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## CODE OF CONDUCT

### PREAMBLE

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The governance of an institution of higher education is entrusted to the trustees, administration, faculty and students. All amendments to these statements on Student Rights and Responsibilities shall be made by the Office of the Dean of Students and approved by the Division of Student Affairs.

### INHERENT AUTHORITY

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The University reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community and to protect the continuing operation of the University. The prohibited conduct identified by the Code of Conduct applies to the University premises and University-sponsored activities. Charges of violating a local ordinance, state, or federal law may subject the student to disciplinary action by the University. If behavior on or off campus adversely affects the University's educational mission, and/or constitutes a substantial and/or continuing danger to the safety or property of the University or members of the University community, there is also the possibility of disciplinary action being taken. Students are also expected to respect and comply with the rules and regulations of other institutions when visiting or participating in activities on those campuses.

The policies and procedures apply to all student-related violations as long as the complainant(s) and the accused are matriculated graduate and/or undergraduate students at the University. Interpretations of the Code of Conduct are set forth in writing in order to give students general notice of prohibited conduct. The regulations should be read broadly and are not designed to define every instance of misconduct.

### INTERIM SUSPENSION

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*Interim Suspension* is an immediate suspension from the university, pending further disciplinary proceedings, upon written notice from the Office of the Dean of Students, without an informal resolution or a formal hearing. The Dean of Students will make the decision to suspend based on whether or not the allegation of misconduct is valid. An interim suspension usually includes physical exclusion from the campus. Therefore, this action will be taken if the continued presence of the student on the University premises poses a threat to the physical or emotional well-being of any individual, including the student, or relates to the safety and welfare of any University property or function.

A student suspended on an interim basis will be given a prompt opportunity to appear before the Dean of Students or designee within five (5) University business days following the interim suspension, or in cases involving incarceration, when the student is available. The interim suspension will remain in effect until a final decision has been made on the pending complaint either through an informal resolution, a formal hearing process, or until the Dean of Students determines that the reason for imposing the interim suspension no longer exists.

### INTRODUCTION

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The university disciplinary process at New Jersey City University is administered by the Office of the Dean of Students and serves an important role in protecting the individual rights of

students, as well as the interests of the University. Conduct officers will insure procedural fairness to students accused of violations of the Code of Conduct, entitling students to due process regardless of the alleged offense. Supporting the educational mission and philosophies of the University, the administrators of the university disciplinary process (conduct officers) will seek to educate students about appropriate behavior within a community that fosters academic success and personal growth. The system is based on the expectation that students assume responsibility for their own behavior. Therefore, the University has the authority to establish an internal structure for the enforcement of its policies and procedures which students have agreed to accept by virtue of their enrollment.

Wherever possible, conduct officers will embrace and apply the “Restorative Justice” philosophy by asking individuals to become accountable for their actions. According to Warters, Sebok and Goldblum (2000) “Restorative Justice represents a philosophy and a process that acknowledges that when a person does harm, it affects the person(s) they hurt, the community, and themselves. When using restorative justice measures, an attempt is made to repair the harm caused by one person to another and to the community so that order is restored for everyone” (p. 1). Thus, effective resolutions must involve all of the persons who contributed to the conflict(s) and who are ultimately accountable for the outcomes of the resolution. The goal of the conduct process is to provide positive, productive responses to offenses or violations, ultimately meeting the unique needs of the student population.

### **TENETS OF THE UNIVERSITY DISCIPLINARY PROCESS**

- A. To regard each student as an individual, who deserves personal attention, consideration, and respect
- B. To consider the facts fully and carefully in the resolution of all cases
- C. To speak candidly and honestly to each student
- D. To hold each student to a high standard of behavior, both to protect the campus community and to promote student moral development
- E. To contribute to the educational mission of the University by designing policies, conducting programs, and offering instruction that contribute to the intellectual and moral development of the entire student body

### **Section I. Definitions**

- A. **Accused** – NJCU student implicated as violating the University’s Code of Conduct in a formally submitted Incident Report
- B. **Bullying** – aggressive behavior or intentional harm-doing which is carried out repeatedly and over time in an interpersonal relationship characterized by an imbalance of power
- C. **Cyber bullying** – willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices
- D. **Complainant** – any member of the University community who submits a formal, written Incident Report to the Office of the Dean of Students
- E. **Distribution** – sale and/or exchange
- F. **Harassment** – Conduct (physical, verbal, graphic, written, or electronic) that is sufficiently severe, pervasive or persistent so as to threaten an individual or limit the ability of an individual to work, study or participate in the activities of the University

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- G. **Possession** – the exercise of actual or constructive dominion over a thing by one or more persons
  - H. **Presiding Officer** – a hearing board member with voting authority who coordinates the orderly administration of a formal hearing or an informal resolution
  - I. **Sanction** – penalty for a violation of the Code
  - J. **Student** – a person who is registered for and/or who is auditing courses at the University either on a full or part-time basis.
  - K. **Disciplinary File** – An incident file is created in the name of each student or student organization alleged to have violated the NJCU Code of Conduct and follows the student or organization through an informal resolution or formal hearing.
  - L. **Disciplinary Records** – A student is considered to have a disciplinary record when any of the following occurs; the Hearing Board or Presiding Officer finds the student responsible for violating one or more of the policies set forth in Section II of the Code of Conduct or an appeal filed by the student results in an affirmation of the Hearing Board’s or Presiding Officer’s decision.
  - M. **Unauthorized** – without the expressed approval of the University President or his designated representative
  - N. **University community** – all staff, faculty, administrators, and students who are associated with the University
  - O. **University premises** – buildings or grounds owned, leased, operated, controlled or supervised by the University
  - P. **University-sponsored activity** – any activity on or off campus that is initiated, aided, authorized or supervised by the University

## Section II. Prohibited Conduct

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This list of behaviors is intended to represent acts that constitute violations of the Code of Conduct and should not be regarded as all-inclusive.

- A. Misuse or unauthorized use of fire extinguishers, fire sprinkling systems, and other safety equipment or warning devices
  - 1. Setting fires, intentionally or recklessly misusing or damaging fire safety equipment, including, but is not limited to; alarms, heat sensors, smoke detectors, hoses, fire extinguishers, and emergency telephones
  - 2. Failure to exit any building when a fire alarm has sounded or a building is evacuated
- B. Possession, use, or storage of firearms, explosives, weapons, or dangerous chemicals on University property or in the course of any University activity; this includes, but is not limited to; “BB” guns, paintball guns, knives, swords, handguns, and rifles
- C. Use, possession or distribution of illegal or controlled drugs, misuse of prescription drugs, and abuse of alcohol
- D. Gambling
  - 1. Participation in illegal games of chance or raffles for which there are not appropriate permits; this includes:
    - a. Betting on, wagering on, or selling pools on any University athletic event

- b. Possessing on one's person or premises (e.g. room, residence unit, car) any card, book, or other device for registering bets
  - c. Knowingly permitting the use of one's premises or one's telephone or other electronic communications device for illegal gambling
  - d. Knowingly receiving or delivering a letter, package, or parcel related to illegal gambling
  - e. Offering, soliciting or accepting any bribe to influence the outcome of an athletic event
  - f. Bookmaking or wagering pools with respect to sporting events
2. Students are expected to abide by the federal laws and the laws of the State of New Jersey that prohibit illegal gambling.
  3. According to the New Jersey Gambling Laws 5:5-51, re: Raffles: "no license shall be required for the holding, operating or conducting of a raffle for a door prize of donated merchandise of the value of less than \$50.00 for which no extra charge is made at an assemblage at which no other game of chance is held, operated or conducted . . ."

E. Abusive and Disorderly Behavior

1. Intentionally or recklessly causing physical harm and/or causing reasonable apprehension of such harm
2. Intentionally and substantially interfering with the freedom of expression of others
3. Intentionally or recklessly destroying or damaging the property of others and/or the University
4. Trespassing or unauthorized entry to any University premises, facility, property or at a University-sponsored event or activity
5. Engaging in disorderly or disruptive conduct, which interferes with the activities of others

F. Hazing – Conduct (other than competitive athletic events) in connection with membership in any campus organization or group which places another person in danger of physical, sexual or mental harm, bodily injury or deprivation. The supposed consent of the endangered person is not a defense. Campus organizations and their members are prohibited from engaging in or encouraging others to engage in hazing.

G. Disruptive Behavior – Disruptive behavior on campus or in classrooms is not permitted. The primary responsibility for managing the teaching and learning environment rests with faculty or any other person acting in a supervisory capacity over the instructional forum. Faculty/staff have the right to ask a disruptive student to leave class or an office. All incidents are to be reported to Public Safety and to the Dean of Students in order to keep a record of such behavior and to inform students about their rights and responsibilities via New Jersey City University's Student Code of Conduct. All incidents are to be reported to Public Safety and to the Dean of Students in order to keep a record of such behavior and to inform students about their rights and responsibilities via New Jersey City University's Student Code of Conduct.

1. This may include but is not limited to the use of cellular phones, bringing unregistered persons to class, smoking, persistently speaking without being called upon, refusing to be seated, disrupting the class by leaving and entering without authorization, etc.

2. Depending upon the severity and frequency of the conduct, the University will impose sanctions as indicated in this code.
3. The procedures for addressing disruptive behavior can be found in more detail on pages 4 and 5 of the Emergency Protocol.

H. Vandalism/Destruction of University property

1. Misuse of materials, including, but not limited to, student identification cards, keys, computers or computer-related items, laboratory equipment, athletic equipment, or other materials issued by the University
2. Destruction, damage, defacing, or littering of any University building, property, or private property on the campus at University-sponsored events
3. Misuse and/or tampering with any electrical system, wiring, telephone service, or other safety/security devices

I. Actual, attempted, or knowledge of the theft of property or services, including, but not limited to:

1. Unauthorized possession, duplication, or misuse of or damage to University property or other personal or public property, records, electronic files, telecommunications systems, forms of identification, and keys
2. Embezzlement of University funds
3. Unauthorized reading, duplicating, removing, photographing, forging, counterfeiting, altering of any document, permit, or record

J. Theft, misuse, or abuse of the University computing facilities, websites, files, hardware, or software, including, but not limited to:

1. Unauthorized entry into a file to use, read, or change the contents, or for any other purpose
2. Unauthorized transfer of a file
3. Unauthorized use of another individual's identification or password
4. Use of computing facilities to interfere with the work of another person
5. Use of computing facilities to send, deliver or publish obscene or threatening or false and defamatory electronic communications including e-mail and web postings.
6. Exceeding bandwidth allotment set by University Information Technology Services
7. Use of computer facilities to harass or invade the privacy of a specific individual or groups
8. Although New Jersey City University will protect the freedom of speech guaranteed to students by the First Amendment to the U.S. Constitution in cyberspace, use of University computer facilities that goes beyond the legally defined boundaries of free speech and threatens to disrupt substantially University operations or violates the civil and educational rights of others, will be sanctioned.

K. Assault and Battery

1. The threat of or actual physical assault or abuse; hazing; stalking; verbal abuse, intimidation, coercion, and disrespectful behavior
2. The threat of or actual sexual assault and unwelcome sexual contact (See the Sexual Assault Policy)

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**L. Harassment/Intimidation/Bullying**

Students are prohibited from engaging in harassment, intimidation or bullying. A student will be found responsible for harassment, intimidation or bullying if he or she engages in conduct, including any gesture, written, verbal or physical act, or any electronic communication (which includes e-mails, text messages, and Internet postings on web-sites or other social media), whether it be a single incident or series of incidents, that occurs on the University's campus, through use of University facilities, or at any function sponsored by the University or any University-related organization, on or off-campus; that is so severe or pervasive and objectively offensive that it substantially disrupts or interferes with the orderly operation of the University or the rights of any student or other member of the University community; and that:

1. involves intimidation or threats to another person's safety, rights of personal privacy and property, academic pursuits, University employment, or participation in activities sponsored by the University or organizations or groups related to the University; or
2. a reasonable person should know, under the circumstances, will have the effect of insulting or demeaning any student or group of students; or
3. creates an intimidating or hostile environment by substantially interfering with a student's education, or by materially impairing the academic pursuits, employment or participation of any person or group in the University community, or by severely or pervasively causing physical or emotional harm to the student or other member of the University community ; or
4. a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or other person or damaging the person's property or placing him/her in reasonable fear of physical or emotional harm to his/her person, or to any member of that person's family or household, or of damage to his/her property.

**M. Discriminatory Harassment, Intimidation or Bullying**

A student will be found responsible for discriminatory harassment, intimidation or bullying who engages in conduct described above as "harassment, intimidation or bullying" which the student directs at a specific group or individual, based upon race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression, source of lawful income or any other characteristic protected from discrimination by the New Jersey Law Against Discrimination, NJSA 10:5-4, which conduct substantially interferes with work, educational performance or equal access to the University's resources and opportunities.

**N. Sexual Harassment**

A student will be found responsible for sexual harassment who engages in conduct described above as "harassment, intimidation or bullying" which the student directs at a specific individual based on sex, or which would not have occurred but for the individual's gender, or gender identification, which conduct is unwelcome and substantially interferes with work, educational performance or equal access to the University's resources and opportunities.

O. Solicitation and commercialization by students shall be prohibited on campus unless authorized by the administrative staff within the Office of the Dean of Students or their authorized representatives.

P. Public Decency

NJCU students and their guests are expected to uphold generally accepted standards of common decency. To that end, the University prohibits conduct including sexual acts in public spaces, streaking or other public undress, public urination, and public defecation. Public spaces, in this context, include, but are not limited to, hallways, lounges, stairwells, kitchens, public bathrooms, and any exterior location.

Q. Social Media Misconduct

Social media is a term used to describe tools and platforms that enable individuals to share ideas and content quickly and easily. These platforms include, but are not limited to blog sites, websites and apps.

Social Media misconduct includes, but is not limited to:

1. Use of social media to harass, threaten, insult, defame or bully another person or entity; to violate any College policy; or to engage in any unlawful act, including but not limited to gambling, identity theft or other types of fraud.
2. Post or store content that is obscene, pornographic, defamatory, racist, excessively violent, harassing, threatening, bullying or otherwise objectionable or injurious. In addition, do not attempt to compromise the security of any NJCU social media site or use such site to operate an illegal lottery, gambling operation, or other illegal venture.
3. Disclose confidential University information, non-public strategies, student records, or personal information concerning (past or present) members of the Berkeley community without proper authorization
4. Include NJCU or any of its departments, programs, clubs, or organizations in the promotion non-sanctioned events.
5. The promotion of a sanctioned event or initiative in a manner that could in negatively impacts NJCU or any of its departments, programs, clubs, or organizations.

R. Interference with disciplinary procedures or outcomes, including but not limited to:

1. Falsification, distortion or misrepresentation of information before a hearing officer or hearing panel
2. Knowingly initiating a complaint without cause
3. Harassment and/or intimidation of any member of a hearing panel, witness(es), or university personnel before, during or after a proceeding
4. Failure to comply with the sanction(s) imposed by either the Presiding Officer or the Hearing Board

S. Non-Student Conduct – If it is determined that the accused is not and/or has never been a currently registered student and engaged in prohibited conduct, the Office of Public Safety will be asked to intervene. As deemed necessary, this individual's Gothic card will be confiscated and s/he may be barred from campus until such time that his/her enrollment status and/or disciplinary standing changes.

**Section III. Sanctions** – Violations of any of the aforementioned behaviors shall be referred to the Office of the Dean of Students. Because of his/her findings, s/he may initiate any of the following actions. Please note: More than one of the sanctions listed may be imposed for any single violation.

Sanction	Description
Warning	Notice in writing that continuation or repetition of prohibited conduct may be the cause for additional disciplinary action.
Disciplinary Probation	This is a specified period of time during which the student will be excluded from participation in University privileged and/or extracurricular activities. During the probationary period, the student shall not represent the University in any extracurricular activity, run for, or hold office in any student group or organization. Additional restrictions and/or conditions may also be imposed. Notification will be sent to appropriate University offices, including the Office of Campus Life. Failure to comply with the conditions of probation and/or additional Code of Conduct violations may result in additional disciplinary sanctions.
Restitution	This constitutes reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service or an assessment to repair or otherwise compensate for damages. Restitution may not be in excess of the damage or loss incurred.
Suspension	This constitutes separation of the student from the University for a specified period. Exclusion from classes and other privileges and/or activities is instituted during the suspended period. The suspension shall continue until the Dean of Students determines that the conditions for reinstatement have been satisfied. A student who is suspended from the University is not eligible for the return of tuition, room, or board fees or other fees paid or owed to the University. The student shall not participate in any University-sponsored activity and will be barred from University premises.
Expulsion	A permanent dismissal from the University and exclusion from University premises, privileges, and activities. A student who is expelled from the University is not eligible for the return of tuition, room, or board fees or other fees paid or owed to the University. Expulsion requires administrative review and approval by the President.
<b>OTHER SANCTIONS</b> – In the judgment of University and as appropriate, other sanctions may be imposed, instead of, or in addition to, those specified.	
Community Service	Service to the University community for a specified number of hours until the date of completion; failure to complete all or part of a service project in a satisfactory manner by the completion date may automatically result in a fine being imposed by the hearing body that assigned the project. Such action does not preclude additional



	disciplinary sanctions being imposed subsequent to a hearing to determine the reasons for failure to comply.
Assessment, Counseling, Mediation and/or Treatment	Referrals to an appropriate agency for assessment, mediation, counseling, and/or treatment of possible psychological, emotional or substance abuse problems may be required.
Educational Projects	Projects assigned for the educational benefit of the student, the organization, and/or the University community. Examples include enrollment in particular classes, participation in workshops or seminars, conducting research, writing papers, planning programs, etc.
Repeat/Aggravated Violations	Increased penalties may result from repeated or aggravated violations of any section of the Code of Conduct.

#### **Section IV. Procedural Standards**

Any New Jersey City University graduate or undergraduate student, charged by a member of the University community, with the commission of an offense, shall have the right to a formal hearing or an informal resolution by the Dean of Students, Hearing Board or Presiding Officer. A student charged with a serious offense by a member of the University community shall receive a Notice of Charges. The Office of the Dean of Students ensures the fair and impartial treatment of all students regardless of race, creed, color, gender, sexual orientation, religion, disability, veteran status, or ethnicity. A standard of “more likely than not” is applied in the disciplinary decision making.

##### **A. Pending Criminal or Civil Proceedings**

1. Infractions of federal, state or local laws occurring off campus shall be the sole concern of the civil authorities except when such actions directly affect the health, safety, or security of the University community. When a student commits an act either on and/or off campus that poses a substantial and continuing danger to the safety and/or property of the University community and/or constitutes a serious criminal offense, the University may take official action to protect its continued functioning as an academic community.
2. The Dean of Students, with possible consultation with the Vice President for Student Affairs and/or University counsel, will determine whether the University shall proceed with a case against a student who also faces related charges in a civil or criminal suit.
3. Depending upon the nature of the incident, it may be necessary to suspend the on-campus conduct process until the outcome of the legal case has been determined. If the University defers its conduct proceedings to await the outcome of related charges in a civil or criminal inquiry, the University may subsequently proceed under the Code of Conduct without regard to the timelines outlined within that code.
4. In the event that a student is suspended in accordance with the code’s interim suspension provisions, and the University has deferred its proceedings because of pending civil claims or criminal charges, the interim suspension may continue while awaiting the outcome of those charges and the University’s subsequent proceedings.

##### **B. Procedural Due Process**

1. Any member of the University community may report (to the Office of the Dean of Students) a student who is suspected of violating the Code of Conduct.
2. The complainant(s) must file an Incident Report or submit written complaint and submit it to the Office of the Dean of Students. Please note: Incident Reports filed and sent to the Office of the Dean of Students via the Residence Life staff and/or Public Safety will be considered formal complaints if submitted as such.
3. The individual initiating the complaint will be expected to serve as the complainant and present relevant facts that confirm the alleged action to the designated staff member of the Office of the Dean of Students.
4. The accused and the complainant(s) shall receive a Notice of Charges and a copy of the Procedural Due Process within seven (7) University business days of filing the complaint.
5. The accused must prepare a written statement in response to the charges and submit it to the Office of the Dean of Students within seven (7) University business days upon receipt of notification of charges.
6. After a review of the charges and written statements, the Dean of Students or administrative representative will decide, whether the case warrants an informal resolution, a formal hearing, or a dismissal of a complaint.
  - a. Informal Resolution – After a review by the Dean of Students or an administrative representative, hereafter referred to as the Presiding Officer, the following may be recommended:
    - i. Mediation – This is an option in cases where suspension or expulsion will not be the required sanctions. The complainant(s) and the accused are asked to undergo Conflict Mediation to resolve the issue. There is no appeal of mediation.
    - ii. Administrative Hearing – Within five (5) University business days of receiving the complaint, the Presiding Officer and/or the Dean of Students will meet with all parties; the complainant, the accused, and any pertinent witnesses, in order to render a decision. If the Presiding Officer and/or the Dean of Students find(s) that the accused has violated the Code of Conduct, the appropriate sanctions will be levied within five (5) University business days of this meeting. The accused may appeal the decision. If the Presiding Officer and/or the Dean of Students determine(s) that the accused did not violate the Code of Conduct, s/he will be notified of such.
  - b. Formal Hearing – A hearing is conducted by the Hearing Board in which the complainant(s) and the accused have the opportunity to provide testimonies, present witnesses, and submit information on behalf of their case. The Hearing Board will listen to the case and render the decision, which will be recommended to the Dean of Students.
  - c. Dismissal of a Complaint – If a complaint does not warrant an informal resolution or a formal hearing through the Office of the Dean of Students, it will be referred to the appropriate office for resolution.

#### C. Rights of the Accused/Rights of the Complainant(s)

Rights of the Accused	Rights of the Complainant(s)
Written notice of the charges	Written copy of the charges

Rights of the Accused	Rights of the Complainant(s)
Right to have advisor present at a formal proceeding	Right to have advisor present at a formal proceeding
Right to present information on one's behalf	Right to present information on one's behalf
Right to be given a reasonable time to prepare a defense prior to the hearing	Right to a formal hearing or an informal resolution before an impartial official/board
Right to a formal hearing or an informal resolution before an impartial official/board	Right to be informed of decision made by Dean of Students
Right to remain silent or not respond to charges	Right to request a delay of hearing due to extenuating circumstances
Right to request a delay of hearing due to extenuating circumstances	
Right to appeal an adverse decision	

#### D. Informal Resolutions

1. The Presiding Officer will conduct Informal Resolutions.
2. Pending the schedules of the Presiding Officer, an informal resolution will be scheduled in a timely manner.
3. During exam week, winter/ spring recess, or other busy times during the academic year, the conduct process may take longer.
4. The Presiding Officer will interview all parties involved. (The interviews may be conducted separately).
5. Should the complainant(s) and/or the accused receive proper notification of an interview during the informal resolution process and fail to appear and/or fail to appear on time, without contacting the Presiding Officer and providing reason, the Presiding Officer will make a determination in the student(s)' absence.
6. The complainant(s) and the accused shall be given an opportunity to testify and, if feasible, meet with one another to discuss the charges in the presence of the Presiding Officer.
7. All informal resolutions are closed proceedings with attendance limited to the accused, the complainant(s) and whatever counsel each party may choose. (For clarification purposes, the Presiding Officer may request to consult with additional witnesses.)
8. The accused and complainant(s) shall receive a summary confirming the results of the informal resolution, including any appropriate sanctions.
9. Deviations from these procedures shall invalidate the informal resolution or the results of the resolution unless otherwise amended by the Office of the Dean of Students.
10. Students have a right to appeal a decision made in an informal hearing within seven days

#### E. Formal Hearings – If a complaint is forwarded to the Hearing Board for adjudication, the following procedures will be in effect:

1. The Hearing Board conducts formal hearings.
  - a. At the beginning of each academic year, the Dean of Students will appoint and train a Presiding Officer and the members of the Hearing Board.
  - b. The Hearing Board shall consist of an equal number of students and faculty/staff.

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- c. For each hearing, there must be at least five (5) members, including at least two (2) students and (2) faculty/staff members. In addition, the Recording Secretary will serve as an ex-officio member.
  - d. Whenever necessary, the Dean of Students may appoint a representative to replace a standing member of the Hearing Board if that member is unavailable to participate in a hearing procedure.
  2. Pending the schedules of Hearing Board members, hearings will be scheduled in a timely manner.
  3. During exam week, winter/spring recess, or other busy times during the academic year, the Hearing process may take longer.
  4. Members of the Hearing Board, who assume bias for or against either party, in a particular case, may not serve on the Hearing Board. If necessary, a replacement/alternate shall be assigned by the Dean of Students.
  5. The complainant(s) must present information that confirms the facts as s/he sees them. Decisions made by the Hearing Board will be based in part by the information introduced at the hearing. The standard of “more likely than not” shall be the standard for disciplinary decision making.
  6. Should the complainant(s) and/or the accused receive proper notification of a hearing and fail to appear or fail to appear on time, without contacting the Presiding Officer and/or the Dean of Students and providing just reason, the hearing may proceed and action may be taken based on the information received at that time.
  7. The complainant(s) and the accused shall be given an opportunity to testify and to present witnesses who will be permitted to give testimony relevant to the case in accordance with the Presiding Officer’s conditions. (See Section IV, F 2: Witnesses & Information for Formal Hearings)
  8. Within seven (7) University business days, the Office of the Dean of Students will notify both the accused and the complainant(s) of the results of the hearing. Additionally, the accused shall receive information regarding the specific sanctions and the right of appeal (See Section IV, G: Appeals).
  9. All formal hearings are closed proceedings with attendance limited to individuals directly connected with the case.
  10. Both the complainant and the accused have the right to be assisted by an advisor of their choice. An advisor’s sole purpose will be to advise the complainant(s) or the accused before and after the hearing. The advisor may not question witnesses and/or otherwise participate in the hearing.
  11. The assigned Recording Secretary will document the proceedings and prepare the minutes of the hearing.
  12. Deviations from these procedures must be approved in advance by the Office of the Dean of Students.

#### F. General Procedures for Formal Hearings

1. The Presiding Officer of the Hearing Board is responsible for conducting hearings in an orderly and proper manner. S/he is present throughout all phases of adjudication and acts to ensure that both parties receive the opportunity to present relevant facts and witnesses. In addition, the Presiding Officer ensures that final decisions rendered are in accordance with outlined procedures.

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- a. The Presiding Officer will call the meeting to order.
  - b. The Presiding Officer will explain the function of the hearing and verify that the accused and the complainant(s) are aware of their rights.
  - c. All parties (complainant, accused, advisors, and witnesses) will address the Hearing Board. Some parties may address the Board separately as deemed necessary by the presiding officer.
  - d. The Presiding Officer will inform all parties that the Recording Secretary will take minutes during the proceedings. The Presiding Officer will introduce all parties, ask whether there will be any witnesses testifying on behalf of the accused and/or the complainant(s), advise the accused and the complainant(s) of the right to be present at all stages of the hearing process, with the exception of deliberation, and read the charges.
  - e. The Presiding Officer will inform both parties that all witnesses will be asked to affirm the truthfulness of their testimony and that providing false information may result in sanctions for the accused, the complainant(s), and/or the witnesses.
  - f. Both the accused and the complainant(s) will have the opportunity to present opening and closing remarks.
  - g. The Recording Secretary will read the incident report(s) and, as necessary, any statement(s) submitted on the case.
  - h. Hearing Board members may then question each party and the witnesses.
2. Witnesses & Information for Formal Hearings
    - a. A list of expected witnesses and copies of any documents, in support of the charges, or in defense of the accused, shall be provided to the Hearing Board at least five (5) University business days before the hearing. If additional witnesses and/or information are obtained during this period, the hearing may be postponed at the discretion of the Presiding Officer.
    - b. A witness must come before the Board with the understanding that he/she will be questioned only regarding the said accusations.
    - c. A witness must answer questions to the best of his/her knowledge. Providing false information during a testimony at a hearing is a violation of the Code of Conduct and may be sanctioned accordingly.
    - d. Hearing Board members may question witnesses called by the accused.
    - e. All witnesses will be excused from the hearing room upon completion of their testimonies. The Presiding Officer will advise these witnesses that they are not to discuss their testimonies outside of the hearing room, including once the Board has rendered a decision.
    - f. The members of the Hearing Board may recall any witnesses from either party if necessary.
    - g. The Presiding Officer may recess a hearing if he or she concludes that the Board requires additional information to render a final decision.
3. Deliberation for Formal Hearings
    - a. Upon conclusion of all testimony, the Hearing Board will meet in private to deliberate the matter and render a decision. The deliberation will not be recorded; the final vote will be noted, but will not be publicized.
    - b. The determination of responsibility for violations and the recommended sanction(s) are determined by a majority vote of the Hearing Board.

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- c. In the event the Hearing Board finds that the accused did commit the said charges, the Hearing Board may recommend a sanction.
  - d. All board decisions are made as recommendations to the Presiding Officer.
  - e. In determining a recommendation, the Hearing Board may consider the past disciplinary record and previous offenses of the accused. If applicable, the Office of the Dean of Students will provide relevant records to the Hearing Board for review and consideration.
  - f. All Hearing Board discussions are confidential.
4. Notification – After a formal hearing and its deliberations have been completed, the Presiding Officer will send written notification of the results of the hearing to the Office of the Dean of Students within two (2) University business days after the deliberation ended. The Office of the Dean of Students shall notify the accused, in writing, of the following, within seven (7) University business days:
- a. Final decision in the case
  - b. Sanctions, penalties and other stipulations or special requirements
  - c. Right of appeal to the Dean of Students
5. Reporting of Hearings, Final Decisions and Sanctions
- a. The privacy and confidentiality of all student disciplinary records shall be in accordance with the Family Educational Rights and Privacy Act of 1974 as amended.
  - b. Information regarding hearings scheduled, final decisions made, and/or the disciplinary status of a student may be shared with appropriate university officials and departments (i.e. Residence Life Director, Public Safety, Athletics, Deans, etc.).
  - c. Complainant will receive written notice of the Hearing Board's findings.
- G. Appeals – Students may appeal hearing decisions made as the result of a formal hearing in accordance with the following provisions:
- 1. Students are entitled to no more than one appeal review per case.
  - 2. Students electing to appeal a hearing decision must file a written appeal, including the reasons for the appeal, with the Dean of Students, within seven (7) University business days of notice of the sanction of the original hearing.
  - 3. Appeals must be in writing and must state specific grounds for the appeal. Grounds for appeal are limited to the following:
    - a. The sanction(s) imposed are significantly disproportionate to the offense
    - b. Specified procedural errors or errors in interpretation of University regulations were so substantial as effectively to deny the student a fair hearing
    - c. New and significant information became available and could not have been discovered by a properly diligent student before or during the original hearing
    - d. The finding is unsupported by any information that was presented
  - 4. The Dean of Students will review all documentation associated with the case and determine whether sufficient grounds exist to reopen the case. If sufficient grounds do not exist, the finding(s) and sanction(s) from the original hearing will stand and no further appeal is provided. If sufficient grounds exist to reopen the case, the Dean of Students may elect to hear the case in part, in total or de novo and is not bound by the finding(s) or sanction(s) of the original hearing body.

5. Once the appeal is granted, the Dean of Students will notify the all appropriate parties, in writing, of the new hearing date and of the new hearing conditions. The Dean of Students hears all appeals.

H. ***Tips for Accused Student in a Disciplinary Proceeding:*** This information is intended to assist the accused student to prepare for a disciplinary proceeding. It is meant to supplement the hearing process. Questions about the process should be referred to the Office of the Dean of Students.

1. You have been charged with a violation of the New Jersey City University Code of Conduct. You are presumed "not responsible" until proven "responsible," therefore; it is the responsibility of the complainant to present the case against you. The decision of the Hearing Officer or the Hearing Board will be based on information that indicates that ***it is more likely than not*** that the violation occurred.
2. As you prepare for the disciplinary proceeding, you should keep in mind the following pointers:
  - a. Tell the truth. Failure to tell the truth is itself a serious charge and can result in further disciplinary action even if you are found not in violation for the charge against you.
  - b. You will be allowed to submit documents or statements for use at the proceeding. These documents must be submitted to the Office of the Dean of Students prior to the proceeding so that copies can be made and distributed to the appropriate persons. Statements should be submitted, signed, dated, and typed or clearly written in ink.
  - c. Statements should be recollections of the incident and answer who, what, where, when, and why questions. Only individuals who have first-hand knowledge of the incident should submit them. These individuals may also be called as witnesses at the proceeding. Written statements will generally be requested during the investigation and should be turned into the Office of the Dean of Students. Character witnesses will not be permitted to appear as they are not needed and have little, if any, relevance to the charges against you.
  - d. You are entitled to review the submitted written statements and incident reports. Please contact the Office of the Dean of Students at 201-200-3525 to set up an appointment to view the file. You may not duplicate these materials. Read the materials carefully and think of any questions you will want to ask at the proceeding. Write the questions down in advance. When reviewing these documents, look for missing information, gaps in time that are not explained well or fully, and misinformation or inconsistencies among statements.
  - e. The hearing and all materials associated with it (incident reports, statements, etc.) are to be considered confidential. You may not discuss this case with anyone, including any member of the Hearing Board during or following the hearing.
  - f. You are permitted to have an advisor present during your testimony. The advisor in a disciplinary proceeding may be anyone of your choosing (including an attorney). The advisor is not permitted to speak during the proceeding. The advisor may confer and speak privately to you. The advisor may not be included in the list of witnesses. S/he may only function in the capacity of an advisor. The advisor can assist you with the following:
    - i. Reviewing the charge(s) and the student conduct process

- ii. Preparing the presentation of the case
  - iii. Taking notes during the proceeding
  - iv. Providing you with moral support during the proceeding
3. Your presentation of the case and closing statements are important. If you engaged in prohibited conduct, you should admit this at the beginning and offer any mitigating circumstances that may affect your case. If you are not responsible for the charge, you should state that at the beginning and be prepared to show why the complainant is wrong in bringing the charge against you. You may read a prepared statement or prepare an outline to ensure that you do not forget any major points. Your closing statement will allow you to summarize the findings of the case from your perspective.
  4. During the proceeding, the Hearing Officer/Hearing Board will ask questions. Answer only the questions asked of you and do so in a clear, concise and direct manner. Do not be evasive.
  5. Eye contact should be made with the Hearing Officer/Hearing Board when they address you. They are not the enemy! They are there to do three things: hear the information, formulate an opinion regarding ***whether it is more likely than not*** that you engaged in prohibited conduct, and if so, impose a sanction. Do not become defensive or argumentative with the Hearing Officer/Hearing Board.
  6. You may appeal certain sanctions. The appeal process is explained in Section IV, Part G of this document. Your advisor may be helpful in formulating your appeal letter if you choose to appeal the decision.
  7. In general, you should take the process seriously and prepare carefully.

I. ***Tips for the Complainant in a Disciplinary Proceeding***

1. This information is intended to assist the complainant to prepare for a disciplinary proceeding. It is meant to supplement the Code of Conduct, which details the Hearing process. Questions about the process should be referred to the Office of the Dean of Students.
2. Prepare a short outline that identifies the following:
  - a. The key players; clarify which individuals will be needed to testify at the proceeding;
  - b. The sequence of events;
  - c. The special circumstances associated with the incident (i.e., alcohol or other drug use, harassing or provoking speech or actions); and/or
  - d. The specific rule, regulation or standard of conduct that the accused student has allegedly violated.
3. Clarify discrepancies in and between statements.
4. Anticipate questions that the Hearing Officer/Hearing Board may ask
5. Hearing Board Process – Please review the Code of Conduct, Section IV. Procedural Due Process. The hearing will be divided into four segments:
  - a. Presentation of Case
  - b. Questioning of the Parties
  - c. Questioning of the Witnesses
  - d. Closing statement
6. Presentation of case – Prepare and write out an outline for the presentation of your case. The presentation should begin with a brief statement. The rest of the presentation is a narrative about the incident and the key facts.



7. Questioning of the Hearing Board – When responding to questions, avoid providing unnecessary information. Short, direct responses are preferred by the Hearing Board. Do not make personal comments about the accused student.
8. Closing Statement – State what you have shown throughout the hearing. Point out any discrepancies you have discovered during the hearing. Explain the impact of the incident on the complainant and the University Community.
9. Reminders:
  - a. The use of alcohol or other drugs may not be used as a defense.
  - b. In cases of sexual violence, the alleged injured party's past sexual history may not be revealed unless said activity was with the accused and can be shown to be relevant to the case at hand.
  - c. The hearing and all materials associated with it (incident reports, statements, etc.) are to be considered confidential. You may not discuss this case with anyone, including any member of the Hearing Board during or following the hearing.
  - d. Character witnesses are not permitted in the hearing since they have little if any relevance to the charges.

**J. *Tips for the Witness in a Discipline Proceeding***

1. You have been called as a witness in a disciplinary proceeding before a Hearing Officer or Hearing Board. *Please note: You are under no obligation to participate in this process.*
2. The role of a witness is not that of an advocate or helper for one side; a witness's obligation is simply to tell the truth. You have been asked to be a witness because you know something about the incident or about matters directly related to the incident in question. You are asked to share that information at the proceeding.
3. This is not a court of law, but rather a part of our student discipline system for addressing complaints about student behavior. The fact that allegations have been made and are taken seriously does not mean that they are true.
4. The parties involved and the Hearing Officer/Hearing Board may ask you questions. You are asked to give truthful, thoughtful answers. You will be given many opportunities to tell what you know about the case. When the Hearing Officer/Hearing Board excuses you, you may leave. As student hearing records are confidential, you are not to discuss the case outside the proceeding unless authorized to do so by the Office of the Dean of Students.
5. If you anticipate a scheduling conflict, notify the Office of the Dean of Students. You are advised to consult the Code of Conduct and familiarize yourself with the student conduct process. Questions about the conduct process should be referred to the Office of the Dean of Students.

**K. *Tips for the Advisor of a Student in a Disciplinary Proceeding***

1. This information was developed to help you prepare to serve in your role as **advisor** for a student in a disciplinary proceeding. You should read the Code of Conduct thoroughly as well as follow these tips when preparing for the proceeding. Questions about the conduct process should be referred to the Office of the Dean of Students.
2. The advisor in a disciplinary proceeding may be anyone of the student's choosing (including an attorney). The advisor is not permitted to speak during the proceeding.

The advisor may confer and speak privately to the advisee. The advisor may not be included in the list of witnesses. S/he may only function in the capacity of an advisor. The advisor should assist the advisee with the following:

- a. Review and understand the charge(s) and the student conduct process
  - b. Prepare the presentation of the case
  - c. Take notes during the proceeding
  - d. Help keep the advisee calm and in control
  - e. Provide moral support to the advisee during the proceeding
3. The advisor's assistance may also be needed in preparing a letter of appeal (if advisee is the accused student), should the student choose to appeal the decision.

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### ***STUDENTS' BILL OF RIGHTS***

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- A. Students shall not be denied access to University facilities because of race, creed, color, gender, sexual orientation, religion, disability, veteran status, or ethnicity.
- B. Students shall have the right to form and operate a Student Council to approve and legislate for student activities and budgetary concerns. The Student Council and all other organizations authorized or chartered by the Student Government Organization shall choose their own advisor where one is desired. Please note that there will be an additional advisor/liaison designated from the Office of Student Support Services.
- C. All students enrolled at the time of elections, as per the Student Government Organization Constitution, shall be eligible to vote in all student elections and on all student referendums conducted under its auspices and shall be eligible for all student offices within the guidelines established by the Student Government Organization.
- D. Students, through representation on the University Senate, shall be consulted in the planning of courses and recommendations for changes within the curriculum guidelines established by the University.
- E. Students shall have representation on the University Senate and its standing committees as provided in the University Senate Constitution.
- F. Students shall have the right to participate with faculty in the establishment of standards of conduct for students and faculty.
- G. Students, through representation on the University Senate, shall have the right to participate in a Student/Faculty Committee for Grievances through which students may file grievances with regard to discriminatory practices, prejudiced evaluations, and institutional neglect. Students shall have equal representation with the faculty on this committee.
- H. Students shall not be denied without adherence to due process the opportunity to remain in the University.
- I. Students and their property shall not be subject to search and seizure by University authorities, except by officials designated by the University President and only when the immediate safety of the University community is threatened.
- J. Students shall be given the opportunity to review the non-confidential contents of their respective files upon written request and shall have the right to reply to any derogatory material. These responses shall become part of their files. Students shall be notified of all requests for information by non-University authorities and such information shall not be released without their expressed written consent. Procedures for destruction of inactive records will be established that will safeguard the confidence in which they should be held.

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- K. Students have a right to demonstrate dissent if all facets of the dissent are within the law and do not impede the normal business of the University or restrict the rights of others.
  - L. Students shall have the right to invite and hear speakers of their choice. The right to assemble and hear these speakers shall be subject to restrictions as stated in No. 11 above.
  - M. Students have the right to express ideas freely. This right shall be considered to have been violated, however, if such expressions are unsupported or contradicted by facts, adversely affect the reputation of any member of the University community, and/or or restrict his/her opportunities to engage in activities which are consistent with the normal business of the University. Such violations shall not be tolerated even when carried out under the guise of anonymity.
  - N. The University shall guarantee editorial freedom. As safeguards for the editorial freedom of student publications, the following provision are necessary:
    - 1. The student press shall be free of censorship and advance approval of copy, and its editors and managers shall be free to develop their own editorial policies and news coverage.
    - 2. Editors and managers of student publications shall be protected from arbitrary suspension and removal because of student, faculty, administrative, or public disapproval of editorial policy or content.
    - 3. All student publications shall explicitly state that the opinions expressed therein are not necessarily those of the University or the student body.
    - 4. The editorial freedom of student editors and managers shall entail corollary responsibilities and offer reasonable opportunities for rejoinder to the University community.

## **GRIEVANCE PROCEDURES**

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The following procedure is available to students to resolve grievances regarding grading, course requirements, attendance requirements, and other related complaints:

- A. Discussion with faculty member
- B. Appeal to the appropriate department chairperson.
- C. Appeal to the appropriate academic dean.
- D. Grievances, which are not resolved at the dean's level, may be referred to the Student Affairs Committee of the University Senate.
  - 1. The Student Affairs Committee shall deal with grievances involving students and faculty, staff or administrators. Upon receipt of a written appeal from a student, faculty member, or administrator, the committee shall first determine that:
    - a. All pertinent information has been requested, obtained and reviewed; the grievance has basis in fact;
    - b. All normal avenues of grievance resolution (i.e., student, faculty members, chairperson and academic dean) have been exhausted.
  - 2. The Student Affairs committee members shall then process the grievance and render its recommendation to the Vice President of Academic Affairs who will make a final decision and inform interested parties.
  - 3. The entire grievance procedure, including notification of a final decision, should be resolved in a timely manner. The Committee shall include at least one full-time faculty member from the College of Professional Studies, College of Education and College of

Arts & Sciences. The chairperson or vice chairperson of the Senate shall also be a member.

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## **STUDENT RECORDS**

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Students who wish to inspect and review their educational records may do so by notifying the Dean of Students. The Dean will schedule a mutually convenient time for said inspection within seventy-two hours (three working days) of the request; all such inspections will be scheduled between the hours of 10:00 a.m. and 4:00 p.m., Monday through Friday, and a member of the University staff will be present throughout. Special arrangements will be made for evening students. Students have the right to inspect and review their educational records except in the following cases:

- A. Financial records of the student's parents.
- B. Confidential letters or statements placed in the file prior to January 1, 1975.
- C. In the case of material, that includes information on other students; the student may review or be informed only of his/her information.

The University maintains the following records on individual students, and in most instances, the inspection of records will be scheduled in the office in which the record is kept.

- A. Transcripts – Office of the Registrar
- B. Registration – Office of the Registrar
- C. Advisement – University Advisement Center
- D. Student health records – Health and Wellness Center
- E. Financial aid records – Office of the Director of Financial Aid
- F. Placement records – Career Planning and Placement
- G. Disciplinary records – Office of the Dean of Students

Access to these records will be given to University personnel who have a legitimate educational interest in the records as determined by the Dean of Students. Information may be released to other agencies and individuals only in compliance with the federal Family Educational Rights and Privacy Act (FERPA), copies of which are posed in the offices of the Dean of Students and the Registrar. Students may request copies of information contained in their educational records. The cost of reproducing copies of other records will be charged to the student and will be determined at the discretion of the appropriate office. In no instance, however, may the fee exceed the cost to the University for reproducing the copies. If the educational records contain a factual inaccuracy, the student may apply to the Dean of Students to have that inaccuracy removed from his/her records. That officer will schedule whatever conferences seem appropriate for that purpose. Any disputes will be resolved through an appeal in writing to the President of the University.

## **Academic Records and Disciplinary Records**

Students have two records at Duke--a permanent academic transcript maintained by the [Registrar](#) and a disciplinary record maintained by the Office of Student Conduct. All disciplinary violations processed through our office are noted on the disciplinary record for eight years from the date of a student's matriculation, except in cases resulting in suspension or expulsion, in which disciplinary records are kept indefinitely.

There is no hard and fast rule about the impact of a disciplinary violation on getting into a graduate program or getting a job. Variables include the nature and severity of the violation, how much time has lapsed since the violation and what the student has learned as a result of the violation. Minor offenses will likely have a minimal effect. Violations such as academic dishonesty, fighting, and drug violations are likely to have an impact through an admissions process. A student may find that his/her options are limited by his/her disciplinary record, but there have been many Duke students who have been found responsible for significant violations who have gone on to law school or medical school because they proved their willingness to learn from the mistake and move on.

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**PERSONALLY IDENTIFIABLE INFORMATION**

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Any information that includes:

- A. The name of the student, the student's parents or a family member
- B. A personal identifier, such as the student's social security number or student number
- C. A list of personal characteristics or other information which would make it possible to identify the student with reasonable certainty

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**RELEASE OF PERSONALLY IDENTIFIABLE INFORMATION**

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The University may not release educational records or personally identifiable information in the records to any individual, agency, or organization unless: (Updated to reflect current changes and standards)

- A. The student signs and dates a written consent which specifies:
  - 1. The records to be released
  - 2. The reasons for the release
  - 3. The person to whom the records are released
- B. The records are released in compliance with a hearing order or pursuant to a lawfully issued subpoena. The student must be notified in advance that the information will be released. Ordinarily subpoenas give the University very little time to comply. A good faith effort should be made to contact the student and/or to postpone the compliance date for the subpoena.
- C. The information is to be used to compile a student directory that would include the student's name, address, and telephone number. Although the release of directory information is permissible, the University reserves the right to exercise discretion regarding the release of directory information.
- D. Information is released to the following individuals or agencies and for the following purposes:
  - 1. University personnel with a legitimate educational interest as determined by the Dean of Students
  - 2. Officials of other schools in which the student seeks to enroll, provided the student is notified of the release
  - 3. Federal and state officials in connection with the audit and evaluation of federally funded programs in connection with the enforcement of federal legal requirements which relate to such programs or in connection with the student's application for or receipt of financial aid
  - 4. State and local officials pursuant to a state statute adopted prior to November 19, 1974

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5. Organizations conducting studies for the purpose of developing predictive tests, administering student aid programs and improving instruction
  6. Accrediting organizations in order to carry out their accrediting functions
  7. Parents who claim the student as a dependent on their IRS statements; however, information will be released to a divorced, non-custodial parent only with written authorization of the student or in compliance with a subpoena.
  8. When necessary in an emergency to protect the health, safety or welfare of the student or others, to persons who are in a position to deal with the emergency

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### **RECORD OF ACCESS**

A record must be kept, within the educational records of each student, which indicates the individuals or organizations, other than University personnel, which have requested or obtained access to the student's records. This should also reflect the legitimate educational interests of the individual or organization for obtaining the information. The record of access may be released only to University personnel, state, or federal officials as a means of auditing the system of reporting access to student records. Educational records or personally identifiable information in the records may be released as specified in items 2, 3, and 4 under Release of Personally Identifiable Information.