

# Saint Mary's College Code of Student Conduct

## ***COMMUNITY STANDARDS***

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As a Catholic residential college, Saint Mary's holds its students to a high standard of ethical and moral conduct. Consequently, there is a strong emphasis on self-awareness and a distinct consideration for the lives and feelings of others. The College commits itself to maintaining a safe and welcoming environment where each individual's dignity is upheld and differences are celebrated. As a community, we reject and condemn all forms of harassment, wrongful discrimination, and disrespect. The College has developed procedures to respond to such incidents through the Discriminatory Harassment Policy and other policies.

Saint Mary's College is committed to maintaining a safe and productive learning environment. To accomplish this goal, the College has developed a Code of Student Conduct that reflects the values and standards of the community. Saint Mary's philosophy of discipline is one of *education*. While there are consequences for violations of community standards of behavior, our goal is *to help students grow and learn from their mistakes*. In those instances where violations of behavioral standards do occur, Saint Mary's College has developed policies and procedures to protect the rights of members of the College community, individually and collectively.

The College recognizes that all members of an academic community, individually and collectively, have the right to express their views publicly on any issue; however, the College insists that all such expressions be peaceful and orderly and be conducted in a manner consistent with the College's values and in such a way that the learning environment is not disrupted. The atmosphere in residence halls, communal areas, classrooms and laboratories must be free from any sort of disruption. Furthermore, students must follow the reasonable directions of College officials.

## **APPLICABILITY**

A "student" is defined as any person who is admitted and deposited, enrolled or registered for study at Saint Mary's College for any academic period or any person who is attending post-secondary educational institutions other than Saint Mary's College while residing in a Saint Mary's College residence hall. Students who are not officially enrolled for a particular term

but who have a continuing student relationship with, or an educational interest in, Saint Mary's college are considered "students." This includes both undergraduate and graduate students. A person shall also be considered a student during any period while they are under suspension or dismissal from the institution or when they are attending or participating in any preparatory activity prior to the academic year.

Students are expected to adhere to all college policies and procedures, all local, state and federal laws. Students are also expected to adhere to the policies and procedures of institutions that they may visit, as well as study abroad programs in which they may participate in. The college reserves the right to adjudicate any case in which a student is alleged to violate any of the above-mentioned policies, procedures or laws regardless of location. Further, the college may proceed with a hearing despite pending civil or criminal proceedings. In some circumstances, the college may refer a case for criminal investigation.

This section details certain policies to which all students and registered student organizations are expected to adhere. A student organization and its officers may be held collectively or individually responsible for violations of the Code when members or those associated with the group or organization have received the tacit or overt consent or encouragement of the leaders, officers, or spokespersons. Saint Mary's College will make individual findings with respect to the involvement of each respondent. Collectively, the student organization may face consequences that affect the status of their organization.

Students should be aware that the student conduct process is quite different from criminal or civil court proceedings. Procedures and rights in student conduct proceedings are conducted with fairness to all, but do not include the same protections of due process afforded by the courts. Fair process, within these procedures, assures a written notice, a hearing before an objective decision-maker or board and an opportunity to appeal, as described below. No student will be found in violation of a College policy without information showing by a preponderance of evidence that a policy violation occurred. Any sanction will be intended to be proportionate to the severity of the violation.

## **AUTHORITY**

Violations of the Code of Student Conduct are addressed by the Director of Residence Life. In exceptional circumstances, where imminent harm may result to persons or property, the Vice President of Student Affairs or their designee may modify or make exceptions to the procedures outlined under the Code of Student Conduct.

Any question or interpretation or application of the Code of Student Conduct shall be referred to the Director of Residence Life or his/ her designee for final determination.

Violations of the Academic Honesty Policy are handled through the Office of Academic Affairs and generally are not covered under this Code of Student Conduct.

The Code of Student Conduct will be reviewed periodically under the direction of the Vice President of Student Affairs or his/ her designee. Modifications to the Code of Student Conduct may be made at any time effective upon notice to students to comply with federal, state, and local law.

### **COLLEGE AS CONVENER**

The College is the convener of every action under this code. Within that action, there are several roles:

A “**3<sup>rd</sup> party reporter**” is defined as a student or community member that submits a written report alleging a student or organization violated the Code of Student Conduct but is not the recipient of the alleged unwelcome or harassing behavior.

A “**reporting party**” is defined as the individual who submitted a written report alleging a student violated the Community Standards and is the recipient of the alleged unwelcome or harassing behavior.

A “**respondent**” is defined as the responding student or organization who is alleged to have violated the Community Standards.

### **GATEKEEPING**

No reporting party will be forwarded for a hearing unless there is reasonable cause to believe a policy has been violated. Reasonable cause is defined as some credible information to support each element of the offense, even if that information is merely a credible witness or a victim’s statement. A reporting party wholly unsupported by any credible information will not be forwarded for a hearing.

### **JURISDICTION**

Students at the College are provided a copy of the Code of Student Conduct annually in the form of a link on the College website. Hard copies are available upon request from the Office

of the Vice President for Student Affairs. Students are responsible for having read and abiding by the provisions of the Code of Student Conduct.

The College retains conduct jurisdiction over students who choose to take a leave of absence, withdraw or have graduated for any misconduct that occurred prior to the leave, withdrawal or graduation. If sanctioned, a hold may be placed on the student's ability to re-enroll, obtain official transcripts and/or graduate and all sanctions must be satisfied prior to re-enrollment eligibility. In the event of serious misconduct committed while still enrolled but reported after the accused student has graduated, the College may invoke these procedures and should the former student be found responsible, the College may revoke that student's degree.

The Code of Student Conduct applies to behaviors that take place on the campus, at College-sponsored events and may also apply off-campus when the Vice President for Student Affairs or designee determines that the off-campus conduct affects a substantial College interest. A substantial College interest is defined to include:

- Any situation where it appears that the student's conduct may present a danger or threat to the health or safety of him/herself or others; and/or
- Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational mission and/or interests of the College;

The Code of Student Conduct may be applied to behavior conducted online, via email or other electronic medium. Students should also be aware that online postings such as blogs, web postings, chats and social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. The College does not regularly search for this information but may take action if and when such information is brought to the attention of College officials. However, most online speech by students not involving College networks or technology will be protected as free expression and not subject to this Code, with two notable exceptions:

- A true threat, defined as "a threat a reasonable person would interpret as a serious expression of intent to inflict bodily harm upon specific individuals";
- Speech posted online about the College or its community members that causes a significant on-campus disruption.

The Code of Student Conduct applies to guests of community members whose hosts may be held accountable for the misconduct of their guests.

There is no time limit on reporting violations of the Code of Student Conduct; however, the longer someone waits to report an offense, the harder it becomes for College officials to obtain information and witness statements and to make determinations regarding alleged violations.

Though anonymous reporting is permitted, doing so may limit the College's ability to investigate and respond to a reporting party. Those who are aware of misconduct are encouraged to report it as quickly as possible.

College email is the College's primary means of communication with students. Students are responsible for all communication delivered to their College email address.

## **VIOLATIONS OF THE LAW**

Alleged violations of federal, state and local laws may be investigated and addressed under the Code of Student Conduct. When an offense occurs over which the College has jurisdiction, the College conduct process will usually go forward notwithstanding any criminal reporting party that may arise from the same incident.

The College reserves the right to exercise its authority of interim suspension upon notification that a student is facing criminal investigation and/or complaint. Interim suspensions are imposed until a hearing can be held, typically within two weeks. This hearing may resolve the allegation, or may be held to determine if the interim suspension should be continued. The interim suspension may be continued if a danger to the community is posed and College may be delayed or prevented from conducting its own investigation and resolving the allegation by the pendency of the criminal process. In such cases, the College will only delay its hearing until such time as it can conduct an internal investigation or obtain sufficient information independently or from law enforcement upon which to proceed. This delay will be no longer than two weeks from notice of the incident unless a longer delay is requested in writing by the complaining victim to allow the criminal investigation to proceed before the College process.

Students accused of crimes may request to take a leave from the College until the criminal charges are resolved. In such situations, the College procedure for voluntary leaves of absence is subject to the following conditions:

- The responding student must comply with all campus investigative efforts that will not prejudice their defense in the criminal trial; and
- The responding student must comply with all interim actions and/or restrictions imposed during the leave of absence; and

- The responding student must agree that, in order to be reinstated to active student status, they must first be subject to, and fully cooperate with, the campus conduct process and must comply with all sanctions that are imposed.

## ***STANDARDS OF CONDUCT***

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Outlined below is a listing of the College's policies and rules that prescribe standards of conduct the College expects of its students. They are not intended to define misconduct in exhaustive or exclusive terms. In most circumstances, Saint Mary's College will treat attempts to commit any of the violations listed in the Code of Student Conduct as if those attempts had been completed.

The use of alcohol or drugs will not be considered a mitigating circumstance for any violation of the Code of Student Conduct.

## **INTEGRITY**

We expect Saint Mary's College students to exemplify honesty, integrity and a respect for truth in all of their dealings. Behavior that demonstrates a lapse of integrity includes, but is not limited to:

1. Acts of dishonesty, including but not limited to the following:
  - a. Engaging in forgery, alteration, misuse, unauthorized use or fraud involving college documents, records, instruments of identification.
  - b. Inappropriate use of identification, including possession of false identification or one that belongs to someone else; providing ID or personal passwords to someone else without authorization;
  - c. Knowingly providing false information to any College official, faculty, or staff member;
  - d. Selling athletic or non-athletic tickets when expressly forbidden to do so by policy or a College official. This includes policies of the University of Notre Dame;
  - e. Causing or encouraging acts of dishonesty.
2. Theft, including but not limited to the following:
  - a. Forcible access to property;

- b. Theft of property or identity, including possession of stolen property and electronic identity;
  - c. The use of another's property without proper authorization; and
  - d. The unauthorized use of ATM, phone, or credit cards; checks; Saint Mary's College ID cards; keys or computer systems.
3. Making comments on social media platforms about members of the community either in a specific or nonspecific way which negates the culture of civility on campus and/or claim or imply that they are speaking on behalf of the college.
  4. Possessing, duplicating, using or loaning keys to any college facility or room without authorization by appropriate college officials.
  5. Engaging or participating in an act of unauthorized entry into or use of any college facility.
  6. Engaging or participating in the abuse of the conduct process, including but not limited to:
    - a. Falsifying or misrepresenting information before a conduct body;
    - b. Disrupting or interfering with the orderly conduct of a conduct proceeding;
    - c. Harassment, intimidation, discouragement, or retaliation of those involved in the conduct process;
    - d. Failure to comply with or violation of the terms/ sanctions imposed under the Code of Student Conduct; and
    - e. Attempting to influence the impartiality of a member of the conduct body;
    - f. Influencing or attempting to influence another person to commit an abuse of the conduct system.
  7. Failure to meet financial responsibilities to the institution, including, but not limited to:
    - a. Knowingly passing a worthless check or money order in payment to the institution or to an official of the institution acting in an official capacity.
    - b. Incurring financial obligations on behalf of a person, organization or the College improperly or without consent or authority.

## **COMMUNITY**

We expect Saint Mary's College students to honor and value their community. Behavior that violates this value includes, but is not limited to:

1. Engaging or participating in acts or attempted acts of unauthorized possession, use, removal, defacing, tampering, damage, or destruction of property of the college, property of a community member or other personal or public property.
2. Excessive noise in the residence halls, campus, or neighborhood. This includes but is not limited to:
  - a. Excessive attendance beyond what is reasonable; and

- b. Disruption to others which prevents individuals from continuing with their activities.
3. Inappropriate, disorderly, or disruptive conduct. Examples include, but are not limited to:
  - a. Participating in an on-campus or off-campus demonstration, riot or activity that disrupts the normal operations of Saint Mary's College and/or infringes on the educational opportunities of the members of the Saint Mary's College community;
  - b. Leading or inciting others to disrupt scheduled and/or normal activities in the classroom or in any campus building or areas; and
  - c. Engaging in disorderly, lewd or indecent conduct or breaches of the peace.
4. Engaging or participating in unauthorized possession or use of explosives, firearms, dangerous weapons or other hazardous objects or substances as determined by a College official. This includes, but is not limited to guns, knives, tasers/stun gun, fireworks, ammunition, or explosive devices.
5. Conducting, organizing, or participating in any activity involving games of chance or gambling except as permitted by law.
6. Violations of federal, state or local law otherwise not specifically stated in this Code of Student Conduct.
7. Possession, carrying, and use of firearms, ammunition or other dangerous weapons or explosives is prohibited on College-owned or controlled property. The only exception is for safety and security department officers authorized by the College
8. Unauthorized surveillance, video, audio or photographic images of a person in a location in which that person has a reasonable expectation of privacy, including, but not limited to, shower/locker rooms, residence hall rooms and restrooms,. Also prohibited is the storing, sharing and/or other distribution of such unauthorized images by any means.
9. Using skateboards, roller blades, roller skates, bicycles, and similar wheeled devices are not permitted inside College buildings, residence halls or on tennis courts. Hoverboards are not permitted on campus. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities, and individuals may be liable for damage to College property caused by these activities.
10. Using drones are not permissible for individual students, staff or outside entities to operate unmanned aircraft/drones on or over any part of Saint Mary's College unless permission is granted in advance.
11. Engaging in or soliciting a romantic and/or sexual relationship (consensual or otherwise) with a Saint Mary's College faculty or staff member unless they are legally married.
12. Complicity with or failure of any student to appropriately address known or obvious violations of the Code of Student Conduct or law; complicity with or failure of any organized group to appropriately address known or obvious violations of the Code of Student Conduct or law by its members.

## RESPECT

We expect Saint Mary's College students to show respect for self, for each other, and the community and its values. The college reserves the right to take action when it believes the standards of human dignity have been violated. Behavior that violates this value includes, but is not limited to:

1. Endangering behavior that is harmful or potentially harmful to oneself, to others or to the proper functioning of the College. This includes but is not limited to:
  - a. The use of any item in such a way as to cause fear and intimidation in another or to cause injury;
  - b. Threatening or causing physical harm or other conduct which threatens or endangers the health or safety of any person(s);
  - c. Acts of verbal, written, graphic or electronic abuse or defamation; and
  - d. Bullying and/or cyberbullying that are repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally, and are not protected by freedom of expression.
  - e. Violating isolation and/or quarantine restrictions including self-isolation and shelter in place directives
  - f. Failure to disclose COVID-19 related contact and exposures
  - g. Failure to wear a mask or other approved facial covering
  - h. Failure to wear a mask or other approved facial covering appropriately (i.e. fully over the face and nose)
  - i. Failure to follow directions when asked to observe appropriate physical distancing
  - j. Failure to complete and accurately report required health assessments/checks required by the College
2. Engaging in harassment behaviors that are repeatedly or pervasively directed at a person or group on the basis of their actual or perceived membership in a protected class including sex, race, color, national origin, religion (except where religion is a bona fide occupational qualification), age, disability, citizenship status, genetic information, veteran status, or any other characteristic protected by law. Based on our Catholic values, the College also prohibits discrimination based on sexual or political orientation.
3. Acts of sexual intimacy outside of marriage are considered inappropriate and contrary to the values of the Catholic Church and the mission of the College.
4. Engaging in or being in the presence of hazing behaviors. The expressed or implied consent of the victim will not be a defense. Behaviors including, but not limited to, acts that:
  - a. Create or produce emotional or physical discomfort, harassment, humiliation or ridicule;
  - b. Endanger the mental or physical well-being or safety of a student; and

- c. Destroy or remove 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.
- 5. Failure to follow the reasonable directions of College officials (including law enforcement agents, Campus Safety officials, and faculty and staff of Saint Mary's and other colleges and universities).
  - a. Failure to cooperate with contract tracing personnel as required
- 6. Possession or distribution of any obscene materials, as defined by the standards of Saint Mary's College.
- 7. Stalking that is:
  - a. A course of conduct, directed at a specific person, on the basis of actual or perceived membership in a protected class that is unwelcome, and would cause a reasonable person to feel fear; or
  - b. Repetitive and menacing behavior that is in pursuit, following, harassing and/or interfering with the peace and/or safety of another person.
- 8. Behavior that is inconsistent with the mission and core values of the College.

## **RESPONSIBILITY**

Saint Mary's College students are given and we expect them to accept a high level of responsibility as role models and representatives of the College. Behavior that violates this value includes, but is not limited to:

- 1. Breaching campus fire safety or security through:
  - a. Misusing, tampering with or damaging fire safety equipment (including alarm systems, alarmed fire safety doors, smoke detectors, or fire extinguishers);
  - b. Setting a fire (including charring, burning, lighting of papers or any other act that could cause a fire);
  - c. Reporting or creating a false alarm, threat or condition;
  - d. Intentional or reckless conduct that causes harm or fear to persons or property;
  - e. Failure to vacate a building after a fire alarm;
  - f. Entering or re-entering a building during a fire alarm without permission;
  - g. Creating a fire hazard; and
  - h. Interfering with the response of college and/or responding emergency personnel.
- 2. Using, possessing, manufacturing, or distributing alcoholic beverages except as expressly permitted by law or college policy including, but not limited to:
  - a. Possession or consumption of alcoholic beverages by a person under the age of twenty- one. This includes possession of empty alcohol containers;

- b. Manufacturing, sale, or distribution of alcohol, including but not limited to the sale of cups and/or any form of container for the distribution of alcohol, even to one person;
  - c. A person under the age of twenty-one is prohibited from being in the presence of alcoholic beverages in the residence halls, with the following exception: an individual under the age of twenty-one who has a roommate of legal drinking age may be in the presence of an open container of alcohol in the room only if the roommate of legal drinking age is also present. Non-roommates who are under the age of twenty-one may not be in the room when alcohol is being consumed by the of-aged resident;
  - d. On-campus possession of a keg, beer ball, trash-can punches, or other common source, or other unauthorized quantities of alcohol is prohibited. Drinking games or items commonly used for drinking games (i.e. funnel, beer pong tables, wine bottles as decorations, posters/advertisements, shot glasses) are prohibited. Students of age may possess alcohol for their own personal use but the quantity is limited to one twelve-pack of beer (144 ounces/4.26 liters) 64 ounces/1.89 liters) of wine or (16 ounces/470 milliliters) of hard liquor;
  - e. Excessive consumption of alcohol where behavior becomes aggressive, destructive, disruptive, or engaging in any behavior which may endanger oneself or others;
  - f. Attending campus functions intoxicated is prohibited regardless of age; and
  - g. Consuming alcohol or possession of an open alcoholic container in public spaces , including hallways, bathrooms, elevators, etc. regardless of age.
3. Using, possessing, transferring, manufacturing, or distributing drugs, controlled substances, vaping, narcotics or any hallucinogen except as expressly permitted by law or college policy including, but not limited to:
- a. Manufacturing, selling, distributing, sharing illegal drugs or drug paraphernalia;
  - b. Consumption or possession of illegal drugs;
  - c. Possession or use of another's prescription medication;
  - d. Abuse or misuse of prescription or over the counter medication;
  - e. Being in the presence of a controlled substance;
  - f. Possession of drug paraphernalia;
  - g. Promotion of illegal drugs; and
  - h. Emanating the scent of marijuana.
1. Violations of the Saint Mary's College ResNet Acceptable Use Policy, misuse of College computing facilities, equipment, network, passwords, accounts or information. Students who connect their personal computers to the campus network will be held responsible for any violation of this policy that originates from that computer.
  2. Violation of the Saint Mary's College Policy on Sex/Gender-Based Harassment, Discrimination and Misconduct against Students.
  3. Violation of any Saint Mary's College policy, rule or regulation published in hard copy or available electronically on the Saint Mary's College website.

4. Violation of the Saint Mary's College Policy on Harassment, Discrimination and Misconduct against Students.
5. Violation of the Saint Mary's College Guide for Residence Hall Living including COVID-19 related policies

*Students who wish to report a crime may contact Campus Safety at 574-284-5000.*

## ***MEDICAL AMNESTY and GOOD SAMARITAN POLICY***

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A student needing medical assistance during an alcohol or other drug-related emergency will not face disciplinary action for the mere possession or use of alcohol and/or drugs if they contact the police, College Safety or a member of the residence life staff for help. No student seeking medical treatment for alcohol or drug use will be subject to disciplinary action for the sole violation of using alcohol or other drugs so long as the student completes all educational and counseling programs required by the College. This policy extends to a student seeking help for another student. In the event that the student fails to meet a counselor in the time allotted, or fails to complete the required directives, they will be referred through the normal conduct process and a record of the incident will be on file.

When there is a question of sexual abuse or assault in a situation involving alcohol or drugs, the student who was sexually abused or assaulted or a student that intervenes to prevent a sexual assault or otherwise assists a victim or potential victim of sexual assault, will not be subject to discipline under the College's alcohol and drug policies.

Saint Mary's College seeks to foster a culture in which reporting crimes, violations, or problems are encouraged. Our Medical Amnesty Policy is a policy which removes potential barriers to seeking help for oneself or for others.

## ***STUDENT CONDUCT PROCEDURES***

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### **PROCESS OVERVIEW**

This overview gives a general idea of how the College's campus conduct proceedings work, but it should be noted that not all situations are of the same severity or complexity. Thus,

these procedures are flexible, and are not exactly the same in every situation, though consistency in similar situations is a priority. The campus conduct process and all applicable timelines commence with notice to an administrator of a potential violation of the Code of Student Conduct.

Any College administrative official, faculty, staff member, College security, aggrieved member of the community or student may submit an incident report detailing a potential student violation of the Code of Student Conduct. All incident reports must be submitted online which is located on the Saint Mary's College website.

### **CONSIDERATION AND INVESTIGATION**

Once notice is received from any source, the College may proceed with a preliminary investigation and/or may schedule an initial meeting with the student(s) involved to explain the conduct process and gather information.

The College conducts a preliminary inquiry into the nature of the incident, the evidence available and the parties involved. The preliminary inquiry may lead to:

1. A determination that there is not a preponderance of evidence to pursue the investigation, because the behavior alleged, even if proven, would not violate the Code of Student Conduct, (e.g.: for reasons such as mistaken identity or allegations of behavior that falls outside the code);
2. A more comprehensive investigation, when it is clear more information must be gathered;
3. A formal hearing with the responding student.

### **STUDENT RIGHTS IN THE CONDUCT PROCESS**

1. To have prior knowledge of the allegations and have the allegations explained clearly and fully at every level of the conduct process.
2. To be given the opportunity to be present throughout the hearing but not during the deliberation process of the hearing officers or boards.
3. To hear and/or see all information concerning the allegations.
4. To refute oral and/or written information provided by witnesses.
5. To be advised of the final appeal process.

### **NOTICE TO THE RESPONDENT**

A letter of allegation will be sent to the respondent through the Saint Mary's College's email system detailing:

1. The nature of the conduct in question; the time, date, and place the incident allegedly occurred; and the college policies allegedly violated;
2. The nature of the student conduct procedures;
3. Hearing information including the type of hearing, location, date, time and hearing officer's or board advisors' name and contact information.

## HEARING TYPES

There are three types of hearings (explained in detail below); administrative, community standards board and critical issues board. It is at the discretion of the Director of Residence Life as to which hearing is the most appropriate for the alleged violation(s).

### *Administrative Hearing*

Most student conduct cases are resolved through an administrative hearing. An administrative hearing is managed by a hearing officer who is responsible for the processing of the case. An administrative hearing officer is assigned by the Director of Residence Life

### *Administrative Hearing Format*

The administrative hearing officer assigned to the case shall proceed in the following format:

1. Explain the student conduct process including the student's rights;
2. Discuss privacy;
3. Describe to the student as completely as possible the nature of the conduct in question and the college policies allegedly violated;
1. Provide the student with an opportunity to inspect all documents relevant to the case available at the time of the hearing; and
2. Allow the student to respond to the allegations.

### *Decision by the Hearing Officer*

After the hearing, the hearing officer will issue a decision about each individual involved. Each allegation will result in one of the following three outcomes:

1. **Not Responsible:** If the hearing officer concludes that it is more likely than not that the student did not violate college policy, or if there is not sufficient information available to warrant a determination of Responsible, the hearing officer will issue a finding of Not Responsible and will dismiss the allegation. No sanction will be assigned.
2. **Responsible:** If the hearing officer concludes that it is more likely than not that the student violated college policy, or if the student admits to violating college policy, the hearing officer will issue a finding of Responsible and assign appropriate sanction(s).

3. **Referral to a Hearing Board:** If the student does not admit responsibility and the hearing officer believes there is sufficient information to warrant a board hearing, the hearing officer may refer the case to a hearing board.

If a student fails to appear for the scheduled administrative hearing or fails to contact the hearing officer no later than twenty-four (24) business hours prior to the scheduled hearing, the hearing officer may make a determination of the case based on the available information.

The hearing officer shall confirm their decision of the case by sending a student an administrative hearing outcome letter via email usually within three business days. Students may appeal any decision of responsibility or sanction (see “Appeals”). Students may not file a review for the decision of a hearing officer to refer a case to a hearing board.

### ***Board Hearing***

#### *Pre-Hearing Meeting*

A student whose case has been referred to a board hearing will have an opportunity to attend a pre-hearing meeting with the Board’s advisor. This meeting shall proceed in the following format:

1. Explain the student conduct process including the student’s rights;
2. Discuss privacy;
3. Describe to the student as completely as possible the nature of the conduct in question and the college policies allegedly violated;
4. Provide the student with an opportunity to inspect all documents relevant to the case available at the time of the hearing; and
5. Allow the student to respond to the allegations.
  - a. The student can either elect to accept responsibility for the charge(s) or choose to appear before the board, who will determine responsibility for the charge(s).
  - b. Students who *accept responsibility* for the charge(s) may choose to appear or not appear before the board to take responsibility. If a student chooses to appear before the board, they will be given the opportunity to share their perspectives on the incident. If a student chooses not to appear before the board relative to their acceptance of responsibility, the case will be presented to the board who will recommend appropriate sanction(s). The student’s choice of whether or not to appear before the Board may not be used as a determinant factor for sanctions.

#### *Types of Boards*

The following boards hear cases of alleged violations of the Code of Student Conduct:

1. **Community Standards Board:** The Community Standards Board (CSB) hears cases that have a substantial impact on the Saint Mary's College community. This board is composed of students who have been selected and extensively trained. The board has a chairperson and is advised by a conduct hearing officer. When a quorum of three (3) board members is not met, the respondent may choose to proceed with the hearing if she wishes. The board recommends to the Vice President for Student Affairs their decision as to the student(s) responsibility and suggested sanctions. The Vice President for Student Affairs will uphold all recommendations made by the board unless they are inconsistent with college's mission or practices. Students may appeal any decision of responsibility or sanction (see "Appeals").
2. **Critical Issues Board:** The Critical Issues Board (CIB) hears cases that are sensitive in nature such as sexual and physical assault, stalking, relationship violence, harassment, etc. This board is composed of staff and administrators who have been selected and extensively trained by the Vice President for Student Affairs. The board has a chairperson and is advised by the Vice President for Student Affairs. When a quorum of three (3) board members is not met, the respondent may choose to proceed with the hearing if they wish. The board will determine the student(s) responsibility and will recommend sanctions. Students may appeal any decision of responsibility or sanction (see "Appeals").

### *Scheduling the Board Hearing*

The scheduling of a board hearing differs from an administrative hearing in that the time and date of the hearing is coordinated by the board's advisor based on availability of all parties involved. The board's advisor will communicate notice of the hearing to the respondent.

### *Board Hearing Format*

Board hearings proceed in the following format:

1. Introductions of all present parties (including witnesses if applicable);
2. Opening statement explaining the hearing format and questioning process;
3. Witnesses are excused;
4. Explanation of the alleged policy violations and the opportunity for the respondent to respond to the allegations;
5. All parties will have the privilege of questioning all present parties and witnesses as directed by the Chair. Questions must pertain to the records, exhibits, and written statements submitted prior to the hearing;
6. The respondent and reporting party (if applicable) are each given an opportunity to provide a closing statement;
7. The respondent is excused and the board begins deliberation;

8. A hearing outcome letter, detailing the decision of responsibility and any related sanctions, is sent to the respondent(s) via e-mail, typically within three business days of the hearing.

If a student fails to appear for the scheduled board hearing or fails to contact the board advisor no later than twenty-four (24) business hours prior to the scheduled hearing, the board may make a determination of the case based on the available information.

### *Deliberations*

The deliberations of the board will be closed to all parties except members of the hearing board who served during the hearing and the board advisor. Deliberations will be conducted unhurriedly, and all points of view will be expressed and considered. The board will attempt to reach its decision and deliver that decision to the respondents within a reasonable amount of time. If the board feels extended discussion or further investigation is necessary, they will inform the respondents of the anticipated conclusion time.

Each board member will register their belief as to whether the respondent was responsible. A majority of board members, using the standard of more likely than not, must conclude that a respondent is responsible in order to be found responsible.

### *Decision by the Hearing Board*

After the hearing, the hearing board will issue a decision about each individual involved. Each allegation will result in one of the following two outcomes:

1. **Not Responsible:** If the hearing board concludes that it is more likely than not that the respondent did not violate college policy, or if there is not sufficient information available to warrant a determination of Responsible, the hearing board will issue a finding of Not Responsible and will dismiss the allegation. No sanction will be assigned.
2. **Responsible:** If the hearing board concludes that it is more likely than not that the respondent violated college policy, or if the respondent admits to violating college policy, the hearing board will issue a finding of Responsible and recommend appropriate sanction(s).

### *Disqualification of Members*

If a member of a hearing board believes that he/she is not able to serve on the board for personal or official reasons, that member may disqualify himself. A student whose case is before the board may not object to the membership of the board except for reasons of official or personal conflict of interest. When an objection arises, the Board advisor will determine the validity of such objections and their determination shall be final.

**BOARD ADVISOR**

The board advisor is a non-voting board member whose primary responsibility is to ensure that the hearing process as outlined in this document is followed.

***ADDITIONAL HEARING ELEMENTS*****ADVISOR**

A student is invited to bring one (1) advisor with them to any conduct meeting and/or hearing. An advisor is a support person who provides assistance to either the reporting party or respondent during the process. An advisor may not speak for the student nor actively participate during the hearing. The advisor may not speak on behalf of the student in the hearing proceedings. An advisor who is a primary material witness or party to the incident may not be permitted to serve as an advisor. The eligibility will be determined by the Director of Residence Life.

**PRIVACY**

Privacy applies to respondents, reporting parties, witnesses, advisors, hearing officers, and members of the hearing boards. These individuals are expected to adhere to the regulations set forth by the Family Educational Rights and Privacy Act (FERPA) of 1974, as Amended, regarding the dissemination of information pertaining to the student conduct process. All proceedings are private and unauthorized recording by any means is prohibited. All notes taken during student conduct proceedings by any party present will be gathered and destroyed. Only the hearing officer or board chair may include notes in the case file. The college reserves the right to share information regarding the case with other appropriate parties on a need-to-know basis. The college retains the right to record any hearing. Any hearing recording is the sole property of the college. No other recordings of the hearing or investigation are permitted.

**WITNESSES**

A witness is an individual who can give a firsthand account of something seen, heard, or experienced relating to the alleged incident. "Character witnesses" and/or other witnesses deemed to be irrelevant by the investigator, the administrative hearing officer /board advisor

are not permitted. Unduly repetitive witnesses can be limited at the discretion of the administrative hearing officer /board advisor

Witnesses are permitted at hearings however the administrative hearing officer, board advisor or chairperson may limit the number of witnesses permitted to attend the hearing. A list of witnesses and their contact information must be submitted at least two business days before the hearing to the administrative hearing officer/board advisor. If a witness is unable to attend a hearing, the witness may provide a signed written statement at least two business days before the hearing to the administrative hearing officer/board advisor.

## ***SANCTIONS***

When a student or student organization is found in violation of the Code of Student Conduct, any of the following types of student disciplinary action may be imposed. Any sanction imposed should be appropriate to the violation, taking into consideration the context and seriousness of the violation and the respondent's prior conduct history. In cases of board hearings, a majority of board members must agree on the sanction in order to impose it. The College reserves the right to create other sanctions based on the nature of the misconduct. It is important to note that sanctions are given on the severity of the incident and not necessarily in this order.

- Letter of warning—a written reprimand for violation of College standards, including a warning that continuation or repetition of prohibited conduct may result in further disciplinary action.
- Disciplinary Probation—a formal warning for a violation of College policy that places limitations on the student's good standing with the College. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions to be imposed if the student is found in violation of any College policies during the period of probation.
- Letter of apology—a request to submit a letter of apology to a reporting party/victim.
- Loss of privileges—denial of specified privileges for a designated period of time, this includes the loss of guest privileges on campus or in residence halls.

- Restitution—when the student is required to make payment to the College or to specified individuals, groups, or organizations for costs incurred as a result of violation of College policies.
- Fines—monetary fines billed to the student's account.
- Discretionary Sanctions—work assignments, essays, community service, or other related discretionary assignments.
- Loss of ability to hold any office or position, either by election, petition, or appointment, in any recognized student organization or group for a specified amount of time.
- Loss of organization membership status or selected rights and privileges for a specified period of time—in case of a student organization.
- Residential Relocation—the student no longer has the privilege of residing in the current housing assignment and is relocated to another room.
- Residence Hall Suspension—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.
- Residence Hall Expulsion—permanent separation of the student from the residence halls.
- College Suspension—separation of the student from the College for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- College Expulsion—permanent separation of the student from the College.
- Revocation of admission—admission to the College may be revoked for fraud, misrepresentation, or other violation of the College standards.
- Revocation of degree—a degree may be revoked for fraud, misrepresentation, or other serious violation of the College standards and for facts which, if known at the time of the awarding of a degree, would have resulted in a decision not to award the degree.

- Withholding Degree—the College may withhold awarding a degree otherwise earned until the completion of the process set forth in this Code of Student Conduct, including the completion of all sanctions imposed.

### **\*COVID RELATED SANCTIONS**

Previously listed sanctions and/or the following:

- Loss of campus sponsored activities - any college sponsored events such as but not limited to: Senior Week, formals, or any tri-campus sponsored related event
- Involuntary on campus withdrawal - loss of on campus privileges to include in person classes, campus activities and campus access
- Involuntary withdrawal - permanent separation from the College for a specific time determined by the Vice President for Student Affairs

*\*Due to the ever changing nature of COVID-19, the College has the right to modify the above sanctions at any time.*

The College reserves the right to consider mitigating and aggravating circumstances in determining sanctions. More than one of the sanctions listed above may be imposed for any single violation.

Students who are suspended or expelled are subject to the Refund Policy outlined by the Business Office.

### **SPECIAL CIRCUMSTANCES**

In some circumstances it may be necessary to take any of the following actions:

1. Emergency Administrative Action- The Vice President for Student Affairs or their designee shall have the authority to immediately suspend a student from the college, classes or residence halls, relocate an individual within the residence halls, and/or restrict activities of the individual on-campus, pending disciplinary procedures, when it is believed that the presence of the student would seriously disrupt the college or constitute a danger to the health, safety, or welfare of the college, to property, to others or to the student. The student will be notified in writing of the emergency administrative action.

2. **No Contact Directive-** The Vice President for Student Affairs or their designee, hearing officer or board may direct a student or organization to have no contact with another individual for a specific period of time. The student or organization will be notified of this directive in writing. This may be a result of or after a hearing. In some cases, this directive may be in effect outside of the initiation of any hearing proceedings. The person(s) who is protected by this directive may receive a written statement detailing the directive as permitted by applicable law.
3. **Temporary Order of Restraint-** The Vice President of Student Affairs or their designee may issue a temporary order of restraint to a student or organization to prevent the continuation of, the commitment of an act, or from assuming or exercising privileges granted to them that are deemed harmful.

## ***APPEALS***

### **GUIDELINES**

Students may appeal the decision of an administrative or board hearing for one or more of the following reasons:

1. **New Information:** New, significant or relevant information that is sufficient to substantially affect the outcome or sanction regarding the case becomes available that could not have been discovered at the time of the hearing. Information is not considered new if the student did not attend the original hearing or voluntarily withheld information during the original hearing.
2. **Procedural Error:** The specified procedural error or error in interpretation of college conduct procedures may have substantially affected the hearing outcome or sanction.
3. **Disproportionate Sanction:** The sanction appears to be significantly incongruent with the violation, given either the student's prior record or the usual action for their offense.

### **PROCESS**

A student has five (5) business days from the date the hearing outcome letter was sent to write and submit an appeal letter to the Vice President for Student Affairs. This appeal letter must be made in accordance with the applicable process. The student's request should explain in detail why they are contesting the results of the hearing based on one or more of the guidelines detailed above. Copies of any documents that will substantiate or clarify the appeal request should be attached to the appeal letter. In rare circumstances, the Vice President for Student

Affairs may review written documentation, interview the reporting party, respondent or witness, etc.

Decisions made by the Vice President for Student Affairs are final.

## **REVIEW AND OUTCOME**

The Vice President will take one of the following actions:

1. Affirm the original decision and uphold the original sanction(s);
2. Remand the case for a rehearing in the same format as the original hearing but with a different hearing officer or board members;
3. Remand the matter back to the original hearing officer/board to consider new evidence. The original decision maker, charged student(s), reporting party, and if required witnesses, may be reconvened to review only the new evidence; or administrator/board will then render a decision based on the new evidence.

## ***PARENTAL NOTIFICATION***

The college reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The college may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the college will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The college also reserves the right to designate which college officials have a need to know about individual conduct reports pursuant to the Family Educational Rights and Privacy Act.

## ***NOTIFICATION OF OUTCOMES***

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The outcome of a campus hearing is part of the education record of the responding student and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. As allowed by FERPA, when a student is accused of a policy violation that would constitute a “crime of violence” or forcible or nonforcible sex offense, the College will inform the alleged victim/party bringing the reporting party in writing of the final results of a hearing regardless of whether the College concludes that a violation was committed. Such release of information may only include the alleged student’s/responding

student's name, the violation committed, and the sanctions assigned (if applicable). In cases of sexual misconduct and other offenses covered by Title IX, only, the rationale for the outcome will also be shared with all parties to the complaint in addition to the finding and sanction(s).

In cases where the College determines through the student conduct process that a student violated a policy that would constitute a "crime of violence" or nonforcible sex offense, the College may also release the above information publicly and/or to any third party. FERPA defines "crimes of violence" to include:

1. Arson
2. Assault offenses (includes stalking)
3. Burglary
4. Criminal Homicide—manslaughter by negligence
5. Criminal Homicide—murder and nonnegligent manslaughter
6. Destruction/damage/vandalism of property
7. Kidnapping/abduction
8. Robbery
9. Forcible sex offences
10. Non-forcible sex offences

## **MAINTENANCE OF DISCIPLINARY RECORDS**

All conduct records are maintained by the College for seven (7) years from the time of their creation except those that result in separation (suspension or expulsion, including from housing) and those that fall under Title IX, which are maintained indefinitely.

## ***APPROVALS***

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Updated: August 14, 2020

Approved by President's Cabinet

August 11, 2020

Ratified by the Student Affairs

Committee: August 13, 2020

In effect-August 14, 2020

Updated: June 15, 2017 Approved  
by President's Cabinet-  
Ratified by the Student Affairs Council-  
In effect-

Previously:  
Approved by President's Cabinet-February 8, 2012  
Ratified by the Student Affairs Council-March 26, 2012 In  
effect- June 1, 2012