examine or ask questions of each person who testifies. Each party shall have the right to examine and inquire about any documentary evidence that is presented.

All evidentiary and procedural questions which arise during the hearing and which are not covered by these general rules shall be determined by the Chairperson, whose ruling shall be final unless the Chairperson shall present the question to the panel, or unless a panel member requests that the question be put to the panel, in which event the ruling of the panel by a majority vote shall be final. The Chairperson and/or the Panel may consult with the Panel's legal adviser as necessary in rendering all such rulings.

In the event a student has been found guilty of a law violation in a federal, state or city court and such violation also constitutes a violation of a university rule and/or regulation, evidence of such conviction shall be admissible and the accused violation based solely thereon.

- (3) Presumption of Innocence: The accused student shall be presumed innocent until it is proven that the student more likely than not violated the rule, regulation or policy for which the student is charged.
- (4) General Rules of Decorum: The following general rules of decorum shall be adhered to:
 - (1) All requests to address the panel shall be addressed to the Chairperson.
 - (2) The Chairperson will rule on all requests and points of order and may consult with the panel's legal adviser prior to any ruling. The Chairperson's ruling shall be final and all participants shall abide thereby, unless the Chairperson shall present the question to the panel at the request of a panel member. In that event, the ruling of the panel by majority vote shall be final.
 - (3) Rules of common courtesy and decency shall be observed at all times by all parties present.

E. Legal Adviser to the Panel: The University shall provide the Panel with its own legal adviser upon the request of the Panel. Such legal advisor shall not be the university's attorney or a member of any firm representing the university. The legal adviser may advise the Panel in connection with the hearing and in all other aspects of their responsibilities, but shall not participate directly in the hearing by examining witnesses nor in their decision-making deliberations.

F. Rights of Panel:

The Panel shall have the right:

- (1) in cases involving more than one student which arise out of the same transaction or occurrence, to hear such cases together, but in that event shall make separate findings and determinations for each student;
- (2) to permit a stipulation of facts by the Dean of Student Development and student(s) involved;

- (3) to permit the incorporation in the record by a reference of any document, affidavit or other thing produced and desired to be incorporated in the record by the Dean of Student Development or the accused student;
- (4) to question witnesses on other evidence introduced by either the Dean of Student Development or the student at any time;
- (5) to call additional witnesses or require additional investigation;
- (6) to dismiss any action at any time or permit informal disposition as otherwise provided;
- (7) to at any time permit or require amendments of the Notice of Hearing to include new or additional matters which may come to the attention of the panel before final determination of the case, provided however, that in such event the panel shall grant to the student or Dean of Student Development such time as the panel may determine reasonable under the circumstance to answer or explain such additional matters;
- (8) to dismiss any person from the hearing who interferes with or obstructs the hearing or fails to abide by the rulings of the Chairperson on request; and
- (9) to hear from the Dean of Student Development about dispositions made in similar cases and any dispositions offered to the student appearing before the panel.
- (10) To conduct disciplinary hearings and resulting sanctions even if the alleged victim chooses to no longer participate (I know this is written at the beginning of the code but it might be good to repeat it here.

G. Student Rights at Hearing: A student appearing before the Hearing Panel pursuant to formal notice of rule violations and disciplinary hearing shall have the right:

- (1) to be present at the hearing;
- (2) to be assisted by an adviser of her/his choice and at her/his expense (the accused violator is not permitted to address or participate directly in the hearing);
- (3) to hear or examine evidence presented to the panel against her/him;
- (4) to question witnesses present and testifying against her/him at the hearing;
- (5) to present evidence by witnesses or affidavit of any defense the student desires;
- (6) to make any statement to the panel in mitigation or explanation of her/his conduct in question that she/he desires;
- (7) to challenge any panel member if the student feels there is a conflict of interest or if bias is shown by a panel member and ask that the panel member be stricken or replaced by another panel member (the Chairperson will rule on such a challenge);
- (8) to be informed in writing of the findings of the Hearing Panel and any discipline it determines; and
- (9) to appeal as herein provided.

Notwithstanding the foregoing, the accused student may forfeit some of her/his rights, including the right to present during the hearing, if the accused student's conduct or actions during the hearing are unduly obstructive, disruptive or threatening.

H. Complainant's Rights at Hearing: A complainant shall have the following rights:

- (1) to be present at the hearing;
- (2) to be assisted by an adviser of her/his choice and at her/his expense (the adviser is not permitted to address witnesses or participate directly in the hearing);
- (3) to question witnesses present;
- (4) to make any statement to the panel on behalf of her/his complaint;
- (5) to challenge any panel member if the student feels there is a conflict of interest or if bias is shown by a panel member and ask that the panel member be replaced (the Chairperson will rule on such a challenge); and
- (6) to be notified of the ruling.

Notwithstanding the foregoing, the complainant may forfeit some of her/his rights, including the right to be present during the hearing, if the complainant's conduct or actions during the hearing are unduly obstructive, disruptive or threatening.

I. Determination of the Panel: The Panel in executive session shall determine by a majority vote of the panel members whether the student has violated each section of the Student Code with which she/he is accused of violation. Prior to these deliberations, each panel member shall be advised in writing that:

- (1) the student is presumed not to have committed the violation with which she/he is being charged;
- (2) the panel's determination must be based solely on the evidence presented at the hearing; and
- (3) the evidence must overcome the presumption of innocence and cause each panel member to believe that it is more likely than not that the accused student committed the violation with which she/he is charged.

If the student is found to have violated any section of the Student Code, the panel will then determine by a majority vote the discipline to be imposed.

J. Official Report of Findings and Determination: The Panel shall promptly consider the case on its merits and make its written findings and determination and transmit them to the University President and Dean of Student Development, who will transmit them to the accused student and complainant forthwith.

This will contain the specific findings and determinations of the panel's decision. The Hearing panel may utilize its legal adviser as the panel deems necessary in preparing and submitting its written findings and determination.

K. Record of Hearing: There shall be a simple verbatim record, such as a tape recording, of all hearings before the Panel. The record shall be the property of the University. The notice, Exhibits, hearing, record, and the findings and determination of the panel shall become the "Record of the Case" and shall be filed in the office of the University President.

Section 7. Right of Final Appeal

A. Appellate Panel: A decision by the Panel may be appealed to the Appellate Panel. The Appellate Panel, appointed by the University President, shall consist of three members; two faculty members and one staff member (i.e., no member of the university administration, as defined previously, may serve on the Appellate Panel). The University President shall designate the Chairperson of the Appellate Panel.

B. Appellate Process: An appeal may be made by the student found in violation of a university regulations and policies . An appeal must be implemented by filing written notice of the appeal to the Appellate Panel in the University President's office within five (5) consecutive calendar days after notification of the decision by the Panel. A copy of the Notice of Appeal will be given to the other party initially filing the complaint if appropriate. The Chairperson of the Appellate Panel will arrange with the Appellate Panel to convene a meeting within five (5) consecutive calendar days of receipt of the Notice of Appeal. Provided however, the time for each meeting may be extended at the sole discretion of the Chair.

C. Appellate Review: Except as required to receive new evidence, the Appellate Panel shall review the verbatim record of the hearing and supporting documents to make its decision.

D. Appellate Action: The Appellate Panel, upon review of the case, may affirm the decision and sanctions imposed by the Hearing Panel; remand the case back to the Hearing Panel for further proceedings; reverse the decision; or reduce, but not increase, the sanctions imposed by the Hearing Panel. If the Appellate Panel remands the case, reverses the decision or reduces the sanction, it shall base that decision on one or more of the following reasons:

- (1) the student was not given due process;
- (2) new or additional evidence became available;
- (3) the discipline was inappropriate for the violation;
- (4) the decision of the Panel was not based on competent and substantial evidence;
- (5) for other good cause.

E. Finality of Decision. The decision of the Appellate Panel shall be final. The decision of the Appellate Panel shall be in writing and a copy thereof shall be delivered or mailed to the student.

F. Legal Adviser to the Appellate Panel: The Appellate Panel may request of the President that the university provided the Appellate Panel with a legal adviser. Such legal adviser shall not be the university's attorney or a member of any firm

representing the university. The legal adviser may advise the Appellate Panel in connection with its review and in all other aspects of their responsibilities.

TO BE A RESIDENCE HALL STUDENT AT MISSOURI WESTERN STATE UNIVERSITY, we expect you to recognize the strength of personal differences, while respecting institutional values. You are encouraged to think and act for yourself, however, we expect you to understand that the Office of Residential Life has non-negotiable values in which it believes strongly. These values include:

Respect – Civility – Citizenship – Individual and Social Responsibility

These values along with the University Values of **Serving others, Quality, Enthusiasm about learning, Freedom to exchange ideas, and Courage to shape the future**, are the hallmark of the University, and will be protected diligently. Each person has the right and ability to make decisions about his or her own conduct. Just as importantly, each person has the responsibility to accept the consequences of those decisions. When individual behavior conflicts with the values of the department or University, the individual must choose whether to adapt his or her behavior to meet the needs of the community or to leave the residence halls or the University. This decision, among others, assists each person to determine who he or she is with respect to the rest of society.

Office of Residential Life Rules and Regulations

The following policies and procedures apply to all Western students and guests while visiting the residence halls. Students or staff who suspect or witness any Missouri Western students breaking University or residence hall policies should contact the Office of Residential Life and report the incident. Based on the incident report the Assistant Director for the Office of Residential Life will review the report and send the report to the appropriate residence hall staff hearing officer. All professional staff members have been named disciplinary hearing officers and can conduct informal dispositions for selective violations including removal from the residence halls. Incidents involving the potential of dismissal or expulsion from the University are not heard by hall staff, but forwarded to the Dean of Student Development.

Those wishing to appeal a sanction handed down during an informal disposition may do so in writing to the Residential Life Hearing Panel within three working days after being notified of the results of the informal disposition. This panel will consist of seven members of which four will be students. The Assistant Director advises the Hearing Panel. At the time of the hearing, the student will be given the opportunity to provide any additional information not covered in the original hearing or initial incident report.

Findings and corresponding sanctions handed down by the Residential Life Hearing Panel are final. All discipline cases are confidential and files are maintained for five years.

As is stated in the terms and conditions of the housing contract/agreement, the University reserves the right to search student rooms and property for reasons of health, safety, or potential violation of campus policy. When possible, but not required, the student will be present for the search of their room.

ALCOHOL: Alcoholic beverages are specifically prohibited in the residence halls. The possession of alcohol or empty alcohol containers is prohibited.

AMPLIFIED SOUND: Any outside sound which interferes with others right to study or sleep is prohibited. Outside music/noise must be kept to levels that do not interfere with these rights.

BALCONIES: Balconies should be kept clean and clear of debris. Throwing items off the balcony including cigarette butts is prohibited. Misuse of this policy will result in restricted access to the balcony.

DECORATIONS: Residents may not add attachments of any type to residence hall light fixture, including paint, tissue paper, crepe paper, tinfoil or any other material. NO materials, whether flammable or non-flammable, may be suspended from, attached to, or draped beneath the ceiling. Decorations with open flames, or which present a fire hazard, such as candles, wick lamps, incense, etc. are prohibited in student rooms. However, candles with unburned or removed wicks are allowed for decorative purposes.

Residents may not post, hang, or otherwise attach any material to the outside of their suite door. The only exception to this is residents will be allowed to post one memo board (those composed of pressed fiber board) not to exceed 11" x 14" per room on the outside of the door. RAs may also hang door decs (name tags) on residents' doors to assist in community building.

Residents seeking temporary exemptions to this policy (birthday, anniversary, special occasions, etc.) may request temporary exemption from their Residence Hall Coordinator stating the reason for the request and the duration of time for which the exemption is sought.

No public area decoration may hinder the use of, or restrict access to, hallways, doorways, stairs, corridors, or fire related equipment. Do not attach anything to or tamper with the light fixtures or exit signs.

Only ARTIFICIAL holiday trees are approved for residence hall use. The use of electric decorative holiday lights is restricted to "miniature Italian lights" that are either "U.L" (Underwriter's Laboratory) or "F.M." (Factual Mutual) approved.

DRAPERIES: Only University curtains or draperies that meet state fire codes may be used in student rooms.

DRUGS: Students shall not possess, purchase, distribute, sell, or consume any illegal or controlled substance in crude or refined form except under the direction of a licensed physician.

DRUG PARAPHERNALIA: Students shall not possess any items that are designed for the use of drugs (bowls, bongs, etc.). Any items that are fashioned for the purpose of facilitating or disguising drug use will also be considered a violation of this policy.

ELECTRICAL APPLIANCES: Toasters, toaster ovens, and other appliances with open heating coils are prohibited in the residence halls.

FALSE BOMB THREAT: The penalties for the transmission of a false bomb threat are severe. The recommended sanction for such action is suspension from the University. The Office of Residential Life reserves the right to remove anyone found in violation of this policy from the residence halls and immediately cancel their residence hall contract. In addition, the Public Safety Department may pursue criminal charges which could lead to one year imprisonment and a \$1,000 fine.

FIRE SYSTEM: Tampering with the fire system (i.e. disabling, covering detectors or pulling false fire alarms) is a serious offense. Those found in violation of pulling a false fire alarm will be removed from the residence halls and fined. The University may pursue criminal charges.

FIRWORKS: The possession and/or use of fireworks is prohibited in residence halls. The university assumes that possession of fireworks implies an intent to use them. The use of fireworks is dangerous and constitutes a serious fire hazard. Consequently, the penalties for possession and/or use of fireworks may be severe. The University Public Safety may seek criminal charges against individuals violating this policy which could lead to a \$1000 fine and subject to cancellation of their residence hall contract and/or suspension from the University.

FIREARMS & WEAPONS: Students shall not possess or use on University property firearms, including concealable firearms, fireworks, explosives, chemicals, ammunition and other implements used as weapons and other items classified as weapons in the Missouri Revised Statutes. Students found violating this policy will be immediately removed from the residence halls and may result in expulsion from the University.

FURNISHINGS: All University furnishings, including beds, must remain assembled and in their designated room. University furniture is not allowed on balconies or walkways. Only personal furniture manufactured as “indoor/outdoor” furniture may be moved out on the balcony. Waterbeds are not allowed in student rooms.

GRILLS: The use of grills is not allowed in the residence halls or on balconies. Grills are provided in each courtyard for student use. Lighter Fluid or combustible fluid is prohibited in student rooms, common areas and balconies.

HALOGEN LAMPS are prohibited in the residence halls.

HARASSMENT:

The Office of Residential Life and Missouri Western State University neither condone nor accept harassment, discrimination and/or suppression of any person or group of any kind and will investigate all allegations of harassment. Should the Office of Residential Life have evidence that an individual has harassed another student or group of students in the residence halls, the harasser is subject to relocation to another residence hall or cancellation of their residence hall contract.

Harassment can be;

- Verbal, non-verbal, or physical;
- Exclusion based upon personal or group differences;
- Intimidation or humiliation based on personal or group differences;
- Abusive language, threats, or similar acts of bigotry, racism, sexism, or discrimination;
- Jokes, comments, gossip or graffiti that perpetuate personal or group myths, fallacies, prejudices, or stereotypes;
- Any subtle or direct references, based on race, sex, age, disability, sexual orientation, national origin, or religion, which demean, exclude, intimidate, or adversely effect an individual or group
- Unsolicited e-mail or telephone calls containing abusive language, threats, causes, discomfort, derogatory, or sexual in nature;
- Unsolicited, deliberate or repeated sexually derogatory statements, gestures or physical contact which are objectionable to the recipient and which cause discomfort or humiliation;
- Pressure from a person or either sex against a person of the opposite or same sex;
- Unwelcome sexual behavior or words including demands for sexual favors accompanied by implied or overt threats concerning an individual's educational or employment status;
- Conduct that is criminal in nature such as rape, sexual assault, stalking and similar offenses

HORSEPLAY: Includes but not limited to: Water guns, water balloons, water fights, mud fights and snowball fights are prohibited in or around the residence halls and courtyards.

LAUNDRY: Laundry Facilities are provided for residence hall students only.

LITTERING: Littering in or around the residence halls is prohibited. Littering constitutes the throwing, dumping or depositing of trash or refuse in places other than the trash container provided.

LOTTERIES: As established by the statutes of the State of Missouri, raffles and lotteries cannot be held, nor can chance tickets be sold without a license. Therefore, no

individual(s) or organization(s) may hold a raffle or lottery, or sell chance tickets, in the residence halls or on the University campus.

PETS (other than fish) are not allowed. This includes lizards, snakes and other reptiles and amphibians. Students residing in a living area with a pet may be charged a fee to cover the cleaning and treatment of carpet and furniture.

QUIET HOURS are from 10:00 p.m. to 10:00 a.m. Sunday – Thursday, and Midnight to 10:00 a.m. Friday and Saturday. The courtyard in the suites is included in the quiet hour policy. Stereos, radios, televisions and any other noise which tends to disturb an adjoining suite/apartment, whether next door or above or below, will subside during quiet hours. "Courtesy Hours" exist 24 hours a day, every day, and will be enforced. Reasonable quiet is expected at all times during the day and night. The college reserves the right to require students to remove stereos after continued violation of this policy.

REFRIGERATORS are permitted in student rooms providing they do not exceed four cubic feet and draw more than 1.5 running amps.

RESIDENCE HALL WINDOWS: Climbing in or out of a room or suite windows is prohibited. In order to protect those individuals who may be walking outside the residence hall, no object of any kind may be thrown, dropped, pushed out of, placed outside of, and/or allowed to fall from any residence hall window. All screens, if so equipped, must be kept on the windows.

Additionally, due to fire safety considerations and the significant amount of damage done to residence hall room windows, the Office of Residential Life prohibits the posting, hanging of material on either side of the residence hall windows.

Drawings, paintings, writing or any other form of mural on residence hall walls & windows are prohibited.

ROOM/SUITE/Common Area Cleanliness: All students are responsible for the cleanliness of their individual bedrooms and bathrooms, and are collectively responsible for the cleanliness of the common area of the suite/apartment and balcony, where applicable. Failure to maintain cleanliness may result in the assessment of a cleaning fee and possible disciplinary action. Students wishing to use any outside service agency in the residence halls (i.e., cleaning services) must get written permission from the Office of Residential Life.

SMOKE FREE HALLS: All residence hall rooms and other interior areas have been designated as "smoke free". Students who choose to smoke outside of the building or on balconies are responsible for disposing of cigarette butts properly.

SOLICITATION: Groups or individuals wishing to canvass door-to-door must register with the Residence Council and contact the front desk in the Commons Building; they also must be sponsored by a recognized university organization, abide by all hall and

university regulations and abide by the wishes of residents who do not wish to participate. Residents may not carry on any organized business for remunerative purposes from their room.

SPORTS IN THE HALLS & COURTYARDS: Sports or sports related activities within the residence halls and courtyards (e.g. rooms, lounges, hallways, stairwells or other public areas including the courtyards) are prohibited. Playing sports in a confined area such as a hallway can lead to student injury and/or damage to private or University property.

These activities are allowed on and around the basketball courts, grassy area behind Beshears or on the balcony side of the suites and in-between Vaselakos and Leaverton hall.

VISITATION: Suite/Apartment Visitation hours are from 10:00 a.m. to 12 midnight Sunday through Thursday, and from 10:00 a.m. to 3:00 a.m. on Friday and Saturday. Residents who have visitors are responsible for their guests and their behavior during their stay. No guests of the opposite sex will be allowed to stay overnight in an opposite sex suite/apartment. Visitors will be asked to leave the campus if involved in policy violations.

PROCEDURES:

DAMAGES: The student shall reimburse the college for all damage to, or loss of, any fixtures, furnishings or college property furnished under the contract caused by negligence of the student or his/her guest. If the damage cannot be directed to a specific student, the damage expenses will be prorated among the residents of the suite/apartment/floor/building.

MAIL BOX STUFFING: Registered Student Organizations are prohibited from stuffing mailboxes with any type of commercial advertising, including coupons. Products or services by commercial agencies must be delivered through the United States Mail Service unless otherwise authorized by the Assistant Director of Residential Life.

Mailboxes will be stuffed if:

- The event is open to all residence hall students and is sponsored by a university department or a student organization.

- Does not display profanity or alcohol or illicit substances.

- Is size appropriate

- Has been approved by a professional staff member

HANDBOOK CHANGES: The college reserves the right to change any of the rules and regulations in this handbook and will notify students of any such changes.

PERSONAL PROPERTY: The college will not be responsible for the loss or damage to any of the students' personal property. To insure that property does not get stolen, please keep all doors shut when not in the suite/apartment, locked at night and make sure

security locks are in place. Immediately report any concerns with your room or outside door locks or missing keys. The Public Safety Department offers a program called Operation ID, which tags property with an ID number making it more recoverable if stolen.

POSTINGS: The Office of Residential Life recognizes the need for a balance between students' need for information and the maintenance of a residence hall community environment. The posting policy serves to create this balance. All materials posted must be approved and stamped/initialed by a professional staff member or the front desk in the Commons prior to posting. Hall staff will be responsible for posting and removing all posted materials. Materials promoting or displaying any alcohol or alcohol manufacturers, illegal drugs or offensive language will not be posted. Materials posted without permission will be taken down. Materials posted will remain up for no more than two weeks. Postings are no longer allowed on outside doors.

REMOVAL & REFUNDS: In the event that a violation of University rules or regulations leads to removal from the halls, or when a student ceases to be enrolled as a regular student for at least 9 credit hours (except by reason of involuntary military service,) such student shall immediately vacate his/her accommodations, if requested to do so by a University official. If vacated, the University will be under no obligations to refund any payment.

ROOM CHANGES: Room changes cannot be made until after the tenth day of classes each semester. Students may request a room change through their Residence Hall Director. These requests may not be approved until there has been a serious attempt made to adjust the room situation. When requesting a room change, it is the responsibility of the resident to provide the Residence Hall Director with the hall name and room number of the desired move.

Should all residence hall spaces be filled, only one-for-one room changes can be approved. Residents are responsible for officially checking out of their room when completing an approved room change. The hall staff will provide further details.

ROOM INSPECTION: Missouri Western or its agent may inspect the student's accommodations once a week for maintenance/cleanliness issues or upon reasonable grounds to believe that the student has violated the college rules or regulations. Under the latter circumstance, the student will be present if at all possible while his or her room and/or possessions are being inspected. See the Terms and Conditions of the housing contract for more information.

SPACE RESERVATIONS: Organizations wishing to reserve space in and around the residence halls including the courtyard, basketball court, or volleyball court must submit a written request 10 working days in advance to the Residence Council. All requests will be reviewed during weekly general assembly meetings.

STORAGE OF BELONGINGS: Residents are required to remove all of their personal belongings from their room when they check-out. In the event this does not take place residence hall staff will inventory, pack and store the student belongings. The student will be charged an initial \$25 packing and handling fee above and beyond the \$25 improper check-out fee (if appropriate). Belongings will be stored for thirty days at a rate of \$1.70 per day or \$50 for the month. After 30 days the belongings will be donated to charity or disposed of.

Minimum Disciplinary Sanctions for Drug and Alcohol Violations

Alcohol Violations (active)

1 st Offense

Written Warning
\$25 fine
Reflection Paper

2 nd Offense

Disciplinary Probation (min.1 semester)
\$50 fine
Early Intervention Basics Course (\$15)
Initial Substance Screening

3 rd Offense

Disciplinary Probation (min.1 calendar year)
\$75 fine
Comprehensive Substance Assessment; requirement to follow recommendations made from assessment

Additional Violations

Suspension
\$100 fine

DUI Offenses (no injury/prop.Damage)

Disciplinary Probation (1 calendar year)
\$250 fine
Comprehensive Substance Assessment

DUI Offenses (with injury/prop.damage)

Suspension or Dismissal
\$250 fine

Drug Violations (possession/use)

1 st Offense

Disciplinary Probation (1 calendar year)
\$50 fine

Educational Workshop
Reflection Paper

2nd Offense

Suspension or Dismissal
\$100 fine

Drug Violations (sales/distribution)

Suspension or Dismissal
\$200 fine

Drug Violations (covert use on another)

Dismissal
\$200 fine

Please note that these sanctions indicate typical minimum responses for active involvement in disciplinary situations. Passive violators while still in violation of the Code of Student Conduct, may receive reduced sanctions if in otherwise good disciplinary standing.