



<b>Policy Name:</b>	Student Judicial Process		
<b>Associated Form(s):</b>	N/A	<b>Policy Number:</b>	2024-17
<b>Reviewed:</b>	Non-Academic Policy Committee	<b>Approved:</b>	July 25, 2024
<b>Approval Authority:</b>	President <i>Susan Parish</i>	<b>Adopted:</b>	July 29, 2024
<b>Responsible Executive(s):</b>	Vice President for Student Affairs	<b>Revised:</b>	September 16, 2016; August 28, 2023
<b>Responsible Office(s):</b>	Student Affairs	<b>Contact(s):</b>	Associate Dean of Student Affairs

## **I. Policy Statement**

The University has developed procedures to investigate potential policy violations by students, to adjudicate such violations, and to impose sanctions for violations that are found to have occurred. These procedures also set forth how students can appeal University disciplinary decisions. The University reserves the right to adapt its procedures based on the circumstances of an individual case. In addition, the University may use the Judicial Process to investigate and sanction alleged conduct of any nature, including but not limited to conduct that is similar, comparable, or analogous to conduct that is specifically prohibited by the University's rules.

The Judicial Process set forth below addresses violations of the University's non-academic policies, including but not limited to the *Code of Student Conduct*, and *Code of Conduct for Residential Life Students*. The grievance procedure that applies to academic matters is set forth separately in this Handbook. When a violation raises both academic and non-academic issues, the determination about which University procedure shall apply will be made by the University, upon notice to the student, but in the University's sole discretion.

Students, faculty, or staff members of the University who believe that they have been subjected to, or have knowledge of, any acts by a student that are in violation of University policies are encouraged to inform the Office of Community Standards and Student Conduct (<http://www.mercy.edu/student-support>). The University may conduct an investigation to determine whether the charges have merit and/or to determine whether they can be resolved on an informal basis. The decision of whether or not to investigate an allegation is at the sole discretion of the University.

For cases involving allegations of sexual assault, sexual harassment, stalking, or gender-based harassment, the University's Policy on Sexual Misconduct shall apply with regard to investigations and discipline of alleged students. In such case(s), a complaint can be made to the Director of Title IX or the Associate Dean of Student Affairs. The Director of Title IX or the Associate Dean of Student Affairs have the sole discretion to determine whether the complaint is handled under the *Policy on Sexual Misconduct*, the *Code of Conduct*, or a different University policy, and provide direction to the complainant as to which policy will be used and who at the University will be overseeing the complaint. The University may pursue a violation under the *University's Code of Student Conduct* even when civil or criminal proceedings or investigations are underway. Regardless of whether another action is pending, or if a student fails to cooperate with or participate in the Judicial Process, the University may proceed with the Judicial Process, reach a determination as to whether a violation occurred, and impose sanctions.

## **II. Steps in the Judicial Process**

The steps in the Judicial Process are as follows:

### **A. Incident Reporting**

The incident involving alleged violation occurs and is reported either via submission of an incident report or by communication with the Office of Community Standards and Student Conduct. The incident information is then reviewed by the Office of Community Standards and Student Conduct.

### **B. For Low Level Violations Resulting In, But Not Limited To, Warnings**

The Office of Community Standards and Student Conduct or The Office of Residential Life shall send the student a letter via email (and mail if necessary) informing the student of the allegations of a violation and the sanctions to be imposed. If the student agrees to the sanction, then the matter will be closed. If the student wishes to appeal the matter, see section V and VI below.

### **C. For All Other Violations**

1. The Office of Community Standards and Student Conduct or The Office of Residential Life shall send the student a letter via email (and mail if necessary) informing the student of the allegations of a violation and to schedule an investigation meeting to obtain additional information. The Office of Community Standards and Student Conduct staff member or their Designee (“Fact Finder”) shall meet with the alleged student, who may submit documents or other information in support of their explanation. An adviser or supporter who is not an attorney may accompany the student and act in an advisory capacity.

The student may also provide names of relevant witnesses. The Fact Finder will thereafter conduct an investigation, which may include gathering additional information, conducting other interviews, and consider any other relevant information. The rules of evidence that are applicable in civil or criminal cases are not applicable to this process and the standard of proof shall be preponderance of the evidence (that is, whether there is a good faith belief that it is more likely than not that the conduct occurred).

2. The Fact Finder shall, at the conclusion of the investigation, inform the alleged student and the complainant (if applicable) of the determination in writing via email (and mail if necessary). Such notice shall contain information about the sanction to be imposed. The investigation and issuance of findings should not exceed thirty (30) days except where a reasonable delay is justified by the University for various reasons, including delay in gathering the facts. Notice of any delay shall be provided to the involved students (if applicable).

### **III. Interim Suspension, Emergency Removal, or Other Measures**

The University may, in its sole discretion, suspend a student or take other interim measures pending the outcome of the Judicial Process or external legal proceedings or as the University otherwise deems appropriate under the circumstances. If the University institutes an interim suspension or other interim measures, the University must inform the alleged student in writing

via email (and mail if necessary). The student can appeal the interim measure(s) to the Office of Community Standards and Student Conduct, whose decision shall be final.

#### **IV. Appeals**

A. If the student wishes to appeal the imposed sanction, either because they dispute the facts or believe the sanction is not appropriate, the student can submit a [Disciplinary Appeals Form](#). Students have seven (7) business days from the date of their sanction letter to submit this form. The Office of Community Standards and Student Conduct will act as a point of contact for the appellant, who will share all documentation with the relevant designee.

B. The Office of Community Standards and Student Conduct's designee may meet with the student within a reasonable time of the request and permit the student to present their side of the story and provide any relevant documentation or evidence to dispute the allegations or affect the penalty. The Office of Community Standards and Student Conduct's designee will then make a recommendation within ten (10) business days of the meeting either to uphold the determination, or to amend the findings and/or sanction. The designee's recommendation will be shared with the Vice President for Student Affairs, who shall render a decision within seven (7) business days. The decision of the Vice President for Student Affairs shall be final.

#### **V. Appeals for Cases Which a Student May be Subject to Suspension, Expulsion, Removal from Housing, or a Substantial Limitation of Student Privileges**

A. When a student is found to have violated a University policy or rule and the sanction that is imposed is suspension, expulsion, removal from housing, or a substantial limitation of student privileges, the student may appeal the determination and/or sanction. A Disciplinary Appeals Form appeal should be submitted online within seven (7) business days of the appellant's receipt of the Office of Community Standards and Student Conduct's determination. The appeal must state the basis for the appeal, including whether the student believes that appropriate procedures were not followed or that the sanction is excessive. If the student believes that new information that was not previously available should be considered, the evidence should be detailed in writing in the request for an appeal.

B. The appeal panel will consist of three (3) faculty and/or staff members (at least one of whom must be a faculty member), chosen on an annual basis by the Vice President or Associate Dean of Student Affairs and the Provost, one of whom shall be named the chairperson upon mutual decision of Vice President or Associate Dean of Student Affairs and Provost. In the event of a vacancy, a replacement for the balance of the academic year will be appointed by the Provost and the Vice President or Associate Dean of Student Affairs upon mutual approval.

C. The appeal ordinarily will be determined based on the Disciplinary Appeals Form submitted by the student, any new evidence included in that submission, and the record before the Fact Finder; however, the appeal panel may seek additional information or clarification from any source it deems appropriate. The appeal panel may consider whether the procedures followed by the Fact Finder were appropriate and fair, whether there is any credible evidence of bias on the part of the

Fact Finder, whether there was sufficient evidence to support the finding reached by the Fact Finder, and whether the sanction is plainly excessive. The appeal panel may not substitute its judgment regarding the credibility of witnesses who testified before the Fact Finder.

D. The appeal panel can make a recommendation to sustain, modify, or reverse the previous determination and/or the sanction in whole or in part. The appeal panel will present their recommendation to the Vice President for Student Affairs, who shall render a decision to the student within seven (7) business days appeal panel's recommendation. The decision of the Vice President for Student Affairs is final.

**VI. Misuse of Disciplinary Process or Grievance Process**

A student who files a false and malicious complaint or grievance with knowledge that it is false and malicious intent or a student who provides false testimony, with knowledge that it is false may be subject to discipline for abuse of the University's process and violation of University standards of conduct.