




SENATE LEGISLATION APPROVAL

Date:	February 15, 2013
To:	Wallace D. Loh
From:	Martha Nell Smith Chair, University Senate 
Subject:	Expansion of Promoting Responsible Action in Medical Emergencies
Senate Document #:	11-12-22

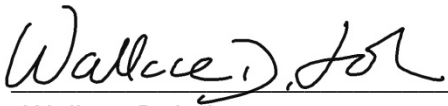
I am pleased to forward for your consideration the attached legislation entitled, "Expansion of Promoting Responsible Action in Medical Emergencies." Jason Speck, Chair of the Student Conduct Committee, presented the proposal. The University Senate approved the proposal at its February 14, 2013 meeting.

We request that you inform the Senate Office of your decision as well as any subsequent action related to your conclusion.

Enclosure: Expansion of Promoting Responsible Action in Medical Emergencies
 Senate Document # 11-12-22

MNS/rm

- Cc: Mary Ann Rankin, Senior Vice President & Provost
 Reka Montfort, Executive Secretary and Director, University Senate
 Juan Uriagereka, Associate Provost for Faculty Affairs
 Terry Roach, Executive Assistant to the President
 Janet Turnbull, President's Legal Office
 Elizabeth Beise, Associate Provost for Academic Planning & Programs
 Sylvia B. Andrews, Academic Affairs
 Andrea Goodwin, Director of the Office of Student Conduct

Approved:  Date: 02-20-2013
 Wallace D. Loh
 President



University Senate TRANSMITTAL FORM

Senate Document #:	11-12-22
PCC ID #:	N/A
Title:	Expansion of Promoting Responsible Action in Medical Emergencies
Presenter:	Jason Speck, Chair, Senate Student Conduct Committee (SCC)
Date of SEC Review:	February 1, 2013
Date of Senate Review:	February 14, 2013
Voting (highlight one):	On resolutions or recommendations one by one, or In a single vote To endorse entire report
Statement of Issue:	In March 2011, the Senate and President approved the University of Maryland Policy on Promoting Responsible Action in Medical Emergencies (also referred to as the Responsible Action Policy (RAP)), as created and recommended by the Student Conduct Committee (SCC) and the Office of Student Conduct (OSC). The policy offers conditional relief from disciplinary charges under the <i>Code of Student Conduct</i> or <i>Residence Hall Rules</i> for a student in possession or under the influence of alcohol who summons medical emergency assistance for him/herself or on behalf of a fellow student experiencing a medical emergency. In October 2011, the Senate Executive Committee (SEC) received a proposal from an Undergraduate Student Senator, asking that the current policy be expanded to include all drugs in addition to alcohol.
Relevant Policy # & URL:	http://www.president.umd.edu/policies/docs/V-100J.pdf
Recommendation:	The SCC recommends changes to University policy V-1.00(J) Promoting Responsible Action in Medical Emergencies, as noted in Appendix 1 of the attached report. The committee also recommends that the corresponding changes to the <i>Code of Student Conduct</i> be made simultaneously, as noted in Appendix 2.
Committee Work:	The SCC received the expansion of RAP charge from the SEC at the end of the 2011-2012 academic year. The SCC met with the proposer and consulted with the Director of Student Conduct, the Office of Legal Affairs, and other University administrators throughout its review. The 2012-2013 SCC continued to research and deliberate during the Fall 2012 semester. The committee

	<p>reviewed similar responsible action policies at peer institutions and reviewed data from the OSC about the utilization of the RAP since its inception.</p> <p>The SCC finds that changing the responsible action policy to include drugs is both necessary and appropriate. It is the understanding of the committee that the undergraduate student body desires this change in policy coverage, and if adding coverage for drugs will encourage more students to call for help when needed, then it is the obligation of the committee and the Senate to edit the current policy to satisfy both the needs of the students and the University.</p> <p>In conjunction with the OSC, the SCC drafted and unanimously approved the attached policy edits, which it recommends become official campus policy. If approved by the Senate and President, the OSC is willing to adopt these changes immediately upon approval, instead of postponing action until the summer, when modifications and amendments to the <i>Code of Student Conduct</i> are normally introduced for the fall, as this change enhances the safety and wellbeing of the student body and the campus community as a whole. The committee voted to approve forwarding the recommended policy edits to the SEC at its committee meeting on Wednesday, January 23, 2013.</p>
Alternatives:	The Senate could choose not to approve the proposed policy expansion and recommended changes to the University of Maryland <i>Code of Student Conduct</i> . The current policy, <i>Promoting Responsible Action in Medical Emergencies</i> , also referred to as the Responsible Action Policy (RAP), would remain as currently written.
Risks:	There are no associated risks.
Financial Implications:	There are no related financial implications.
Further Approvals Required:	Senate Approval, Presidential Approval.

Senate Student Conduct Committee

Report – Senate Document 11-12-22

Expansion of Promoting Responsible Action in Medical Emergencies

January 2013

BACKGROUND

In March 2011, the University Senate and President Loh approved the University of Maryland Policy on Promoting Responsible Action in Medical Emergencies, as created and recommended by the Senate Student Conduct Committee (SCC) and the Office of Student Conduct (OSC). This policy offers conditional relief from disciplinary charges under the *Code of Student Conduct* or *Residence Hall Rules* for a student in possession or under the influence of alcohol who summons medical emergency assistance for him/herself or on behalf of a fellow student experiencing a medical emergency. The policy is a result of hard work and research conducted by countless members of the University community, including the many dedicated faculty and students who have served on the SCC since the topic was first proposed in 2007.

The creation of this policy took several years, and the specific text and coverage of the policy went through a number of iterations. The original proposal for a “Good Samaritan” or “Medical Amnesty” policy suggested coverage for individuals for the possession or use of any substance, including alcohol and drugs. While many of the members of the SCC wished to include drug coverage from its inception, the policy development process largely prevented this possibility until enough data, guidance, input and support could be acquired.

The fundamentals of the current policy were first put into practice in the form of a Senate- and President-approved administrative protocol for the OSC, which was in place between Fall 2009 and the approval of the official policy in Spring 2011. In October 2011, the Senate Executive Committee (SEC) received a proposal from an Undergraduate Student Senator, asking that the current policy be expanded to include all drugs in addition to alcohol (Appendix 5). The proposal noted that since illegal drug possession on campus results in harsher sanctions than underage alcohol consumption, students are often more hesitant to call for help during a drug overdose than an alcohol overdose. The proposer asked the Senate to consider the creation of a policy that would provide conditional relief from disciplinary charges under the *Code of Student Conduct* or *Residence Hall Rules* for students in possession or under the influence of drugs who summon medical emergency assistance for themselves or on behalf of a fellow student experiencing a medical emergency. The proposer clarified that such a policy should not provide coverage for students who manufacture or sell drugs, and should only cover students with no prior disciplinary record relating to drugs; the proposer further suggested that students who do have a record relating to drugs could be evaluated on a case-by-case basis. In addition, the proposer suggested that students who overdose on drugs and are provided conditional relief from the policy should be required to take a drug-prevention course, if deemed appropriate.

The SEC discussed the proposal at its meeting on November 29, 2011. The SEC agreed that it needed to understand potential legal issues surrounding the proposal before charging a Senate committee to review the proposal. Thus, the SEC forward the proposal to the President's Legal Office for input, and voted to postpone further consideration of the proposal pending a response. The SEC heard back from the Legal Office in late February 2012 and discussed the

response at its March 16, 2012 meeting; the SEC voted to charge the SCC with reviewing the proposal (Appendix 4).

CURRENT PRACTICE

Effective March 2011, the V-1.00(J) University of Maryland Policy on Promoting Responsible Action in Medical Emergencies (Appendix 3), also referred to as the Responsible Action Policy (RAP), was approved by the Senate and President. The OSC adopted the policy at that time and made the appropriate changes to the *Code of Student Conduct*, as recommended by the SCC. Under the policy, a student in possession or under the influence of alcohol who summons medical emergency assistance for him/herself or on behalf of a fellow student experiencing a medical emergency will not face disciplinary charges under the *Code of Student Conduct* or *Residence Hall Rules* for the possession or use of alcohol, with the exception of the exclusions noted in the policy. In lieu of disciplinary charges and as a condition of such relief, students handled under this policy are usually required to be evaluated by the University Health Center staff and successfully complete an approved alcohol intervention program. The policy also extends to the student for whom medical emergency assistance has been summoned. A “summons” for medical emergency assistance is deemed to be contacting police, University staff or other officials designated as emergency medical providers.

COMMITTEE WORK

The SCC received the expansion of RAP charge from the SEC at the end of the 2011-2012 academic year. The committee met with the proposer at its meeting on April 26, 2012 to discuss the intention of his proposal. The proposer provided data and policy language from a number of peer and other institutions, which have ‘amnesty’ policies that cover drugs in addition to alcohol. The proposer also provided a number of statistics relating to drug overdose, including the fact that “drug overdose is now second only to motor vehicle crashes among the leading causes of unintentional injury deaths” in the United States (Source: Centers for Disease Control (2011). Vital signs: Overdoses of prescription opioid pain relievers - United States, 1999-2008. *Morbidity and Mortality Weekly Report*, 60, 1487-1492). The proposer also explained that “students who are aware that a medical amnesty policy is in effect are 2.5 times more likely than students who expect to face disciplinary actions to call for help when witnessing the signs of alcohol poisoning” (Source: Oster-Aaland, L., Thompson, K., & Eighmy, M. (2011). The impact of an online educational video and a medical amnesty policy on college students’ intentions to seek help in the presence of alcohol poisoning symptoms. *Journal of Student Affairs Research and Practice*, 48(2), 147-164).

The 2012-2013 SCC continued the review of this charge during the Fall 2012 semester. The committee evaluated a number of responsible action policies at other institutions of higher education, which include both drugs and alcohol, including the University of Florida, University of Pennsylvania, University of Georgia, Northeastern University, University of Iowa, Tulane University, and the College of William & Mary, among others. The committee was satisfied that responsible action policies that include both drugs and alcohol are more in line with current higher education practice.

The SCC also reviewed statistics from the OSC and consulted with the Director of Student Conduct about the utilization of the policy since its inception. The committee was informed that medical emergency assistance for drug use on campus is not requested as often as medical emergency assistance for alcohol overdoses, so an expanded policy may not need to be applied as frequently; however, the SCC maintains that the safety and wellbeing of the

University students is of paramount concern. Additionally, the committee was informed that since the inception of the RAP, there is no evidence that students are misusing or abusing the current policy, and that the incidence of recidivism is a non-issue. The committee also found that, anecdotally, student perception on campus is that the University is holding back a critical piece of coverage from the policy, which was not the intention of the committee when the policy was originally conceived. Because the limitations of the current policy coverage may discourage students from calling for medical help in situations where drugs are present, the committee determined that the safest course of action would be to recommend expansion of the current policy, so as to encourage students to call for medical help whenever necessary.

The SCC confirmed that although the Board of Regents (BOR) established the *Code of Student Conduct*, the BOR has since delegated authority to the presidents of USM Institutions to establish rules for the administration of student affairs of their respective institutions, including student discipline. Thus, the *Code of Student Conduct* may be amended by the President without further approval. If the Senate recommends the attached changes to the *Code of Student Conduct* (Appendix 2), and the President approves, they would be adopted as campus policy. Additional action by the Regents would not be required. If approved by the Senate and President, the OSC is willing to adopt these changes immediately upon approval, instead of postponing action until the summer, when modifications and amendments to the *Code of Student Conduct* are normally introduced for the fall, as this change enhances the safety and wellbeing of the student body and the campus community as a whole.

The SCC finds that changing the responsible action policy to include drugs is both necessary and appropriate. It is the understanding of the committee that the undergraduate student body desires this change in policy coverage, and if adding coverage for drugs will encourage more students to call for help when needed, then it is the obligation of the committee and the Senate to edit the current policy to satisfy both the needs of the students and the University. Therefore, in conjunction with the OSC, the SCC has drafted and unanimously approved the attached policy edits, which the SCC recommends become official campus policy at the University of Maryland (Appendix 1). Like the current policy, the expanded policy will only be used to provide conditional relief for students from disciplinary action under the *Code of Student Conduct* and *Residence Hall Rules*, and will not exempt students from criminal charges or prosecution.

RECOMMENDATION

The Senate Student Conduct Committee recommends changes to University policy V-1.00(J) *Promoting Responsible Action in Medical Emergencies Policy*, as noted in Appendix 1. The committee also recommends that the corresponding changes to the *Code of Student Conduct* be made simultaneously, as noted in Appendix 2. The Director of Student Conduct should work with the Office of Rights and Responsibilities in the Department of Residence Life to ensure that the *Residence Hall Rules* appropriately reflect these changes, and to ensure that the expanded policy will be implemented for applicable cases in residence halls on campus.

APPENDICES

Appendix 1 – Recommended Changes to Policy V-1.00(J)

Appendix 2 – Recommended Changes to the *Code of Student Conduct*

Appendix 3 – Current Policy V-1.00(J) Promoting Responsible Action in Medical Emergencies

Appendix 4 – Charge from the Senate Executive Committee (March 2011)

Appendix 5 – Proposal from Brandon Levey, Undergraduate Senator (October 2011)

Recommended Changes are listed in Blue/Bold Font

V-1.00(J) UNIVERSITY OF MARYLAND POLICY ON PROMOTING RESPONSIBLE ACTION IN MEDICAL EMERGENCIES

APPROVED BY THE PRESIDENT, MARCH 10, 2011

Purpose

The health and safety of University students is of paramount concern. All members of the University community are encouraged to act in a responsible manner when an individual may require medical assistance by dialing 911 or 301.405.3333 or seeking a University or **Department of Resident Life (DRL)** official. It is recognized that in situations in which either a student summoning or requiring help is under the influence of alcohol **and/or drugs**, the threat of disciplinary sanctions for violating the University's alcohol **and/or drug** policy is a barrier to seeking help. As such, the University of Maryland will do all that it can to promote student health, safety, and well-being. *Promoting Responsible Action in Medical Emergencies* is a policy administered by the Office of Student Conduct (**OSC**) that will reduce barriers to seeking help in cases of alcohol- **and/or drug**-related emergencies by providing relief from administrative or disciplinary action on the part of the University if either a University official or other authority is contacted in a timely fashion.

Policy

1. A student in possession or under the influence of alcohol **and/or drugs** who summons medical emergency assistance for him/herself or on behalf of a fellow student experiencing a medical emergency will not face disciplinary charges under the *Code of Student Conduct* or *Residence Hall Rules* for the possession or use of alcohol **and/or drugs**, with the exception of the exclusions noted below. In lieu of disciplinary charges and as a condition of such relief, students handled under this policy will usually be required to be evaluated by the University Health Center (**UHC**) staff and successfully complete an approved alcohol **and/or drug** intervention program.
2. This policy also extends to the student for whom medical emergency assistance has been summoned.
3. A "summons" for medical emergency assistance is deemed to be contacting police, University staff or other officials designated emergency medical providers.

Procedures

Students referred to the ~~Office of Student Conduct~~ **OSC** or the ~~Department of Resident Life~~ **DRL** for alcohol **and/or drug** use or possession will be interviewed by a representative of the ~~unit~~ **OSC or DRL**. If the student is eligible for conditional relief under this policy, the initiation of disciplinary charges will be "deferred" under Part 29 of the *Code of Student Conduct* pending successful completion of an approved alcohol **and/or drug** intervention program, ~~if~~ **as** deemed

necessary by ~~University UHC~~ staff. If the student successfully completes the program to the satisfaction of the ~~Health-Center UHC~~ staff and the ~~Office of Student Conduct/Department of Resident-Life OSC or DRL~~, the pending charges will be withdrawn, leaving the student with no disciplinary record. If the student fails to successfully complete the program, **disciplinary charges for alcohol use and possession** will be processed and, if ~~proved~~ **proven**, may result in more severe sanctions and a disciplinary record.

Exclusions

1. The conditional relief from disciplinary charges described in this policy does not extend to charges other than possession or use of alcohol **and/or drugs**. In addition, it shall not provide relief from disciplinary charges pertaining to the alleged possession or use of alcohol **and/or drugs** which, if proven, would constitute an “Aggravated Violation” as defined under Part 2(a) of the *Code of Student Conduct* or would involve the distribution of **drugs or the provision of** alcohol to a person under the legal drinking age.
2. Students with a prior disciplinary record of alcohol- **and/or drug**-related violations and students previously granted relief under this policy as the person for whom the emergency services were being summoned, shall only be eligible for relief on a case-by-case basis following an assessment by the ~~Office of Student Conduct OSC~~ or ~~Department of Resident Life DRL~~.
3. This policy does not and cannot offer **persons** conditional relief, immunity, or protection from criminal complaint, arrest, or prosecution by University police or other person or official for illegal activity, including the illegal use or possession of alcohol **and/or drugs** in violation of County, State, or Federal law. **However, State law provides that the “act of seeking medical assistance for another person who is experiencing a medical emergency after ingesting alcohol or drugs may be used as a mitigating factor in a criminal prosecution.” See Anno. Code of Maryland, Criminal Procedure Article, Section 1-210.** ~~It~~ **This policy also** does not provide relief from any civil suit, fine, or financial obligation to any party (including the University), for loss, damage, or injury associated with alcohol **and/or drug** use or possession.
4. This policy does not offer conditional relief to student organizations, which remain subject to **University-instituted** organizational charges for alcohol- **and/or drug**-related violations, including possession and use. The nature of such charges and any resulting disciplinary sanctions, however, will take into account and may be mitigated by the action taken by organizational representatives. A representative of a student organization who summons medical emergency assistance may be eligible for conditional relief from charges for his or her personal use or possession of alcohol **and/or drugs** under this policy.

Appendix 2

Recommended Additions are highlighted in Blue/Bold Font

V-1.00(B) UNIVERSITY OF MARYLAND CODE OF STUDENT CONDUCT

Approved by the Board of Regents January 25, 1980; amended effective September 4, 1990; December 18, 2001; April 22, 2004; November 18, 2005; April 5, 2006; March 10, 2011; January 17, 2012

Note: Different procedures and penalties are applicable in cases involving allegations of academic dishonesty. Please refer to the *Code of Academic Integrity*, available from the Office of Student Conduct (301-314-8204).

Footnotes which appear throughout the *Code of Student Conduct* refer to the Annotations listed at the end of this appendix.

RATIONALE

1. The primary purpose for the imposition of discipline in the University setting is to protect the campus community. Consistent with that purpose, reasonable efforts will also be made to foster the personal and social development of those students who are held accountable for violations of University regulations.¹

DEFINITIONS

2. When used in this *Code*:²
 - (a) The term “aggravated violation” means a violation which resulted or foreseeably could have resulted in significant damage to persons or property or which otherwise posed a substantial threat to the stability and continuance of normal University or University-sponsored activities.
 - (b) The term “distribution” means sale or exchange for personal profit.
 - (c) The term “group” means a number of persons who are associated with each other and who have not complied with University requirements for registration as an organization.
 - (d) The terms “institution” and “University” mean the University of Maryland, College Park.
 - (e) The term “organization” means a number of persons who have complied with University requirements for registration.
 - (f) The term “reckless conduct” means action which any member of the University community can be expected to know would create a clear risk of harm to persons or property, or would disrupt the lawful activities of others, including studying, teaching, research, and University administration.³
 - (g) The term “student” means a person taking or auditing courses at the institution either on a full- or part-time basis.⁴

- (h) The term “University premises” means buildings or grounds owned, leased, operated, controlled or supervised by the University.
- (i) The term “weapon” means any object or substance designed to inflict a wound, cause injury, or incapacitate, including, but not limited to, all firearms, pellet guns, switchblade knives, knives with blades five or more inches in length.
- (j) The term “University-sponsored activity” means any activity on or off campus which is initiated, aided, authorized or supervised by the University.
- (k) The terms “will” or “shall” are used in the imperative sense.

INTERPRETATION OF REGULATIONS

- 3. Disciplinary regulations at the University 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 misconduct in exhaustive terms.

INHERENT AUTHORITY

- 4. The University reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community.⁵

STUDENT PARTICIPATION

- 5. Students are asked to assume positions of responsibility in the University judicial system in order that they might contribute their skills and insights to the resolution of disciplinary cases. Final authority in disciplinary matters, however, is vested in the University administration and in the Board of Regents.

STANDARDS OF DUE PROCESS

- 6. Students subject to expulsion, suspension⁶ or disciplinary removal from University housing⁷ will be accorded a conduct board hearing as specified in Part 30 of this *Code*. Students subject to less severe sanctions will be entitled to an informal disciplinary conference,⁸ as set forth in Parts 33 and 34.
- 7. The focus of inquiry in disciplinary proceedings shall be the guilt or innocence of those accused of violating disciplinary regulations. Formal rules of evidence shall not be applicable, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding, unless significant prejudice to a student respondent or the University may result.⁹

VIOLATIONS OF LAW AND DISCIPLINARY REGULATIONS

- 8. Students may be accountable to both civil authorities and to the University for acts which constitute violations of law and of this *Code*.¹⁰ Disciplinary action at

the University will normally proceed during the pendency of criminal proceedings and will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced.

PROHIBITED CONDUCT

9. The following misconduct is subject to disciplinary action:
- (a) Intentionally or recklessly causing physical harm to any person on University premises or at University-sponsored activities, or intentionally or recklessly causing reasonable apprehension of such harm.
 - (b) Unauthorized use, possession or storage of any weapon on University premises or at University-sponsored activities.
 - (c) Intentionally initiating or causing to be initiated any false report, warning or threat of fire, explosion or other emergency on University premises or at University-sponsored activities.
 - (d) Off-campus misconduct which:
 - i. is a criminal offense off campus, resulting in conviction, if such an offense would constitute a violation of this *Code* had it occurred on University premises. No student convicted of a misdemeanor under this section shall be subject to expulsion or full suspension unless the offense constitutes an “aggravated violation” as defined in Part 2(a) of this *Code*. The University shall not pursue disciplinary action when a non-aggravated misdemeanor does not pose a threat to the stability of the campus or campus community; provided, however,
 - ii. rioting, assault, theft, vandalism, fire setting, or other serious misconduct related to a University-sponsored event, occurring on – or off-campus, that results in harm to persons or property or otherwise poses a threat to the stability of the campus or campus community may result in disciplinary action regardless of the existence, status, or outcome of any criminal charges in a court of law related to misconduct associated with a University-sponsored event.
 - (e) Knowingly violating the terms of any disciplinary sanction imposed in accordance with this *Code*.
 - (f) Intentionally or recklessly misusing or damaging fire safety equipment.
 - (g) Unauthorized distribution or possession for purposes of distribution of any controlled substance or illegal drug¹¹ on University premises or at University-sponsored activities.
 - (h) Use or possession of any controlled substance or illegal drug on University premises or at University-sponsored activities.¹² ***
 - (i) Intentionally furnishing false information to the University.
 - (j) Making, possessing, or using any forged, altered, or falsified instrument of identification on University premises, or at University-sponsored

- activities; making, possessing, or using any forged, altered, or falsified University document, on or off-campus.
- (k) Intentionally and substantially interfering with the freedom of expression of others on University premises or at University-sponsored activities.¹³
 - (l) Theft of property or of services on University premises or at University-sponsored activities; knowing possession of stolen property on University premises or at University-sponsored activities.
 - (m) Intentionally or recklessly destroying or damaging the property of others on University premises or at University-sponsored activities.
 - (n) Engaging in disorderly or disruptive conduct on University premises or at University-sponsored activities which interferes with the activities of others, including studying, teaching, research, and University administration.*
 - (o) Failure to comply with the directions of University officials, including campus police officers, acting in performance of their duties.
 - (p) Violation of published University regulations or policies, as approved and compiled by the Vice President for Student Affairs.¹⁴ Such regulations or policies may include the residence hall contract, as well as those regulations relating to entry and use of University facilities, sale of alcoholic beverages, use of vehicles** and amplifying equipment, campus demonstrations, and misuse of identification cards.
 - (q) Use or possession of any alcoholic beverage under the age of 21 on University premises or at University-sponsored activities; knowingly providing alcoholic beverages to a person known to be under the age of 21 on University premises or University-sponsored activities. ***
 - (r) Unauthorized use or possession of fireworks on University premises.

* The response of fire, police, or emergency personnel to a non-frivolous call, or action taken by them on their own initiative pursuant or non-pursuant to policy is not considered a disruption or reckless action within the meaning of this section.

** Parking and traffic violations may be processed in accordance with procedures established by the Vice President for Student Affairs.

*** This charge may be deferred under Part 29 of this *Code* consistent with procedures outlined in the *Promoting Responsible Action in Medical Emergencies Policy*.

SANCTIONS

10. Sanctions for violations of disciplinary regulations consist of:

- (a) **EXPULSION:** permanent separation of the student from the University. Notification will appear on the student's transcript. The student will also be barred from the University premises (expulsion requires administrative

review and approval by the President and may be altered, deferred or withheld).

- (b) **SUSPENSION:** separation of the student from the University for a specified period of time. Permanent notification will appear on the student's transcript. The student shall not participate in any University-sponsored activity and may be barred from University premises. Suspended time will not count against any time limits of the Graduate School for completion of a degree. (Suspension requires administrative review and approval by the Vice President for Student Affairs and may be altered, deferred or withheld).
 - (c) **DISCIPLINARY PROBATION:** the student shall not represent the University in any extracurricular activity or run for or hold office in any student group or organization. Additional restrictions or conditions may also be imposed. Notification will be sent to appropriate University offices, including the Office of Campus Programs.
 - (d) **DISCIPLINARY REPRIMAND:** the student is warned that further misconduct may result in more severe disciplinary action.
 - (e) **RESTITUTION:** the student is required to make payment to the University or to other persons, groups, or organizations for damages incurred as a result of a violation of this *Code*.
 - (f) **OTHER SANCTIONS:** other sanctions may be imposed instead of or in addition to those specified in sections (a) through (e) of this part. For example, students may be subject to dismissal from University housing for disciplinary violations which occur in the residence halls. Likewise, students may be subject to restrictions upon or denial of driving privileges for disciplinary violations involving the use or registration of motor vehicles. Work or research projects may also be assigned.
11. Violations of sections (a) through (g) in Part 9 of this *Code* may result in expulsion from the University¹⁵, unless specific and significant mitigating factors are present. Factors to be considered in mitigation shall be the present demeanor and past disciplinary record of the offender, as well as the nature of the offense and the severity of any damage, injury, or harm resulting from it.
12. Violations of sections (h) through (l) in Part 9 of this *Code* may result in suspension from the University, unless specific and significant mitigating factors as specified in Part 11 are present.
13. Repeated or aggravated violations of any section of this *Code* may also result in expulsion or suspension or in the imposition of such lesser penalties as may be appropriate.
14. Any decision to impose a sanction less than suspension or expulsion for University-sponsored event-related misconduct as defined in Part 9(d)(ii) of this *Code* must be supported by written findings signed by the Vice President for Student Affairs. A student suspended under this section shall not be admitted to

any other institution in the University of Maryland System during the term of the suspension. A student expelled under this section shall not be admitted to any other institution in the System for at least one year from the effective date of the expulsion.

15. Attempts to commit acts prohibited by this *Code* shall be punished to the same extent as completed violations.¹⁶
16. Penalties for off-campus misconduct shall not be more severe than for similar on-campus conduct.

INTERIM SUSPENSION¹⁷

17. The Vice President for Student Affairs or a designee may suspend a student for an interim period pending disciplinary proceedings or medical evaluation, such interim suspension to become immediately effective without prior notice, whenever there is evidence that the continued presence of the student on the University campus poses a substantial threat to him or herself or to others or to the stability and continuance of normal University functions.
18. A student suspended on an interim basis shall be given an opportunity to appear personally before the Vice President for Student Affairs or a designee within five business days from the effective date of the interim suspension in order to discuss the following issues only:
 - (a) the reliability of the information concerning the student's conduct, including the matter of his or her identity;
 - (b) whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the University campus poses a substantial threat to him or herself or to others or the stability and continuance of normal University functions.

OFFICE OF STUDENT CONDUCT

19. The Office of Student Conduct directs the efforts of students and staff members in matters involving student discipline. The responsibilities of the office include:
 - (a) Determination of the disciplinary charges to be filed pursuant to this *Code*.
 - (b) Interviewing and advising parties¹⁸ involved in disciplinary proceedings.
 - (c) Supervising, training, and advising all conduct boards.
 - (d) Reviewing the decisions of all conduct boards.¹⁹
 - (e) Maintenance of all student disciplinary records.
 - (f) Development of procedures for conflict resolution.
 - (g) Resolution of cases of student misconduct, as specified in Parts 33 and 34 of this *Code*.

- (h) Collection and dissemination of research and analysis concerning student conduct.
- (i) Submission of a statistical report each semester to the campus community, reporting the number of cases referred to the office, the number of cases resulting in disciplinary action, and the range of sanctions imposed.²⁰

CONDUCT PANELS

20. Hearings or other proceedings as provided in the *Code* may be held before the following boards or committees:
- (a) **CONFERENCE BOARDS**, as appointed in accordance with Part 34 of this *Code*.
 - (b) **RESIDENCE BOARDS**, as established and approved by the Vice President for Student Affairs.²¹ Students residing in group living units owned, leased, operated or supervised by the University may petition the Vice President for authority to establish conduct boards. Such boards may be empowered to hear cases involving violations of the *Code*, as prescribed by the Vice President for Student Affairs.
 - (c) **THE CENTRAL BOARD** hears cases involving disciplinary violations which are not referred to Residence Boards or resolved in accordance with Parts 33 and 34 of this *Code*. The Central Board is composed of five students, including at least two graduate students when a graduate student case is being heard.
 - (d) **THE APPELLATE BOARD** hears appeals from Residence Boards, the Central Board, and ad hoc boards, in accordance with Part 43 of this *Code*. The Appellate Board is composed of five full-time students, including at least two graduate students.
 - (e) **AD HOC BOARDS** may be appointed by the Director of Student Conduct when a Conference Board, a Residence Board, the Central Board, the Appellate Board or the Senate Adjunct Committee are unable to obtain a quorum or are otherwise unable to hear a case.²² Each ad hoc board shall be composed of three members, including at least one student.
 - (f) **THE SENATE COMMITTEE ON STUDENT CONDUCT** hears appeals as specified in Part 42 of this *Code*. The committee also approves the initial selection of all conduct board members, except members of conference and ad hoc boards.²³
21. The presiding officer of each conduct board and of the Senate Adjunct Committee on Student Conduct may develop bylaws which are not inconsistent with any provision in this *Code*. Bylaws must be approved by the Director of Student Conduct.²⁴

SELECTION AND REMOVAL OF BOARD MEMBERS

22. Members of the various conduct boards are selected in accordance with procedures developed by the Director of Student Conduct.
23. Members of conference and ad hoc boards are selected in accordance with Parts 34 and 20(e), respectively.
24. Prospective members of the Central Board and the Appellate Board are subject to confirmation by the Senate Committee on Student Conduct.
25. Members of the Senate Committee on Student Conduct are selected in accordance with the bylaws of the University Senate.
26. Prior to participating in board or committee deliberations, new members of the Senate Committee on Student Conduct and all conduct boards, except conference and ad hoc boards, will participate in one orientation session by the Office of Student Conduct.
27. Student members of any conduct board or committee who are charged with any violation of this *Code* or with a criminal offense²⁵ may be suspended from their judicial positions by the Director of Student Conduct during the pendency of the charges against them. Students convicted for any such violation or offense may be disqualified from any further participation in the University judicial system by the Director of Student Conduct. Additional grounds and procedures for removal may also be set forth in the bylaws of the various conduct panels.

CASE REFERRALS

28. Any person²⁶ may refer a student or a student group or organization suspected of violating this *Code* to the Office of Student Conduct. Allegations of off-campus event-related misconduct must be supported by a report, statement, or accusation from a law enforcement agency in whose jurisdiction the misconduct is alleged to have occurred. Persons making such referrals are required to provide information pertinent to the case and will normally be expected to appear before a conduct board as the complainant.²⁷

DEFERRAL OF PROCEEDINGS

29. The Director of Student Conduct may defer disciplinary proceedings for alleged violations of this *Code* for a period not to exceed 90 days. Pending charges may be withdrawn thereafter, dependent upon the good behavior of the respondent. Students subject to conditional relief from disciplinary charges under the *Promoting Responsible Action in Medical Emergencies Policy* may also be required to successfully complete an approved alcohol **and/or drug** intervention program prior to the withdrawal of charges.

HEARING REFERRALS

30. Staff members in the Office of Student Conduct will review referrals to determine whether the alleged misconduct might result in expulsion, suspension, or disciplinary removal from University housing.²⁸ Students subject to those sanctions shall be accorded a hearing before the appropriate conduct board. All other cases shall be resolved in the Office of Student Conduct after an informal disciplinary conference, as set forth in Part 33 and 34 of this *Code*.
31. Students referred to a conduct board hearing may elect instead to have their case resolved in accordance with Parts 33 and 34. The full range of sanctions authorized by this *Code* may be imposed, although the right of appeal shall not be applicable.

BURDEN OF PROOF²⁹

32. Except as provided below, the burden of proof shall be upon the complainant, who must establish the guilt of the respondent by clear and convincing evidence³⁰. In disciplinary conferences and hearings under section 9(p) of this *Code* which allege violation of VI-1.30(A) UMCP Procedures on Sexual Assault and/or VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment, the burden of proof shall be upon the complainant, who must establish the guilt of the respondent by a preponderance of the evidence³¹.

DISCIPLINARY CONFERENCES³²

33. Students subject to or electing to participate in a disciplinary conference in the Office of Student Conduct are accorded the following procedural protections:
 - (a) Written notice of charges at least three days prior to the scheduled conference.
 - (b) Reasonable access to the case file³³ prior to and during the conference.
 - (c) An opportunity to respond to the evidence against them and to call appropriate witnesses on their behalf.
 - (d) The option to be accompanied and assisted by a representative, who may be an attorney. Representatives have the right to make opening and closing statements, to advise their clients during the course of the proceedings, and to petition for recesses. All representatives are subject to the restrictions of Parts 36 and 37 of this *Code*.
34. Disciplinary conferences shall be conducted by the Director of Student Conduct or a designee.³⁴ Complex or contested cases may be referred by the Director to a conference board, consisting of one member of the Central Board, one member of the Appellate Board, and a staff member in the Division of Student Affairs. Conference Board members shall be selected on a rotating basis by the Director of Student Conduct.

HEARING PROCEDURES

35. The following procedural guidelines shall be applicable in disciplinary hearings:

- (a) Respondents shall be given notice of the hearing date and the specific charges against them at least five days in advance and shall be accorded reasonable access to the case file, which will be retained in the Office of Student Conduct.
- (b) The presiding officer of any board may subpoena witnesses upon the motion of any board member or of either party and shall subpoena witnesses upon request of the board advisor. Subpoenas must be approved by the Director of Student Conduct and shall be personally delivered or sent by certified mail, return receipt requested. University students and employees are expected to comply with subpoenas issued pursuant to this procedure, unless compliance would result in significant and unavoidable personal hardship or substantial interference with normal University activities.³⁵

If the Director of Student Conduct or his or her designee determines that a fair hearing cannot be held without the testimony of a particular witness, and, after good faith attempts are made, the witness either fails to or refuses to appear, the disciplinary hearing will be postponed until the witness agrees to appear or the charges will be dismissed.
- (c) Respondents who fail to appear after proper notice will be deemed to have pleaded guilty to the charges pending against them.
- (d) Hearings will be closed to the public, except for the immediate members of the parties' families and their representatives, if applicable. An open hearing may be held, at the discretion of the presiding officer, if requested by both parties.
- (e) The presiding officer of each board shall exercise control over the proceedings to avoid needless consumption of time and to achieve the orderly completion of the hearing. Except as provided in section (o) of this Part, any person, including the respondent, who disrupts a hearing may be excluded by the presiding officer or by the board advisor.
- (f) Hearings may be tape recorded or transcribed. If a recording or transcription is not made, the decision of the board must include a summary of the testimony and shall be sufficiently detailed to permit review by appellate bodies and by staff members in the Office of Student Conduct.
- (g) Any party or the board advisor may challenge a board member on the grounds of personal bias. Board members may be disqualified upon majority vote of the remaining members of the board, conducted by secret ballot,³⁶ or by the Director of Student Conduct.
- (h) Witnesses shall be asked to affirm that their testimony is truthful and may be subject to charges of perjury, pursuant to Part 9(i) of this *Code*.
- (i) Prospective witnesses, other than the complainant and the respondent, may be excluded from the hearing during the testimony of other witnesses. All

- parties, the witnesses, and the public shall be excluded during board deliberations.
- (j) Formal rules of evidence shall not be applicable in disciplinary proceedings conducted pursuant to this *Code*.³⁷ The presiding officer of each board shall give effect to the rules of confidentiality and privilege, but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.³⁸
 - (k) Both parties shall be accorded an opportunity to question those witnesses who testify at the hearing.
 - (l) Affidavits shall not be admitted into evidence unless signed by the affiant and witnessed by a University employee, or by a person designated by the Director of Student Conduct.
 - (m) Board members may take judicial notice of matters which would be within the general experience of University students.³⁹
 - (n) Board advisors may comment on questions of procedure and admissibility of evidence and will otherwise assist in the conduct of the hearing. Advisors will be accorded all the privileges of board members, and the additional responsibilities set forth in this *Code*, but shall not vote. All advisors are responsible to the Director of Student Conduct and shall not be excluded from hearings or board deliberations by any board or by the presiding officer of any board.
 - (o) The Director of Student Conduct may appoint a special presiding officer to any board in complex cases or in any case in which the respondent is represented by an attorney. Special presiding officers may participate in board deliberations, but shall not vote.⁴⁰
 - (p) A determination of guilt shall be followed by a supplemental proceeding in which either party and the board advisor may submit evidence or make statements concerning the appropriate sanction to be imposed. The past disciplinary record⁴¹ of the respondent shall not be supplied to the board by the advisor prior to the supplementary proceeding.
 - (q) Final decisions of all conduct panels shall be by majority vote of the members present and voting. A tie vote will result in a recommended acquittal in an original proceeding. A tie vote in an appellate proceeding will result in an affirmation of the original decision.
 - (r) Final decisions of all boards, except conference boards, shall be accompanied by a brief written opinion.

ATTORNEYS AND REPRESENTATIVES

36. Representatives of both complainants and respondents in hearings pursuant to this *Code* have the right to call witnesses to testify, to question in person all witnesses who appear at the hearing, to voice timely objections, to make opening and closing statements, to petition for recesses in the proceedings and to zealously and lawfully assert their client's position under the *Code of Student Conduct*.⁴² All

presenters and representatives who participate in disciplinary hearings and disciplinary conferences shall not:

- (a) Intentionally engage in conduct to disrupt a hearing;
 - (b) Intentionally attempt to improperly influence an officer of the Office of Student Conduct, a hearing advisor or member of a conduct board;
 - (c) Intentionally fail to obey a reasonably definite and specific order by a presiding officer;
 - (d) Knowingly make a false statement of material fact, law or representation of the *Code* to other participants in a hearing;
 - (e) Knowingly fail to disclose a material fact in a hearing when disclosure is necessary to avoid assisting a future criminal or fraudulent act;
 - (f) Knowingly offer false evidence, falsify evidence, counsel or induce witnesses to testify falsely, or offer improper inducements to testify;
 - (g) Recklessly and unlawfully obstruct another party's access to evidence, or alter, destroy or conceal material not protected by privilege having potential evidentiary value;
 - (h) If the representative is an attorney, otherwise fail to follow any obligations under relevant standards of professional responsibility in matters pertaining to the representation.
- 37.
- (a) Any participant in a hearing may refer complaints about suspected violations of the provisions of Part 36 of this *Code* to the Senate Committee on Student Conduct.
 - (b) Within a reasonable time after such referral, the chairperson of the Senate Committee on Student Conduct will review the complaint. After review the chairperson shall dismiss complaints which are anonymous, manifestly frivolous, which cannot be reasonably construed to allege a violation of Part 36, or are based on hearsay alone. Those which are not dismissed will be referred to the full Committee which will convene a hearing no sooner than 10 business days after sending a copy of the evidence presented to the representative named in the complaint. The hearing shall be held under the relevant rules and procedures governing disciplinary hearings outlined in Parts 35-37 of this *Code*.
 - (c) A client shall not be compelled either directly or through their representative to waive the attorney-client privilege.
 - (d) Representatives found responsible for violations of the provisions of Part 36 may be suspended from the privilege of representation for such time as the Committee may deem appropriate. In addition, the Committee may refer their findings to the Attorney Grievance Commission, or other appropriate disciplinary body.
 - (e) Appeals from decisions of the Senate Committee on Student Conduct regarding violations under Part 36 may be made by parties found responsible. Appeals should be made in writing to the Senate Campus Affairs Committee within 10 business days of receipt of the letter notifying the party of the decision. Appeals will be conducted in

accordance with the standards for the hearing of student disciplinary appeals. Decisions of the Campus Affairs Committee regarding these appeals shall be final.

STUDENT GROUPS AND ORGANIZATIONS

38. Student groups and organizations may be charged with violations of this *Code*.
39. A student group or organization and its officers may be held collectively⁴³ or individually responsible when violations of this *Code* by those associated with⁴⁴ the group or organization have received the tacit or overt consent or encouragement of the group or organization or of the group's or organization's leaders, officers, or spokespersons.
40. The officers or leaders or any identifiable spokespersons⁴⁵ for a student group or organization may be directed by the Vice President for Student Affairs or a designee to take appropriate action designed to prevent or end violations of this *Code* by the group or organization or by any persons associated with the group or organization who can reasonably be said to be acting in the group's or organization's behalf. Failure to make reasonable efforts to comply with the Vice President's directive shall be considered a violation of Part 9(o) of this *Code*, both by the officers, leaders or spokespersons for the group or organization and by the group or organization itself.
41. Sanctions for group or organization misconduct may include revocation or denial of recognition or registration, as well as other appropriate sanctions, pursuant to Part 10(f) of this *Code*.

APPEALS

42. Except as provided below, any determination made pursuant to this *Code* resulting in expulsion or suspension⁴⁶ may be appealed by the respondent to the Senate Committee on Student Conduct. Appeals regarding violations of VI-1.30(A) UMCP Procedures on Sexual Assault and/or VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment may be made by either party.⁴⁷ The Senate Committee shall also hear appeals from denials of petitions to void disciplinary records, pursuant to Part 52 of this *Code*.
43. Except as provided below, final decisions of residence boards, the Central Board and ad hoc boards, not involving the sanctions specified in Part 42, may be appealed by the respondent to the Appellate Board.⁴⁸ Appeals regarding violations of VI-1.30(A) UMCP Procedures on Sexual Assault and/or VI-1.20(A) University of Maryland Policy and Procedures on Sexual Harassment may be made by either party.⁴⁹

44. Requests for appeals must be submitted in writing to the Office of Student Conduct within seven business days from the date of the letter providing notice of the original decision. Failure to appeal within the allotted time will render the original decision final and conclusive.⁵⁰
45. A written brief in support of the appeal must be submitted to the Office of Student Conduct within 10 business days from the date of the letter providing notice of the original decision. Failure to submit a written brief within the allotted time will render the decision of the lower board final and conclusive.⁵¹
46. Appeals shall be decided upon the record of the original proceeding and upon written briefs submitted by the parties. De novo hearings shall not be conducted.
47. Appellate bodies may:
 - (a) Affirm the finding and the sanction imposed by the original board.
 - (b) Affirm the finding and reduce, but not eliminate, the sanction, in accordance with Parts 48 and 48(a).
 - (c) Remand the case to the original board, in accordance with Parts 48 and 48(b).
 - (d) Dismiss the case, in accordance with Parts 48 and 48(c).
48. Deference shall be given to the determinations of lower boards.⁵²
 - (a) Sanctions may only be reduced if found to be grossly disproportionate to the offense.
 - (b) Cases may be remanded to the original board if specified procedural errors or errors in interpretation of University regulations were so substantial as to effectively deny the respondent a fair hearing, or if new and significant evidence became available which could not have been discovered by a properly diligent respondent before or during the original hearing.⁵³ On remand, no indication or record of the previous conduct hearing will be introduced or provided to members of the new conduct panel, except to impeach contradictory testimony at the discretion of the presiding officer. The board will be directed by the committee not to repeat the specified errors that caused the remand.
 - (c) Cases may be dismissed only if the finding is held to be arbitrary and capricious.⁵⁴
 - (d) Decisions of the Appellate Board shall be recommendations to the Director of Student Conduct.⁵⁵ Decisions of the Senate Committee on Student Conduct shall be recommendations to the Vice President for Student Affairs. Decisions altering the determinations of all hearing boards and the Senate Committee on Student Conduct shall be accompanied by a brief written opinion.

49. The imposition of sanctions will normally be deferred during the pendency of appellate proceedings, at the discretion of the Director of Student Conduct.

DISCIPLINARY FILES AND RECORDS

50. Case referrals may result in the development of a disciplinary file in the name of the respondent, which shall be voided if the respondent is found innocent of the charges.⁵⁶ The files of respondents found guilty of any of the charges against them will be retained as a disciplinary record for three years from the date of the letter providing notice of final disciplinary action.⁵⁷ Disciplinary records may be retained for longer periods of time or permanently, if so specified in the sanction.
51. Disciplinary records may be voided⁵⁸ by the Director of Student Conduct for good cause, upon written petition of respondents. Factors to be considered in review of such petitions shall include:
- (a) the present demeanor of the respondent.
 - (b) the conduct of the respondent subsequent to the violation.
 - (c) the nature of the violation and the severity of any damage, injury, or harm resulting from it.
52. Denials of petitions to void disciplinary records shall be appealable to the Senate Committee on Student Conduct, which will apply the standard of review specified in Part 48 and 48(c). The requirements for appeals as set forth in Part 44 and 45 shall be applicable.⁵⁹
53. Disciplinary records retained for less than 90 days or designated as “permanent” shall not be voided without unusual and compelling justification.⁶⁰

ANNOTATIONS

1. The University is not designed or equipped to rehabilitate or incapacitate persons who pose a substantial threat to themselves or to others. It may be necessary, therefore, to remove those individuals from the campus and to sever the institutional relationship with them, as provided in this *Code of Student Conduct* and by other University regulations.*

Any punishment imposed in accordance with the *Code* may have the value of discouraging the offender and others from engaging in future misbehavior. In cases of minor disciplinary violations, the particular form of punishment may also be designed to draw upon the educational resources of the University in order to bring about a lasting and reasoned change in behavior. The underlying rationale for punishment need not rest on deterrence or “reform” alone, however. A just punishment may also be imposed because it is “deserved” and because

punishment for willful offenses affirms the autonomy and integrity of the offender. The latter concept was expressed by D.J.B. Hawkins in his essay “Punishment and Moral Responsibility” in 7 *Modern Law Review* 205:

The vice of regarding punishment entirely from the points of view of reformation and deterrence lies precisely in forgetting that a just punishment is deserved. The punishment of men then ceases to be essentially different from the training of animals, and the way is open for the totalitarian state to undertake the forcible improvement of its citizens without regard to whether their conduct has made them morally liable to social coercion or not. But merit and demerit, reward and punishment, have a different significance as applied to men and as applied to animals. A dog may be called a good dog or a bad dog, but his goodness or badness can be finally explained in terms of heredity and environment. A man, however, is a person, and we instinctively recognize that he has a certain ultimate personal responsibility for at least some of his actions. Hence merit and demerit, reward and punishment, have an irreducible individual significance as applied to men. This is the dignity and the tragedy of the human person.

A similar view was expressed by Justice Powell, dissenting in *Goss v. Lopez* (42 L. Ed. 2d 725, 745):

Education in any meaningful sense includes the inculcation of an understanding in each pupil of the necessity of rules and obedience thereto. This understanding is no less important than learning to read and write. One who does not comprehend the meaning and necessity of discipline is handicapped not merely in his education but throughout his subsequent life. In an age when the home and church play a diminishing role in shaping the character and value judgments of the young, a heavier responsibility falls upon the schools. When an immature student merits censure for his conduct, he is rendered a disservice if appropriate sanctions are not applied.

2. An effort is made in the *Code* to use a simplified numbering and lettering system, without use of Roman numerals or subsets of letters and numbers. Any part of the *Code* can be found by reference to one number and one letter [e.g., Part 10a explains the meaning of expulsion].
3. Culpable conduct should include conscious acts posing a substantial risk or harm to others (e.g. throwing a heavy object out a tenth floor window above a sidewalk). If the act itself, however, is unintended (e.g. one is distracted by a noise while climbing a flight of stairs and drops a heavy object) the individual may have failed to use reasonable care, but is not normally deserving of the moral stigma associated with a “conviction” for a disciplinary offense.

4. Former students may be charged for violations which allegedly occurred during their enrollment at the University.
5. Colleges and universities are not expected to develop disciplinary regulations which are written with the scope of precision of a criminal *Code*. Rare occasions may arise when conduct is so inherently and patently dangerous to the individual or to others that extraordinary action not specifically authorized in the rules must be taken.
6. The terms “suspension” and “interim suspension” are to be distinguished throughout the *Code* and are not interchangeable.
7. Disciplinary removal from University housing should be distinguished from administrative removal for violations of the residence contract. The latter does not leave students with a disciplinary record and does not come under the purview of this *Code*.
8. The standard set forth here represents the minimal procedural protection to be accorded to students charged with most disciplinary violations. Students who are subject to lengthy suspensions or to expulsion may be entitled to more formal procedures, including a hearing with a right to cross-examine the witnesses against them. *Goss v. Lopez*, 419 U.S. 565 (1975).
9. The Supreme Court has recently rejected the theory that state schools are bound by principles of federal administrative law requiring agencies to follow their own regulations. *Board of Curators, University of Missouri v. Horowitz* 55 L.Ed 2d 124, 136. See, generally, “Violation by Agencies of Their Own Regulations” 87 *Harvard Law Review* 629 (1974).
10. Respondents in disciplinary proceedings may be directed to answer questions concerning their conduct. Students who refuse to answer on grounds of the Fifth Amendment privilege may be informed that the hearing panel could draw negative inferences from their refusal which might result in their suspension or dismissal. If the student then elects to answer, his/her statements could not be used against him/her in either state or federal court. *Garrity v. New Jersey*, 385 U.S 493 (1967). See also *Furutani v. Ewigleben*, 297 F. Supp. 1163 (N.D.Cal. 1969).
11. The “controlled substances” or “illegal drugs” prohibited in this section are set forth in Schedules I through V in the Maryland Criminal Law Article 5-401 through 5-406 and 5-708 (Inhalants).
12. See Annotation 11.
13. Colleges and universities should be a forum for the free expression of ideas. In the recent past, however, unpopular speakers have been prevented from addressing

campus audiences by students who effectively “shouted them down.” Both Yale and Stanford Universities have treated such actions (which are to be distinguished from minor and occasional heckling) as serious disciplinary violations. See the “Report from the Committee on Freedom of Expression at Yale University” which is available in the Office of Student Conduct.

The following language from the Yale report may be used to elaborate upon the intent and scope of Part 9(k) of this *Code*.

- A. “There is no right to protest within a University building in such a way that any University activity is disrupted. The administration, however, may wish to permit some symbolic dissent within a building but outside the meeting room, for example, a single picket or a distributor of handbills.”
 - B. “[A] member of the audience may protest in silent, symbolic fashion, for example, by wearing a black arm band. More active forms of protest may be tolerated such as briefly booing, clapping hands or heckling. But any disruptive activity must stop [and not be repeated] when the chair or an appropriate University official requests silence.
 - C. “Nor are racial insults or any other ‘fighting words’ a valid ground for disruption or physical attack... The banning or obstruction of lawful speech can never be justified on such grounds as that the speech or the speaker is deemed irresponsible, offensive, unscholarly, or untrue.”
14. A compilation of published regulations which have been reviewed and approved by the Vice President shall be available for public inspection during normal business hours in the Office of Student Conduct.
15. This Part and Parts 12 and 13 represent an attempt to give needed guidance to those who are assessing penalties. Moreover the direction of the guidance is toward imposition of more severe disciplinary sanctions in serious cases. Nonetheless, the language concerning “mitigating factors” is broad enough to give decision-makers considerable leeway to “do justice,” depending upon the facts in each case. The burden of establishing facts in mitigation should, of course, be upon the respondent.
16. There does not seem to be any rational basis for imposing less severe penalties for attempts than for completed violations. The authors of the *Model Penal Code*, for example, have written that:

To the extent that sentencing depends upon the antisocial disposition of the actor and the demonstrated need for a corrective action, there is likely to be little difference in the gravity of the required measures depending on the consummation or the failure of the plan.

See LaFave, *Criminal Law Treatise* p. 453.

17. These procedures are analogous to those found in the “emergency” disciplinary rules adopted by the Board of Regents in 1971 and are consistent with the formal opinion of the Maryland Attorney General on this subject, dated January 23, 1969. See also *Goss v. Lopez*, 419 U.S. 565 (1975).

Nothing in this provision would prohibit the Vice President from modifying the terms of an interim suspension, so long as the hearing requirement specified in Part 18 was met. For example, a suspended student might be allowed to enter University premises solely for the purpose of attending classes.

18. Staff members in the Office of Student Conduct should endeavor to arrange a balanced presentation before the various conduct boards and may assist both complainants and respondents.
19. This language does not effect any change in previous policy concerning the powers of conduct boards. All board decisions, including those rendered by Conference Boards, shall be treated as recommendations.
20. See Annotation 1, *supra*. The deterrent effect of punishment is diminished if the community is unaware of the number and general nature of sanctions imposed. The Director of Student Conduct may, for example, arrange for publication of the statistical report in the campus press each semester.
21. Boards established pursuant to this section might include modified versions of the present “Greek” or residence hall boards.
22. It is intended that a quorum will consist of three members (out of five). The authority to appoint ad hoc boards should be broadly construed and might be especially useful, for example, when a conduct board or the Senate Committee is charged with hearing a case involving one of its own members. The final determination as to whether a panel is “unable to hear a case” should be within the discretion of the Director of Student Conduct.
23. The power of confirmation represents a significant grant of authority to the Senate Committee. Moreover, confirmation procedures will give committee members direct contact with board members and will also allow the committee to exercise more control over the quality of Conduct Board decisions.
24. Proposed bylaws must be submitted to the Attorney General for review.
25. It could be a public embarrassment for the University to have a student charged with or convicted of a serious crime sit in judgment over other students in disciplinary proceedings. The various state criminal *Codes* are usually so broad and archaic, however, that automatic suspension or removal should not result from any violation of any law (e.g., New York makes it a criminal misdemeanor

for anyone “to dance continuously in a dance contest for 12 or more hours without respite”).

26. Case referrals should not be limited to members of the “campus community.” A student who assaults another person on campus should not escape University judicial action merely because the person assaulted was a visitor (or, as in a recent case, a former student who had just withdrawn from the University).
27. The Director of Student Conduct may appoint a trained volunteer from the campus community to serve as the complainant. It would be preferable, however, to employ a “community advocate” to present all disciplinary cases.

Several measures in the *Code* are designed to restore balance in disciplinary proceedings, even in those cases in which the complainant is inexperienced with administrative adjudication:

- (a) A hearing officer may be appointed in complex or serious cases. See Part 35(o).
 - (b) The role of attorneys or advisors may be restricted. See Parts 36 and 37, and Annotation 42.
 - (c) The “disciplinary conference” procedure is designed to eliminate adversary proceedings in minor cases. See Parts 33-34 and Annotation 32.
28. Staff members may consider the mitigating factors specified in Part 11 to determine the permissible sanction to be imposed if the respondent is found guilty of charges. For example, a student involved in a minor altercation might be charged pursuant to Part 9(a), but referred to a disciplinary conference, thereby precluding the possibility of expulsion or suspension for the alleged misconduct.
 29. On April 4, 2011, the United States Department of Education, Office of Civil Rights issued a “significant guidance document” to provide universities with information to assist them in meeting their obligations under Title IX of the Education Amendments of 1972 (“Title IX”). This document is known as the “OCR Dear Colleague Letter”. According to the OCR Dear Colleague Letter, Title IX requires that the burden of proof in sexual harassment cases, including sexual assault, be “preponderance of the evidence.” Prior to the issuance of the OCR Dear Colleague Letter, the burden of proof under the Code was “clear and convincing evidence”. According to the OCR Dear Colleague Letter, Title IX also requires that both parties in disciplinary hearings in sexual harassment cases, including sexual assault, be provided the same appeal rights, if any.
 30. "Clear and convincing" means "the evidence should be 'clear' in the sense that it is certain, plain to the understanding and unambiguous, and 'convincing' in the sense that it is so reasonable and persuasive as to cause [one] to believe it." *Wills v. State of Maryland*, 329 Md. 370, 374 (1993), quoting Maryland Civil Practice Jury Instruction Section 1:8b (1984). It does not call for "unanswerable" or

- "conclusive" evidence . Attorney Grievance Commission v. Harris, 366 Md. 376, 389 (2001). To be clear and convincing means that it is substantially more likely than not that the allegations are in fact true but that it "need not be established with absolute certainty". Vogel v. State, 315 Md. 458, 473 (1989). The burden is "more than a mere preponderance of the evidence [the burden of proof in ordinary civil cases] but not beyond a reasonable doubt [the standard in criminal cases]. Berkey v. Delia, 287 Md. 302, 319-20 (1980).
31. "Preponderance of the evidence" means it is "more likely than not" that the violation occurred as alleged. To meet a burden of proof by a preponderance of the evidence, means that "the scales tipped in the direction" of one of the parties. "When the scales are 'in a state of even balance,' the party with the burden of proving its case by a preponderance of the evidence loses. Wills v. State of Maryland, 329 Md. 370, 374 (1993), quoting Potts v. Armour & Co., 183 Md 483, 490 (1944). See Maryland Civil Pattern Jury Instructions Section 1:8a (1984).
32. The hearing procedures specified at Part 35 need not be followed in disciplinary conferences. Instead a disciplinary conference would normally consist of an informal, nonadversarial meeting between the respondent and a staff member in the Office of Student Conduct. Complainants would not be required to participate, unless their personal testimony was essential to the resolution of a dispositive factual issue in the case. Documentary evidence and written statements could be relied upon, so long as respondents are given access to them in advance and allowed to respond to them at the conference. Respondents would also be allowed to bring appropriate witnesses with them and might be accompanied by a representative, who may participate in discussions, although not in lieu of participation by the respondent.

The conference procedure is designed to reduce the steady growth of unnecessary legalism in disciplinary proceedings. The worst features of the adversary system (including the concept that judicial proceedings are a "contest" to be "won by clever manipulation of procedural rules) undermine respect for the rule of law. Colleges and universities can and should be a testing ground for development of carefully reasoned alternatives to current procedural excesses in the larger society.**

Procedures comparable to the disciplinary conference (referred to as "structured conversations") are suggested by David L. Kirp in his 1976 article "Proceduralism and Bureaucracy: Due Process in the School Setting" 38 *Stanford Law Review* 841.

The benefits of such conversations in the school setting may better be appreciated by contrasting them with the typical due process hearing. Hearings are designed to determine the facts of a particular controversy, and apply predetermined rules to the facts thus found. At that point, the function of the hearing is at an end. The wisdom of the underlying

substantive rules has no relevance, nor is broader discussion of grievances generally encouraged, unless it is somehow pertinent to the dispute at hand.

Conversation knows no such limits. It too serves as a vehicle for resolving what are likely to be factually uncomplicated disputes, but it does more than that. It enables students to feel that they are being listened to and may encourage them to raise underlying grievances. It provides administrators with a relatively inexpensive vehicle for monitoring, and hence a basis for reshaping institutional relationships. The outcome of these 'orderly thoughtful conversations' may well be decisions different in their particulars from what might otherwise have been anticipated; repeated conversations which touch upon similar student grievances may ultimately lead disciplinarians to reassess whether control is so vital, and collaboration so improbable, as a means of assuring institutional order.

The conference procedure would not be used in any case which might result in any form of separation from the University. Accordingly, the procedure appears to meet or exceed the due process requirements set forth by the United States Supreme Court for cases involving suspensions of ten days or less. In *Goss v. Lopez* the Court held:

[W]e stop short of construing the Due Process Clause to require, countrywide, that hearings in connection with short suspensions must afford the student the opportunity to secure counsel, to confront and cross-examine witnesses supporting the charge, or to call his own witnesses to verify his version of the incident. Brief disciplinary suspensions are almost countless. To impose in each such case even truncated trial-type procedures might well overwhelm administrative facilities in many places and, by diverting resources, cost more than it would save in educational effectiveness. Moreover, further formalizing the suspension process and escalating its formality and adversary nature may not only make it too costly as a regular disciplinary tool but also destroy its effectiveness as part of the teaching process.

On the other hand, requiring effective notice and an informal hearing permitting the student to give his version of the events will provide a meaningful hedge against erroneous action. At least the disciplinarian will be alerted to the existence of disputes about facts and arguments about cause and effect. He may then determine himself to summon the accuser, permit cross-examination, and allow the student to present his own witnesses. In more difficult cases, he may permit counsel. In any event, his discretion will be more informed and we think the risk of error substantially reduced (42 L. Ed. 725, 740).

33. The case file consists of materials which would be considered “education records,” pursuant to the Family Educational Rights and Privacy Act. Personal notes of University staff members or complainants are not included.
34. Determinations made in accordance with Parts 33 and 34 are not appealable.
35. Internal subpoenas may be desirable, since cases have arisen in which complainants or respondents were unable to present an effective case due to the indifference and lethargy of potential witnesses. A student who refused to respond to a subpoena may be charged with a violation of Part 9(o) of the *Code*. The Director of Student Conduct should not approve a subpoena unless the expected testimony would be clearly relevant. Likewise, a subpoena designed to embarrass or harass a potential witness should not be authorized. The subpoena power specified here is not designed to reach documents or other materials.
36. Board members should be disqualified on a case basis only; permanent removal should be accomplished in accordance with Part 27. Board members should not be readily disqualified. The term “personal bias” involves animosity toward a party or favoritism toward the opposite party. See, generally, Davis, *Administrative Law Treatise* “Bias” Section 12.03.
37. The exclusionary rule generally does not apply to civil administrative proceedings. Furthermore, the University of Maryland is exempted by statute from the applicable portions of the Administrative Procedure Act. The Maryland Court of Appeals, however, has barred evidence from administrative proceedings where a respondent establishes that officials were improperly motivated to illegally seize the evidence. See *Sheetz v. City of Baltimore*, 315 Md. 208 (1989).
38. Testimony containing hearsay may be heard, if relevant. A final determination should not be based on hearsay alone.
39. Every statement or assertion need not be proven. For example, board members may take notice that many students commute to the University.
40. Student presiding officers are often at a disadvantage when the respondent is represented by an attorney. The proceedings might progress more rapidly and efficiently if a special presiding officer were appointed. Generally, a staff member in the Office of Student Conduct would be selected for such a responsibility, although other University employees with legal training might also be called upon.
41. Information pertaining to prior findings of disciplinary and residence hall violations might be reported, as well as relevant criminal convictions. Prior allegations of misconduct should not be disclosed.

42. The dynamics of a judicial hearing in a University setting are not the same as those of a courtroom. Strict adherence to the conventions of courtroom advocacy may not be in the best interest of clients in University judicial proceedings.

The presiding officer and the board advisor are authorized to take reasonable measures to maintain control over the proceedings in order to elicit relevant facts, to prevent the harassment of participants, to insure that proceedings are not disrupted and the interests of fairness are served. This may include regulating the timing, length and manner of presentations and objections, declaring recesses in the proceedings, and other appropriate actions. Presiding officers should have training and experience appropriate to the demands of the office.

Before hearings, presenters for both complainants and respondents shall be presented with a written statement approved by the Senate Committee on Student Conduct regarding their rights and obligations during hearings and the powers of the presiding officer to control behavior in hearings.

43. Punishment of one or several individuals for the acts of others should be avoided if the identities of the specific offenders can be readily ascertained.
44. Association does not require formal membership. Individuals who might reasonably be regarded as regular participants in group or organization activities may be held to be associated with the group or organization.
45. Leaders or spokespersons need not be officially designated or elected. For example, if a group or organization accepted or acquiesced in the act or statement of an individual associated with it, that individual might reasonably be regarded as a leader or a spokesman for the group or organization.
46. "Suspension" includes deferred suspension but not interim suspension or suspension which is withheld. See Annotation 6.
47. See Annotation 29.
48. Students left with a disciplinary record after a disciplinary conference may request that their record be voided, in accordance with Part 50. Denials may be appealed, pursuant to Part 52.
49. See Annotation 29.
50. The decision will be "final and conclusive" on the part of the conduct board, but will remain a recommendation to the Director of Student Conduct.
51. This Part is intended to discourage frivolous appeals. Respondents who are genuinely interested in pursuing an appeal can reasonably be expected to prepare a written brief.

52. Appellate bodies which do not give deference (i.e., a presumption of validity) to lower board decisions will distort the entire disciplinary system. Respondents would be encouraged to “test their strategy” and “perfect their technique” before lower boards, since the matter would simply be heard again before a “real” board with final authority.

Lower board members usually have the best access to the evidence, including an opportunity to observe the witnesses and to judge their demeanor. Members of appellate bodies should be especially careful not to modify a sanction or to remand or dismiss a case simply because they may personally disagree with the lower board’s decision.

The opportunity to appeal adverse decisions has not been determined to be a requirement of constitutional “due process” in student disciplinary cases.*** There is presently no legal obstacle to adopting an amendment to the Code which would eliminate the appellate system altogether.

53. Respondents who obtain information at the hearing which might lead to new evidence are required to request an adjournment rather than wait to raise the matter for the first time on appeal.
54. An arbitrary and capricious decision would be a decision “unsupported by any evidence.” The cited language has been adopted by the Federal Courts as the proper standard of judicial review, under the due process clause, of disciplinary determinations made by the state boards or agencies. *See McDonald v. Board of Trustees of the University of Illinois*, 375 F. Supp. 95, 108 (N.D. Ill., 1974).
55. See Annotation 19.
56. Voided files will be so marked, shall not be kept with active disciplinary records, and shall not leave any student with a disciplinary record.
57. Disciplinary records may be reported to third parties, in accordance with University regulations and applicable state and federal law.
58. Void records shall be treated in the manner set forth in Annotation 56.
59. The scope of review shall be limited to the factors specified at Part 51. An inquiry into the initial determination of guilt or innocence is not permitted. For example, when considering the “nature” of the violation, pursuant to Part 51 (c), it is to be assumed that the violation occurred and that the respondent was responsible for it.
60. Some discretion must be retained to void even “permanent” disciplinary records. It may be unnecessary, for example, to burden a graduating senior with a lifelong stigma for an act committed as a freshman. Social norms also change rapidly.

“Unacceptable” conduct in one generation may become permissible and commonplace in the next.

- * See the procedures for mandatory medical withdrawal developed by the Vice President for Student Affairs
- ** See Macklin Fleming, *The Price of Perfect Justice*: “in our pursuit of . . . perfectibility, we necessarily neglect other elements of an effective procedure, notably the resolution of controversies within a reasonable time at a reasonable cost, with reasonable uniformity . . . we impair the capacity of the legal order to achieve the basic values for which it is created, that is, to settle disputes promptly and peaceably, to restrain the strong, to protect the weak, and to conform the conduct of all the settled rules of law.”
- *** See the due process standard set forth in *Dixon v. Alabama*, 294 F.2nd 150, 158-159 (Fifth Cir., 1961), Cert. den 368 U.S. 930.

V-1.00(J) UNIVERSITY OF MARYLAND POLICY ON PROMOTING RESPONSIBLE ACTION IN MEDICAL EMERGENCIES

APPROVED BY THE PRESIDENT, MARCH 10, 2011

Purpose

The health and safety of University students is of paramount concern. All members of the University community are encouraged to act in a responsible manner when an individual may require medical assistance by dialing 911 or 301.405.3333 or seeking a University or Resident Life official. It is recognized that in situations in which either a student summoning or requiring help is under the influence of alcohol, the threat of disciplinary sanctions for violating the University's alcohol policy is a barrier to seeking help. As such, the University of Maryland will do all that it can to promote student health, safety, and well-being. *Promoting Responsible Action in Medical Emergencies* is policy administered by the Office of Student Conduct that will reduce barriers to seeking help in cases of alcohol-related emergencies by providing relief from administrative or disciplinary action on the part of the University if either a University official or other authority is contacted in a timely fashion.

Policy

1. A student in possession or under the influence of alcohol who summons medical emergency assistance for him/herself or on behalf of a fellow student experiencing a medical emergency will not face disciplinary charges under the *Code of Student Conduct* or *Residence Hall Rules* for the possession or use of alcohol, with the exception of the exclusions noted below. In lieu of disciplinary charges and as a condition of such relief, students handled under this policy will usually be required to be evaluated by the University Health Center staff and successfully complete an approved alcohol intervention program.
2. This policy also extends to the student for whom medical emergency assistance has been summoned.
3. A "summons" for medical emergency assistance is deemed to be contacting police, University staff or other officials designated emergency medical providers.

Procedures

Students referred to the Office of Student Conduct or the Department of Resident Life for alcohol use or possession will be interviewed by a representative of the unit. If the student is eligible for conditional relief under this policy, the initiation of disciplinary charges will be "deferred" under Part 29 of the *Code of Student Conduct* pending successful completion of an approved alcohol intervention program, if deemed necessary by University staff. If the student successfully completes the program to the satisfaction of the Health Center staff and the Office of Student Conduct/Department of Resident Life, the pending charges will be withdrawn, leaving the student with no disciplinary record. If the student fails to successfully complete the program, charges for alcohol use and possession will be processed and, if proved, may result in more

severe sanctions and a disciplinary record.

Exclusions

1. The conditional relief from disciplinary charges described in this policy does not extend to charges other than possession or use of alcohol. In addition, it shall not provide relief from disciplinary charges pertaining to the alleged possession or use of alcohol which, if proven, would constitute an “Aggravated Violation” as defined under Part 2(a) of the *Code of Student Conduct* or would involve the distribution of alcohol to a person under the legal drinking age.
2. Students with a prior disciplinary record of alcohol-related violations and students previously granted relief under this policy as the person for whom the emergency services were being summoned, shall only be eligible for relief on a case-by-case basis following an assessment by the Office of Student Conduct or Department of Resident Life.
3. This policy does not and cannot offer conditional relief, immunity or protection from criminal complaint, arrest or prosecution by University police or other person or official for illegal activity, including the illegal use or possession of alcohol in violation of County, State or Federal law. It does not provide relief from any civil suit, fine or financial obligation to any party (including the University), for loss, damage or injury associated with alcohol use or possession.
4. This policy does not offer conditional relief to student organizations, which remain subject to organizational charges for alcohol-related violations, including possession and use. The nature of such charges and any resulting disciplinary sanctions, however, will take into account and may be mitigated by the action taken by organizational representatives. A representative of a student organization who summons medical emergency assistance may be eligible for conditional relief from charges for his or her personal use or possession of alcohol under this policy.



University Senate CHARGE

Date:	March 22, 2012
To:	Nan Ratner Chair, Student Conduct Committee
From:	Eric Kasischke Chair, University Senate 
Subject:	Expansion of Promoting Responsible Action in Medical Emergencies
Senate Document #:	11-12-22
Deadline:	March 30, 2013

The Senate Executive Committee (SEC) requests that the Student Conduct Committee review the attached proposal entitled, “Expansion of Promoting Responsible Action in Medical Emergencies” and make recommendations on whether the University of Maryland Policy on Promoting Responsible Action in Medical Emergencies (V-100(J)) should be revised.

The University is committed to the health and well being of our students. The Senate and President Loh approved a “medical amnesty” or “good samaritan” policy and made associated changes to the Code of Student Conduct in March 2011. The current policy only applies to amnesty from University disciplinary sanctions for alcohol use but does not exempt students from criminal prosecution. The SEC requests that the Student Conduct Committee review the attached proposal and advise on whether the current policy should be expanded to include drugs.

Specifically, we ask that you:

1. Consult with the proposer to discuss his specific concerns about the current policy.
2. Review similar amnesty policies at our peer institutions.
3. Consult with representatives of the Office of Student Conduct.
4. Review data from the Office of Student Conduct on cases where the current policy was applied since its implementation.
5. Consider the educational component to implementing an expanded policy.
6. Consult with the University’s Office of Legal Affairs.

7. If appropriate, recommend whether the current policy should be revised.

We ask that you submit your report and recommendations to the Senate Office no later than March 30, 2013. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.

Appendix 5

**University Senate
PROPOSAL FORM**

Name:	Brandon Levey
Date:	10.31.2011
Title of Proposal:	Expansion of Promoting Responsible Action in Medical Emergencies
Phone Number:	410-487-5382
Email Address:	BrandonALevey@Gmail.com
Campus Address:	6903 Preinkert Dr., Apt. 5214A, College Park, MD 20740
Unit/Department/College:	ARHU/History
Constituency (faculty, staff, undergraduate, graduate):	Undergraduate
Description of issue/concern/policy in question:	In March 2011, the University of Maryland Senate passed, and President Loh signed, "Promoting Responsible Action in Medical Emergencies," a policy that protects the individual caller and victim from university sanctions in the event of alcohol overdoses (however it does not apply to groups and organizations). This policy does not affect any legal punishments, but rather only university sanctions, such as probation or loss of housing. Furthermore, this does not provide any protection for students that are seeking medical help for overdoses of any drug other than alcohol.
Description of action/changes you would like to see implemented and why:	Saving lives needs to be the absolute top priority for our university. I would like to see our life-saving policy expanded to include all drugs, legal and illegal, as well

	<p>as an educational campaign implemented to give students information on the policy. Since illegal drug possession on campus carries harsher punishment than underage alcohol consumption, students are often more hesitant to call for help during a drug overdose than an alcohol overdose. Even if the Office of Student Conduct has discretion in these cases, this fact does little to alleviate the fears of students that might be able to make a call that saves a life.</p> <p>I suggest a policy that is modeled on the alcohol-only Good Samaritan Policy passed last year. This would not give immunity for students that are accused of manufacturing or selling drugs, and would only cover students with no prior disciplinary record relating to drugs. Students that do have a record relating to this would be evaluated on a case-by-case basis. Additionally, for this policy to apply, in each situation the student that overdosed on a drug would be required to take a drug-overdose or drug-prevention course, if the office of student conduct deems it necessary.</p>
<p>Suggestions for how your proposal could be put into practice:</p>	<p>I suggest amending Section 29 of the Student Code of Conduct, as was done in March when “Promoting Responsible Action in Medical Emergencies” was passed and became University policy. Additionally, an educational campaign educating students on campus about the effects of this policy could be implemented, as was done with the alcohol-overdose policy.</p>
<p>Additional Information:</p>	<p>Many Universities, both public and private, have amnesty policies that cover all drugs. Examples include the University of Florida, Washington College in Maryland, Northeastern University, the University of Pennsylvania, Columbia University, University of Georgia, and Cornell University. I have attached several of these policies for your consideration.</p> <p>Additionally, entire states have recently adopted this</p>

	<p>policy. The states of New York, New Mexico, Washington, as well as others have policies that protect the victim and caller in the event of an overdose on alcohol or drugs. I have attached the texts of these policies (as well as a signing statement by New York's Governor Cuomo) for your consideration. I am hopeful that the Maryland State Legislature will be taking up a similar bill this coming legislative session.</p> <p>Additionally, I have attached to this proposal an email thread from the Board of Regents stating that the University Senate has the legal authority to make this change.</p>
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Attached to this proposal:

- 1. Email to Brandon Levey from the Board of Regents giving the University Senate the authority to make changes to the Student Code of Conduct, including changes involving illegal substances (see email thread).**
- 2. Variant comprehensive Medical Amnesty Policies at Washington College on Maryland's Eastern Shore, the University of Florida, Tulane University, College of William & Mary, University of Georgia, Georgia Public College, the University of Northern Iowa, University of Iowa, Northeastern University, the University of Pennsylvania, and Lehigh College.**
- 3. Text of statewide Good Samaritan Policies in New York, Washington State, and New Mexico. Signing statement by New York Governor Andrew Cuomo.**

Email thread for the email from the Board of Regents giving the University Senate the authority to make changes, *including ones dealing with illegal substances* (see original email 8/10/11), to the Student Code of Conduct

----- Forwarded message -----

From: **Janice Doyle** <jdoyle@usmh.usmd.edu>

Date: Mon, Aug 15, 2011 at 12:52 PM

Subject: RE: From Brandon Levey, Re: University Policy Change

To: Brandon Levey <brandonalevey@gmail.com>

Cc: Wilma Ogburn <wogburn@usmd.edu>

Brandon: Changes to the Student Code of Conduct do not need to go to the Board of Regents for approval.

Janice Doyle

From: Wilma Ogburn Sent: Wednesday, August 10, 2011 12:45 PM To: 'Brandon Levey' Cc: Janice Doyle Subject: RE: From Brandon Levey, Re: University Policy Change

Good Afternoon Brandon—

I am copying Janice Doyle, Secretary to the Board of Regents, on this note so that she may respond to your question. Unfortunately, I do not know the answer. -- weo

Wilma E. Ogburn
Executive Assistant to the Board of Regents
University System of Maryland
3300 Metzertott Road
Adelphi, MD 20783
[301-445-1902](tel:301-445-1902)
[301-445-1931](tel:301-445-1931) (Fax)
[301-832-7274](tel:301-832-7274) (Blackberry)

From: Brandon Levey [mailto:brandonalevey@gmail.com] Sent:
Wednesday, August 10, 2011 12:40 PM To: Wilma Ogburn Subject: From
Brandon Levey, Re: University Policy Change

Hi Ms. Ogburn,

Hope you are doing well. My name is Brandon Levey, and I am currently a Student Senator at the University of Maryland, as well as a member of the Student Affairs Committee in the Senate. I was wondering, if the University Senate passes a change to the Student Code of Conduct, including one dealing with school punishments and sanctions for illegal drug possession or use, would this first need Board of Regents approval? Thanks so much.

-Brandon Levey

--

Brandon Levey
University of Maryland
Phi Beta Kappa
ARHU Student Senator
BrandonALevey@Gmail.com
[\(410\) 487-5382](tel:(410)487-5382)

Print outs of the following were included in the proposal:

University of Georgia: <http://conduct.uga.edu/students/policies/rap.html>

Georgia College (public): <http://www.gcsu.edu/studentlife/handbook/adminpolicies.htm>

University of Iowa: <http://dos.uiowa.edu/policy-list/archives/2010-2011-policies-and-regulations-affecting-students-archived/student-responsibilities-5/judicial-procedures-2/judicial-procedure-for-alleged-violations-of-the-code-of-student-life-6/#Responsible%20Action%20Protocol%20%28aka%20Good%20Samaritan%20Policy%29>

University of Northern Iowa: <http://www.uni.edu/deanofstudents/conductresources/samaritan>

Washington College in Maryland: <http://sa.washcoll.edu/medicalamnestypolicy.php>

University of Florida: <http://www.dso.ufl.edu/sccr/procedures/medicalamnestyfaq.php>

Northeastern University: <http://www.northeastern.edu/open/amnesty.html>

William & Mary:

http://www.wm.edu/offices/deanofstudents/services/studentconduct/studenthandbook/amnesty_policy/index.php

Lehigh University: <http://www.lehigh.edu/~indost/conduct/medpolicy.shtml>

University of Pennsylvania: <http://www.vpul.upenn.edu/alcohol/amnesty.php>

Tulane University: <http://tulane.edu/studentaffairs/conduct/upload/Medical-Amnesty-08-05-10.pdf>

Washington State: <http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Senate%20Passed%20Legislature/5516.PL.pdf>

Governor Cuomo (NY) Signing Statement: <http://www.licadd.com/wp-content/uploads/2011/07/GoodSamApproval.pdf>

New York State: <http://e-lobbyist.com/gaits/text/38151>

New Mexico State: <http://legis.state.nm.us/Sessions/07%20Regular/final/SB0200.pdf>

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Policies

Responsible Action Protocol

Purpose of Protocol

Students are encouraged to make responsible decisions in life-threatening situations that result from alcohol and/or other drug abuse and to seek medical attention for someone who is in danger because of intoxication. Students should alert University officials, UGA or local police, or professional medical personnel when they or their friends are in danger. A student who calls for or seeks emergency assistance on behalf of a student experiencing an alcohol or other drug related emergency may not be subject to mandatory alcohol and other drug sanctions under the Student Code of Conduct.

Scope of Protocol

1. The Responsible Action Protocol applies to students who seek assistance or medical treatment on their own behalf or on the behalf of another student.
2. The Responsible Action Protocol does not apply if the student seeking help for another student purchased, supplied, or otherwise made available the alcohol or other drug to the student needing medical assistance.
3. If a representative of an organization hosting an event calls for medical assistance, this act of responsibility might mitigate potential judicial consequences that could arise against the organization, i.e., the fact that an organization sought help might be considered in potential sanctioning for university policy violations.
4. The protocol applies only to the *Student Code of Conduct* and does not in any way prohibit law enforcement agencies within their jurisdictions from enforcing the laws enacted by the State of Georgia.

Requirements of Protocol

Students considered for the Responsible Action Protocol are required to meet with a member of the Office of Student Conduct who, after evaluating the situation, may also refer the student to a substance abuse specialist in the John Fontaine, Jr. Center for Alcohol Awareness and Education for assessment, counseling, and/or possible referral for treatment. Students who are referred to the John Fontaine, Jr. Center for Alcohol Awareness and Education but fail to meet and complete the recommendations in their entirety may be subject to further action.

Even if there is not a disciplinary action, the Office of Student Conduct will notify the parents of the student (Parental Notification Policy) and will maintain a file of the case which can be used as a prior record should subsequent alcohol or other drug violations occur. Academic transcripts will not reflect the incident but the file will be maintained in accordance with the Office of Student Conduct records management.

If the student has any subsequent incidents, these will be handled through the regular judicial process. If a violation is found to occur, prior records, including involvement in the Responsible Action Protocol, will be considered for sanctioning purposes. With a prior record, students may receive sanctions above any minimum described in the *Student Code of Conduct*, which can include suspension or expulsion from the University.

Limitation of Protocol

The Responsible Action Protocol applies only to alcohol and other drug-related medical emergencies. It does not apply to other prohibited behavior such as disorderly conduct (including physical or verbal abuse), property damage, or distribution of illicit substances.

Open Records – see below

Open records is state law requiring that public records be open and available for inspection by any member of the public. Public records include virtually all documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, or similar material prepared, maintained or received in the course of the operation of a public office or agency. The University is a public agency; therefore it is subject to the act. Pursuant to the ruling of the Georgia Supreme court in the case of *Red & Black Publishing v. Board of Regents of the University System of Georgia*, student conduct records are open records, and therefore will be released, if requested, under the Georgia Open Records Act. Please direct questions to the Open Records Manager in the Office of Public Affairs at (706)542-8090.

Parental Notification – see below

The Family Educational Rights and Privacy Act (FERPA) has given colleges/ universities the option to notify parents or guardians about specific

types of information from a student's judicial record.

The Office of Judicial Programs will notify parents or guardians the first time and every subsequent time a student **is found to have violated** Code of Conduct policies on the use or possession of alcohol or other drugs when he/she is under the age of 21.

PLEASE NOTE: Parents or guardians may receive correspondence or copies of arrest reports from The Dawg Catcher. This anonymous person or organization is not affiliated with the University of Georgia Office of Student Conduct. The Office of Student Conduct only notifies parents when a student **is found to have violated** Code of Conduct policies on the use or possession of alcohol or other drugs through a formal hearing or informal resolution.

Office of Student Conduct | The University of Georgia | 500 Memorial Hall | Athens, GA 30602
Phone: (706) 542-1131 | Fax: (706) 542-8817

Email: conduct@uga.edu

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Institutional Standards and Administrative Policies

In this section, you will find information on the following:

- *Amnesty Policy (a.k.a. the Good Samaritan Policy)*
- *Sponsorship, Donations, Gifts-in-kind and its Affiliated Advertisement*
- *Liability*
- *Disability Services, Diversity, Religious Accommodations, Sexual Harrassment, and Amorous Relationships*
- *Alcohol and other substance abuse*
- *Facilities Usage*
- *On-campus Dance Policy*
- *Sexual Assault Victims Rights*
- *Social Functions*
- *Tailgating*
- *Lighted Tobacco Use*

Amnesty Policy (Good Samaritan Policy)

Introduction

The purpose of the Georgia College Alcohol and Other Drugs Amnesty Policy is to prevent students from being reluctant to seek assistance for themselves or someone else for fear of facing campus judicial action. It is an attempt to remove barriers that prevent students from seeking the medical attention that they need.

The policy does not necessarily grant amnesty for criminal, civil, or legal consequences for violations of Federal, State, or Local laws. Georgia College Public Safety Officers are sworn police officers with full arrest authority, and they have the autonomy to use that authority as circumstances dictate according to their professional experience. In general, unlike police from many other settings, Georgia College Public Safety officers attempt to balance a concern for student educational outcomes with their powers of arrest. In circumstances in which they choose to arrest students rather than refer them to the Student Judicial Board on campus, their decision is typically a result of evidence of gross irresponsibility on the part of the student, the presence of an apparent safety risk, or complications due to the student's non-compliance or belligerence.

Philosophy

The health and safety of members of the Georgia College community is a primary concern. Students need to seek immediate medical attention for themselves or others when someone's health and/or safety is at risk (examples include: alcohol poisoning, unconsciousness, sexual assault or physical assault). Students may be reluctant to seek assistance for themselves or someone else for fear of facing action from the Office of Student Affairs. Georgia College seeks to remove barriers that prevent students from seeking the medical attention they need.

Policy

Note: This Policy only provides amnesty from violations of the Georgia College Code of Conduct. It does not necessarily grant amnesty for criminal, civil, or legal consequences for violations of Federal, State, or Local law.

Students who seek emergency medical attention for themselves related to consumption of drugs or alcohol will not be charged with violations of the Georgia College Code of Conduct related to that consumption, provided that the student subsequently completes a screening from University Counseling Services and any recommended treatment within a reasonable time frame to be determined by the Office of Student Affairs. Failure to complete this screening/treatment may result in charges being filed with the Office of Student Affairs.

Students who seek emergency medical attention for someone else will not be charged with violations of the Georgia College Code of Conduct related to consumption of alcohol or drugs, or intoxication, provided that the student subsequently completes a screening from University Counseling Services and any recommended treatment within a reasonable time frame to be determined by the Office of Student Affairs. "Georgia College Public Safety officers will weigh heavily a student's cooperation and genuinely positive intent in determining whether a substance abuse situation allows them to provide the student amnesty from arrest."

Student Organizations are required to seek immediate medical assistance for their members or guests when any potential health risk is observed, including medical emergencies related to the use of alcohol and/or drugs. A Student Organization that seeks immediate assistance from appropriate sources will not be charged with violations of the Georgia College Code of Conduct related to providing alcohol, providing that the organization completes any educational programming required by the Office of Student Affairs and the Office of Campus Life. However, the organization can and will be held accountable for any other violations of the Code of Conduct related to the incident (e.g. endangering the health or safety of others, covered smoke detectors, etc.). Student Organizations that fail to seek immediate medical assistance for members or guests in need of attention will likely be charged with violations of the Code of Conduct and face dissolution or termination as the outcome of such charges. It is imperative that student organizations seek medical assistance for their members or guests in an emergency situation.

This Policy applies only to those students or organizations who seek emergency medical assistance in connection with an alcohol or drug-related medical emergency and does not apply to individuals experiencing an alcohol or drug-related medical emergency who are found by University employees (i.e. University Police, Faculty, administrative staff, residence hall staff).

The Georgia College Amnesty Policy is not intended to shield or protect those students or organizations that repeatedly violate the Code of Conduct. In cases where repeated violations of the Georgia College Code of Conduct occur, the University reserves the right to take judicial action on a case by case basis regardless of the manner in which the incident was reported. Additionally, the University reserves the right to adjudicate any case in which the violations are egregious.

Additionally, the Georgia College Amnesty Policy allows for assistance in cases of sexual misconduct. If you believe you have been involved in an incident of sexual misconduct, you have the right to pursue action through the University judicial system and/or the appropriate law enforcement authorities, and/or the courts. Georgia College further encourages anyone who has been involved in such an incident to pursue action through appropriate law enforcement authorities and/or the courts. The University wishes to encourage victims to report incidents of sexual misconduct and therefore reserves the right to waive disciplinary charges against victims for circumstances surrounding the incident. For example, a victim who had been an underage drinker would not typically face charges of violating alcohol policies.

Sexual Misconduct is any sexual act which violates the laws of the State of Georgia; and/or includes, but is not limited to: acts of rape (stranger and acquaintance or date rape) and other forms of coerced sexual activity, including unwanted touching, fondling or other forms of sexual conduct. Any sexual activity which is entered into without consent of both or all persons involved is a violation of this policy. A person may not avoid responsibility for a sexual activity because of impairment due to the influence of alcohol or other drugs. A person is deemed incapable of giving consent when that person is a minor under the age of 18 years, is mentally disabled, mentally incapacitated, physically helpless, under the influence of alcohol or drugs to the point of being unable to make a rational decision, unconscious or asleep. A person always retains the right to revoke consent at any time during a sexual act.

The Office of Student Affairs reserves the right to contact any student to discuss an incident whether or not the Georgia College Amnesty Policy is in effect.

Georgia College Campus Resources for Assistance:

Campus Police - (478) 445-4400

Office of Student Affairs - (478) 445-5169

Office of Campus Life - (478) 445-4027

Student Health Services - (478) 445-5288

Counseling Services - (478) 445-5331

Women's Resource Center - (478) 445-8156

EMERGENCY - 911 or on campus 4400

Sponsorship Policy - A Policy on Sponsorship, Donations, Gifts-in-kind and its Affiliated Advertisement**Purpose:**

This policy outlines sponsorships, donations, and gifts in kind for both events and organizations by outside individuals, companies, institutions, or organizations and the advertising rights associated with such financial and non-financial contributions for a specific Georgia College division, department, unit, or registered student organization.

Definitions:

1. Sponsor and Sponsorships are individuals, companies, institutions, or organizations which provide financing for all or part of an event or organization which is organized or associated with a Georgia College division, department, unit, or registered student organization in exchange for limited advertising rights in exchange for the financial contribution.
2. Donor and Donations are individuals, companies, institutions, or organizations which provide financing for all or part of an event or organization which is organized or associated with a Georgia College division, department, unit, or registered student organization that are not permitted advertising rights in exchange for the financial contribution.
3. Gifts and Gifts-in-kind Donations are individuals, companies, institutions, or organizations which provide materials, services, or supplies, free of charge, for all or part of an event or organization which is organized or associated with a Georgia College division, department, unit, or registered student organization that are permitted limited advertising rights in exchange for the contribution.
4. Advertising rights are rights granted to an individual, company, institution, or organization that permits limited advertisements and recognition as explained in the policy detail.
5. Georgia College Contracted Organizations are individuals, companies, institutions, or organizations that have a contractual agreement with Georgia College in some capacity.

Exemptions:

The Department of Athletics, the Colonnade, WGUR, and GCTV shall be exempt from this policy.

Policy Detail:

1. Prior to starting any solicitation of sponsorships, donations, or fundraising efforts, registered student organizations must contact the Department of Campus Life for initial approval.
2. Sponsorships and donations in the amount of \$1,000 or more must adhere to the guidelines published by Georgia College's Office of University Advancement.
3. Solicitation or acceptance of sponsorships from merchants or vendors in direct competition with services provided by Georgia College, its contracted vendors, or where addressed by contractual agreements, is prohibited (See Appendix I).
4. Solicitation or acceptance of donations from merchants or vendors in direct competition with services provided by Georgia College, its contracted vendors, or where addressed by contractual agreements, is permitted only upon authorization by Georgia College's Office of University Advancement and Business and Finance.
 1. If a donation is accepted by a Georgia College division, department, units, or registered student organization the donor is not permitted advertising rights.
 2. Any Georgia College division, department, unit, or registered student organization may not seek or accept sponsorships from companies/vendors whose main focus of business is the manufacture, distribution, or sale of alcohol products.
 3. Preference should be given to Georgia College contracted organizations when soliciting sponsorship or donation opportunities.
 4. A list of Georgia College contracted organizations accessible through the Auxiliary Services will be maintained by Auxiliary Services and available on their website. <http://www.gcsu.edu/businessandfinance/auxiliaryservices.htm> (See Appendix II).
 5. Refusal of a sponsorship or donation solicitation by a Georgia College contracted organizations does not permit the solicitation of merchants or vendors in direct competition with services provided by Georgia College, its contracted vendors, or where prohibited by contractual agreements
 6. Advertising rights shall be limited to the following:
 1. If appropriate for an event, and no breach of the GC Catering guidelines or other contractual relationship will occur, the sponsor shall be allowed one booth or table for the sole purpose of promoting its business.

2. Sponsors may not solicit Georgia College students to sign any contracts or collect information that may be used for later solicitation.
3. Promotional items from a sponsor must be available to all organization or event participants without requiring participation in any activities required by the sponsor.
4. Advertisements, of any kind, of a sponsored event or organization that include sponsors names or logos must be approved by the office of Auxiliary Services prior to posting.
5. GCSU Catering Guidelines must be referenced in order to ensure no breach in any contract.

10. It is not permitted for any Georgia College division, department, unit, or registered student organization to use an event for the sole purpose of advertising any sponsor.

11. If any Georgia College division, department, unit, or registered student organization deviates from this policy, disciplinary actions will be taken in accordance with the respective division.

Appendix I

Georgia College Contracted Organizations

1. Bookstores
2. Apartment/Housing Complexes and Private Landlords
3. Catering Services (Restaurants that do not provide catering services are permitted for solicitation and associated advertising)
4. Television Services
5. Soft Drink/Beverage Vendors
6. Snack/Beverage Vending Companies
7. Laundry Services

Appendix II

Georgia College Service/Retail Areas under Contractual Agreements

As of February 1, 2010, these include:

1. Follett Higher Education Group/PawPrints Bookstores
2. Sodexo Campus Services/Georgia College Dining Services
 1. World of Wings
 2. Chick-fil-A at Georgia College
 3. Sandella's Flat Bread
 4. The Village Market
 5. Books & Brew Starbucks Café
 6. Blimpie at Georgia College
 7. Einstein Bros. Bagels
 8. The Ice Box
 9. College Cable, Inc.
 10. Coca-Cola
 11. Canteen Vending Services
 12. Mac-Gray Laundry Services
 13. Arby's
 14. Asian Bistro
 15. Barberito's
3. 10. Bruster's Ice Cream
4. 11. Chili's Bar and Grill
5. 12. Domino's Pizza
6. 13. International House of Pancakes (IHOP)
7. 14. Judy's Country Kitchen
8. 15. Mellow Mushroom
9. 16. Sonic Drive In
10. 17. Zaxby's
11. 18. Glow Salon
12. 19. CVS/pharmacy

For more information on this policy contact:

Kyle Cullars

kyle.cullars@gcsu.edu

Maxwell Student Union, Suite 114

Campus Box 037

Milledgeville, GA 31061

Tel: (478) 445-1976

Fax: (478) 445-7310

Posting of Signs for Campus Organizations, Departments, Events

All postings must be approved and stamped by the Department of Campus Life prior to its distribution on campus. Advertising which has not been approved will be removed and the individual(s) or organization(s) will be liable for disciplinary action.

The steps in receiving approval for signs or posters are as follows:

- Construct sign or poster to the proper specifications.
- Have the poster approved at the Department of Campus Life in the Student Activities Center.
- Place the posters in approved areas only.
- Clear posting privileges with each academic dean and department chairperson.

Stipulations regarding the placement of posters and signs are as follows:

- All signs or posters used by approved student organizations shall be approved by the Department of Campus Life.
- All signs or posters may be placed on bulletin boards located in specific areas on campus.
- Signs or posters may be placed on the various bulletin boards on the first floor of Maxwell Student Union, the residence halls, and other buildings upon the specific approval of the building/area supervisor.
- The food service office approves all signs or posters for the dining hall after initial approval by the Department of Campus Life.
- Bulletin boards in academic areas should not be used unless approved by the academic dean or department chairperson.
- No signs or posters are to be placed on glass doors or glass areas. No signs or posters are to be placed on walls. Specific permission is needed to put signs on any brick-walled building.
- Signs or posters shall be placed on bulletin boards by thumb tacks; staples, tape or adhesives are not allowed.
- Only approved student organizations can advertise on the Georgia College campus. *Exceptions involving events of community interest shall be approved specifically by the director of auxiliary services.*

Limitations on the size, content, and length of time posters may be displayed are as follows:

- Signs or posters are not to exceed 22" by 28" (poster size) unless approved by the building manager.
- Refreshments shall be used in place of words denoting alcoholic beverages on all organization social function signs.
- No signs or posters encouraging the excessive use of alcohol will be approved. No obscene material will be allowed on signage.
- All signs or posters may be advertised a maximum of ten days prior to an event.
- Signs or posters must refer to a specific event.
- Outdated signs or posters shall be removed by the advertising organization within 48 hours after an event. Any organization not adhering to this guideline may face advertising restrictions.
- A maximum of 25 signs or posters will be approved for placement under this policy.

Facilities Usage

[Section 4.05 of the Academic Affairs Handbook](#)

Liability

All Georgia College students are asked to sign a release and waiver of liability before participating in university sponsored activities where there are potential risks. Copies are available in the Department of Campus Life or the Office of Legal Affairs.

On-Campus Dance Policy

The following rules are policy for on-campus dances sponsored by student organizations at Georgia College.

1. Dances with open admission are not an appropriate means for organizational fundraising. Because they have traditionally been used as such by Pan-Hellenic Council organizations and the Black Student Alliance, and because these dances have become traditional events at Georgia College, the department of campus life will cover the cost of two Public Safety officers for up to 10 such dances per semester, thereby reducing the need for these organizations to maximize attendance in order to cover expenses. These organizations may continue to charge a reasonable admission charge to defray the cost of the event.
2. The sponsoring organization must provide an adviser and students to work for the duration of the event. The number of students provided must be equal to the number of entrances to the room being used for the dance (accordingly, MSU Lounge requires one adviser and three

- students). Two of these people are to staff the admission table at the front door to check IDs, collect money, stamp hands, sign in guests, and prevent guests from walking down MSU hallways. The others are to be posted at the other entrances to the room, to prevent unauthorized entrance.
3. Dances are open only to Georgia College students and their invited guests. Current students of other colleges and alumni of a sponsoring Greek organization may also attend as guests. Admission of guests must follow these procedures:
 1. Individual guests may be admitted only if accompanied and sponsored by a Georgia College student. Each Georgia College student may have no more than one guest. Guests must be at least 17 years of age and present a picture ID for admission. A guest and his or her host must sign in together at the admission table. Guests must leave with their host or the host with their guest if either leave before the conclusion of the event. Hosts are responsible for the behavior of their guests and/or alumni.
 2. Fraternity / sorority alumni of sponsoring Greek organizations may be admitted to the event, with a picture ID and appropriate Greek paraphernalia or identification.
 3. Current students of other colleges must show a valid college ID for admission.
 4. All dances must be approved in advance by the director of campus life. As part of the approval process, the appropriate representative of the sponsoring organization must submit a signed copy of these rules, and a contract must be signed between the DJ (or other entertainers) and the organization. The DJ will not be allowed to advertise the event off the Georgia College campus, and will forfeit his or her fee for doing so.
 5. Arrangements must be made with the Georgia College Campus Police at least two weeks in advance to arrange two officers to work the event. One Campus Police officer will patrol the dance area and one will patrol the parking lot area. The officers must be hired from the advertised start time of the event until 30 minutes after the closing of the event. Campus police reserves the right to close down an event if the officers or advisors perceive that the sponsoring organization is being irresponsible or uncooperative with the officers or advisors. In such a case, the department of campus life may decline to cover the cost for the officers incurred at that event.
 6. No more than 200 people may be admitted to dances in the MSU Lounge.
 7. Posters with dance rules will be provided by the department of campus life and must be posted by the sponsoring organization, one outside the event venue and one inside near the admission table. These posters will include a stipulation that no refunds will be made.
-

Sexual Assault Victims Rights

Victims of sexual assault are afforded rights that are recognized by Georgia College. These rights include assistance by the university to help the victim. A copy of the policy for victims of sexual assault is available in the counseling center office and in the campus police department. In the event of a sexual assault, please contact one of these offices so that assistance can be rendered. Counseling for victims is also available in the counseling center.

Disability Services, Diversity, Religious Accommodations, Sexual Harassment, and Amorous Relationships

See: <http://www.gcsu.edu/equity/resourceslinks.htm>

For further information on these policies contact:

Office of Diversity Programming and Services

Campus Box 004

Milledgeville, GA 31061

Phone: (478) 445-1382

Fax: (478) 445-1287

Social Functions

Any registered student organization hosting a social event, whether on-campus or off-campus, will be expected to abide by all applicable local, state, and federal laws and regulations. All social events on campus must be approved by the director of campus life and must be in compliance with Georgia College policies and procedures for student organizations. If the event is held on campus facilities such as the East Campus (Lake Laurel), the main campus (Maxwell Student Union), and the J. Michael Peeler Athletic Complex (picnic grounds and athletic fields), appropriate facility usage request forms must be submitted to Continuing Education & Public Services where approval of the appropriate building/area supervisor will be obtained. A damage deposit must accompany the application in order for the request to receive full consideration. Completed requests must be submitted to the director of campus life for his approval of the appropriateness of the event prior to submitting to CE/PS. All applications must be approved in entirety one week prior to the date of the requested event.

Each organization sponsoring a social event on campus property must sign a statement of responsibility and a waiver of liability included on the Social Function Application releasing Georgia College from liability for personal injury or damages to property, littering or destruction, and cleanup of Georgia College property. All scheduled events shall terminate at designated times. If the organization plans to serve alcoholic beverages during the social event, they must adhere to the alcohol policy of the university. Organization advisors must be present at all social events where alcohol may be present.

The Board of Regents recognizes and supports the laws of Georgia with respect to the sale, use, distribution, and possession of alcoholic beverages on university campuses as well as within the state at large. To this end, the Board has endorsed a program designed to enhance awareness and curb abuse

of alcohol by students and others in the University System. This program emphasizes that each institution shall stress individual responsibility related to the use of alcohol on and off the campus.

To assist in the implementation of alcohol awareness programs and to enhance the enforcement of state laws on the campuses of the University System, each institution shall adopt and disseminate comprehensive policies and procedures, consistent with state and local laws, concerning the use, distribution, and possession of alcoholic beverages on campus and institutionally approved events off campus. Disciplinary sanctions for violation of the policies or other unauthorized use of alcoholic beverages shall be included in each institution's disciplinary code of conduct.

A copy of the policies and procedures adopted by each institution shall be filed with and approved by the office of the vice chancellor for student services of the board of regents. This shall be reviewed and approved by this office annually thereafter.

Copies of policies and procedures, forms and information relative to the implementation of system policy on the Georgia College campus are available upon request from the department of campus life in the Student Activities Center.

Please note the following policies:

All registered student organization members, faculty, or staff using university facilities and serving alcoholic beverages must be in full compliance with the Board of Regents Alcohol On Campus policy as well as Georgia College Policies and Procedures for social functions.

Coordinators of events shall complete a Social Function Application one week prior to the proposed function.

Coordinators of events must sign a statement of responsibility and waiver of liability releasing Georgia College from liability for personal injury or damages.

Organization members or appropriate faculty or staff members will accept full responsibility for any personal injuries, damages to property, littering or destruction, and cleanup of Georgia College.

Registered student organizations must submit an appropriate damage and cleanup deposit attached to the Social Function Application.

All registered student organization events shall terminate on or before 12:00 midnight with the exception of the Maxwell Student Union Lounge where events may be held until 1:00 a.m.

If registered student organizations plan to serve alcoholic beverages during the social event (no sale is permitted on state property) they must be served no later than 30 minutes prior to the termination time, and within the following guidelines:

Alcoholic beverages may be served outside only at the J. Michael Peeler Athletic Complex picnic area and the Lake Laurel Lot.

Alcoholic beverages are served inside only within the Maxwell Student Union and the Lake Laurel Lodge.

Whenever alcoholic beverages are served, equally accessible, alternative, nonalcoholic beverages and snacks, or food must also be served.

Specific regulations for use of alcoholic beverages by registered student organizations must be followed.

Locations and conditions regarding faculty/staff receptions where alcohol is served may be approved on a case by case basis through the Division of Business and Finance in conjunction with the Department of Public Service.

Violations of the Social Functions Policy will result in the termination of further privileges and may include other possible disciplinary actions or sanctions.

Policy on Alcohol and Illegal Use of Controlled Substances

[Student Policy on Alcohol and Illegal Use of Controlled Substances](#) (pdf)

Tailgating Information

[Tailgating](#)

Lighted Tobacco Use

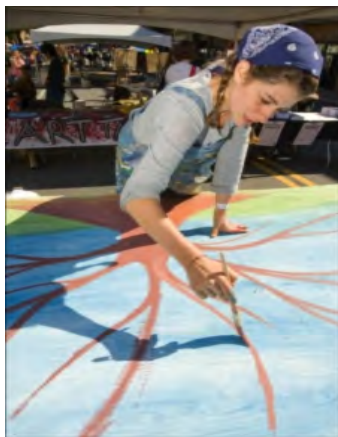
The following policies are in effect:

Lighted tobacco products may be used only in the areas designated in red on the map.

Smoking is restricted primarily to university parking lots, with the exception of the lot outside Parks Hall, and to a few additional designated areas such as the garden space behind Parks Hall and small areas outside Russell Auditorium, the library and Bell Hall. The map provides details.

[View Map](#)

Contact Information
Office of Student Affairs
student_affairs@gcsu.edu
Georgia College
Parks Hall, Room 206
Campus Box 27
Milledgeville, GA 31061
Phone (478) 445-5169
Fax (478) 445-6707



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Judicial Procedure for Alleged Violations of the Code of Student Life (2010-11 academic year)

POLICY TABLE OF CONTENTS

Copied below is the 2010-2011 academic year version of the Code of Student Life Judicial Procedures, which is applicable for incidents occurring after August 12, 2010.

For any incidents before August 12, 2010 please use the 2009-2010 Judicial Procedures for Alleged Violations of the Code of Student Life.

Judicial Procedure Flowchart (.pdf)

B-a. Judicial Procedure for Alleged Violations of the Code of Student Life

- 1. Introduction
2. Investigation by the Office of the Dean of Students
3. Resolution of Cases
4. Administrative Hearing Process
5. Appeals
6. Sanctions
7. Interim Sanctions and Other Temporary Restrictions
8. Compliance with Sanctions
9. Records
10. Criminal Charges
11. Minimum Sanctions for Violation of University Alcohol and Drug Policies
12. Responsible Action Protocol (aka Good Samaritan Policy)

1. Introduction

These procedures govern complaints accusing students of violating Rules 2-25 of the Code of Student Life except for complaints involving sexual misconduct or other designated offenses (see B-b below). The Dean of Students decides which procedure to use and assigns an administrator to the case. For cases of misconduct

Code of Student Life

Code of Student Life

Find out the Rules



Challenge Awards

Search input field with magnifying glass icon



Policy in a Nutshell



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Dean of Students Office 135 IMU University of Iowa Iowa City, IA 52242 Email: dos@uiowa.edu Phone: 319-335-1162

which occur in University Housing facilities, the Dean of Students may resolve the complaint under these Code of Student Life procedures or utilize the Housing disciplinary procedures. Other violations will be handled as follows:

- i. Alleged violations of Rule 1 (Academic Misconduct) are handled under the procedures described in Part C, Academic Misconduct.
- ii. Complaints of abuse of service privileges, such as overdue library books, parking violations, intramural sports infractions, and misuse of placement offices and computer services, are resolved within the particular department that provides the service in question.
- iii. Formal complaints about sexual misconduct should be made to the UI Sexual Misconduct Response Coordinator (335-6200). Sexual misconduct complaints are resolved under the Judicial Procedures for Allegations of Sexual Misconduct set forth in B-b below. When a complaint of sexual misconduct is filed with the Sexual Misconduct Response Coordinator and referred to the Dean of Students, the Dean of Students shall designate an administrator to investigate the complaint. The investigator designated by the Dean is referred to in B-b below as the Sexual Misconduct Enforcement Officer. The Dean of Students may also elect to resolve stalking complaints, no-contact order violations, and/or dating violence under the Sexual Misconduct procedures. Depending upon the procedural election of the Dean of Students, an allegation of student conduct in violation of Rules [2-17] of the Code of Student Life may be resolved under the procedures below or under the Judicial Procedures for Allegations of Sexual Misconduct.

Persons with questions as to which University procedures apply to a particular situation may contact the Office of the Dean of Students or the University Ombudsperson for more information.

2. Investigation by the Office of the Dean of Students

Any person may bring a complaint against a student under these procedures based on an alleged violation of the Code of Student Life (see extent of jurisdiction in introduction). Complaints alleging non-sexual misconduct in violation of Code of Student Life Rules 2-25 are made to the Office of the Dean of Students. When such a complaint of misconduct is made to the Office of the Dean of Students, an administrator (referred to as the Judicial Administrator) will be designated to investigate the complaint

In investigating a Code of Student Life complaint, the Judicial Administrator will gather relevant evidence to determine whether one or more misconduct rules were violated. The Judicial Administrator has the authority to issue interim sanctions during the investigation as explained below in Section 8. Based on the initial review of the complaint, the Judicial Administrator may send a Policy Reminder Letter to the student accused of misconduct. A Policy Reminder Letter is not considered a finding of responsibility, but rather a formal notice of University rules.

The investigation process is not open to the public. To ensure confidentiality of student record information, the process followed shall comply with all state and federal rules governing student records. The Judicial Administrator will notify the student accused of misconduct of the allegations in a Notice of Complaint letter in writing or by electronic mail. The letter will explain the Judicial Procedures for Alleged Violations of the Code of Student Life.

The Notice of Complaint letter may direct the accused student to attend a pre-scheduled meeting. At the meeting, the accused student has the right to respond to the charges, to submit documents and other relevant evidence, and to identify witnesses who may have information relevant to the complaint. The accused student also has a right to bring an advisor (e.g., attorney, parent, support person) to this meeting. If the accused student decides not to respond to the Notice of Complaint, the Judicial Administrator has the authority to complete the investigation without input from the accused student or to reschedule the meeting. If the accused student does not attend the meeting, the Judicial Administrator can impose sanctions, including sanctions for non-compliance, if the administrator determines that the accused student violated one or more Code of Student Life rules.

While the Judicial Administrator's investigation is pending, the person who brought the complaint and the

The Art of Recycling

Coca-Cola "The Art of Recycling: Polar Edition" Contest October 26th - November 28th Room 135...

Wishing all our Hawkeye students, families, and friends a Happy Thanksgiving Break. Safe travels and continue... <http://t.co/SXcdZpIG> 3 days ago
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Office of
Student Life

Recreational
Services

person accused of misconduct each have the right to know, upon request, of the status of the investigation. The student accused of misconduct may consult with the University Ombudsperson or other advisers during the investigation.

3. Resolution of Cases

The standard of proof under these procedures is preponderance of evidence. After completing the investigation and consulting with the Dean of Students, the Judicial Administrator may resolve a complaint in one of three ways: (1) dismiss all of the misconduct allegations without imposing sanctions; (2) determine that the accused student violated the Code of Student Life and that non-suspension sanctions should be imposed; or (3) determine that the accused student violated the Code of Student Life and that suspension or expulsion should be imposed.

a. Non-Suspension Sanction Cases

If the violation does not involve a possible suspension or expulsion, sanctions may be imposed by the Judicial Administrator. With the exception of university suspension or expulsion, the Judicial Administrator has the authority to impose on the accused student any one or a combination of the disciplinary sanctions listed below in Section 7.

The Judicial Administrator's findings of fact shall be summarized in a letter to the accused student. This letter shall also specify the sanctions imposed by the Judicial Administrator. The Judicial Administrator's letter to the accused student shall reference the appeal procedure and set a deadline for appealing the Judicial Administrator's decision to the Vice President for Student Services (see non-suspension case appeals in Section 6 below). Upon request, the accused student shall be given access, as provided by education record laws, to the documents and other evidence pertaining to the accused student which was compiled by the Judicial Administrator during the investigation.

b. Suspension Sanction Cases

In cases where a university suspension or expulsion may be warranted if the accused student is found guilty, the Judicial Administrator will consult with the Dean of Students. The Dean may choose to further investigate the complaint or to order a suspension hearing as described in Section 5 below. If the Dean of Students chooses to further investigate the complaint prior to ordering a suspension hearing, the Dean or designee will contact the accused student to schedule a meeting. At the meeting, the accused student has the right to respond to the charges, to submit documents and other relevant evidence, and to identify witnesses who may have information relevant to the complaint. The accused student also has a right to bring an advisor to this meeting.

i. Student Does Not Dispute Charges

In cases where the accused student acknowledges he or she violated the rules outlined in the Code of Student Life, the Dean of Students may suspend the student or impose non-suspension sanctions. The process for appealing sanctions issued by the Dean of Students in non-disputed cases follows the post-hearing appeal process described below in Section 6.

ii. Student Disputes Charges

In cases where the allegations are disputed by a student who is facing a university suspension, the Dean of Students shall schedule a formal administrative hearing. The hearing shall follow the process describe below.

4. Administrative Hearing Process

The Vice President for Students Services is responsible for designating administrators who may serve as Hearing Officers. The Dean of Students shall designate the Charging Officer for the case and the Hearing Officer from among those listed by the Vice President.

The accused student has the right to request a different Hearing Officer. This request must be made in writing to

the Dean of Students at least 2 University business days before the hearing is scheduled to begin. At the discretion of the Dean of Students, this request will be granted if the student can show that the original Hearing Officer has a conflict of interest or a demonstrated bias in the case.

The Charging Officer's role is to represent the University at the formal hearing and to coordinate the presentation of evidence against the accused student. The Dean of Students, the Judicial Administrator, or another appropriate person may be designated to be the Charging Officer.

a. Notice of Hearing

It is the responsibility of the Charging Officer to send the accused student the Notice of Hearing letter, with a copy to the Hearing Officer. The Notice of Hearing shall (1) set out the rule or rules which have been allegedly violated, (2) state the alleged actions or behavior, (3) list the names of any witnesses intended to be called by the charging party, (4) advise the student of his or her rights and of the hearing procedure, (5) state the time and place of the formal hearing, and (6) specify the sanction(s) to be imposed if the student is found guilty. Depending upon the hearing officer's findings, the Dean of Students may elect to reduce unilaterally the severity of the sanctions following receipt of the Hearing Officer's decision.

The accused student will be mailed or served the Notice of Hearing at least 7 University business days before the hearing. Notice of Hearing will be sent by U.S. mail, campus mail (for on-campus residents), electronic mail, or served personally. The accused student will receive notification of names of any additional witnesses intended to be called by the Charging Officer at least 2 University business days before the hearing is scheduled to take place.

b. Consolidated Hearings

The Dean of Students may elect to resolve two or more complaints against one student at a single hearing. In addition, the Dean of Students may elect to resolve a complaint against two or more students at separate hearings or at a single hearing in the event that the complaints arose out of the same transaction or occurrence. Any challenge about complaint consolidation or separation will be determined by the Hearing Officer. To challenge a decision to separate or consolidate a complaint, the accused student must notify in writing the Hearing Officer of the grounds for the challenge at least 2 University business days before the hearing is scheduled to take place.

c. Postponing the Hearing

If the accused student cannot appear at the time specified in the Notice of Hearing, the accused student must contact the Hearing Officer at least 2 University business days before the hearing is scheduled to arrange a different time for the hearing. If the accused student has not contacted the Hearing Officer and does not appear at the hearing, the Hearing Officer may make a decision on the charge.

d. Registration Withdrawal by Accused

After the Notice of Hearing letter has been sent to the accused student, the Dean of Students may elect to cancel the hearing if the accused student withdraws his or her registration from the University before the hearing. A restriction shall be placed on the registration of the student and the student's record shall indicate that he or she withdrew after a disciplinary complaint was filed. The student may petition the Dean of Students for reinstatement no sooner than one full semester after withdrawing from the University.

e. Rights of Accused Student at the Formal Hearing

The accused student has the following rights at a hearing: (1) to respond to the charges; (2) to present witnesses and evidence; (3) to cross-examine witnesses presenting evidence against the student as long as the questions are relevant, material, and not unduly repetitive; (4) to be represented by an adviser at the student's expense. Prior to the hearing, the student has the right to examine his or her disciplinary file in the Office of the Dean of Students. The student also has a right to know and review, upon request, the written documents or other physical evidence in the disciplinary file the Charging Officer plans to present at the hearing. To examine the disciplinary file or learn what documents will be presented at the hearing,

the student should contact the Office of the Dean of Students at least 2 University business days before the hearing is scheduled to take place and arrange a meeting.

f. Rights of Complaining Party at the Formal Hearing

The person who filed the complaint has the following privileges at a formal hearing if he or she elects to testify: (1) to present his or her side of the story; (2) to be accompanied by a person who may advise him or her of the hearing process; (3) to remain in the hearing room during the hearing; and (4) to be informed of the outcome of the hearing as permitted under federal laws governing confidential student record information.

g. Rules of Hearing Adjudication

The Hearing Officer shall preside at the hearing. At the start of the hearing, the Hearing Officer shall (1) inform the student of the charge, the hearing procedures, the sanctions to be imposed if found guilty, and his or her rights and (2) answer any questions the parties may have. The Hearing Officer shall hear and receive evidence to determine whether a violation of the Code of Student Life has occurred. The hearing shall be recorded.

After informing the student of the hearing procedures, the Hearing Officer shall ask the student charged to plead to each charge. If the student pleads not responsible, the Charging Officer shall present the University's case and shall offer evidence, which may include written testimony and witnesses, in support of the charge. Ordinarily, each witness will remain outside of the hearing room until called to testify and, once seated, will be requested to respond truthfully to the questions posed. The accused student may cross-examine the witnesses presented by the charging party. The accused student may then present his or her case and may offer evidence, including written testimony and witnesses. These witnesses shall be subject to cross-examination by the Charging Officer. The student and the Charging Officer may present character witnesses in cases where such evidence is relevant to the findings of fact.

If the student pleads responsible to all of the charges contained in the Notice of Hearing, the Hearing Officer may elect to conclude the hearing.

The Hearing Officer shall control the hearing process and maintain a level of decorum appropriate for a quasi-judicial proceeding at an educational institution. In the event the hearing is disrupted, the Hearing Officer may order individuals from the hearing room to preserve decorum.

h. Privacy and Partitions

The hearing shall be closed unless the accused student specifically requests in writing at least 2 class days before the hearing that the hearing be open. If the student requests an open hearing, the Hearing Officer may nonetheless elect to close all or part of the hearing. The Charging Officer may request that the Hearing Officer place partitions or other physical barriers in the hearing room between the complaining party and the accused student. If partitions are installed to prevent the two parties from viewing each other, the accused student shall have the opportunity to question the complaining witness even though the accused student cannot view the complaining party due to the partitions. A request to install partitions must be made in writing at least 2 class days prior to the hearing with a copy to the accused student.

i. Cross-examination

The process of cross-examination shall be determined by the Hearing Officer at the start of the hearing. Ordinarily, questions are submitted either verbally or in writing to the Hearing Office for evaluation first before the witness is asked to answer. A proposed question may be modified by the Hearing Office in order to mediate the question tone or to ensure the clarity of the question. Depending upon the preferences of the Hearing Officer, the Charging Officer and the accused student may be permitted to ask their questions directly to the witness.

j. Standard of Proof

The Charging Officer must show by a preponderance of evidence that the Code of Student Life was violated. The Hearing Officer may exclude irrelevant, immaterial, or unduly repetitive evidence. A finding by the Hearing Officer shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their serious affairs. Objections to evidence or witnesses may be made and shall be noted in the record.

k. Hearing Officer's Decision

The Hearing Officer's decision shall be issued in writing within 10 University business days after the conclusion of the hearing. Notification of Decision shall be sent to the Dean of Students with a copy to the accused student, the Charging Officer, and to other appropriate University officers. If the accused student is found not guilty of all Code of Student Life charges, the complaint will be considered dismissed and the sanctions listed on the Dean of Student's sanction document shall not go into effect unless the Hearing Officer's decision is modified on appeal.

If the accused student is found to have violated the Code of Student Life, the Dean of Students will review the hearing officer's written decision and the pre-hearing list of sanctions. If the Dean of Students decides to reduce the severity of the sanctions in light of the hearing officer's decision, the Dean of Students will write to the accused student and outline the final list of sanctions. The Dean of Students' notification of sanction letter shall include a statement of the appeal procedure. If the Dean of Students decides to impose the sanctions specified in the pre-hearing list of sanctions, the Dean of Students will write to the accused student and confirm his/her sanction decision by attaching a copy of the pre-hearing list of sanctions and a copy of the appeal procedure. The sanction document would then be placed in the student's disciplinary file in the Office of the Dean of Students.

It is the responsibility of the Dean of Students to notify the complaining party in writing of the outcome of the hearing and of the sanction in a timely manner consistent with federal and state privacy laws. The Dean of Student's letter to the complaining party should include a statement explaining the appeal procedure as set forth below.

5. Appeals

When a Judicial Administrator or Hearing Officer finds the accused student responsible for violating the Code of Student Life, the accused student has the opportunity to appeal the outcome and request an administrator review the decision and the sanctions. Appeals are administered either by the Vice President for Student Services or by the Office of the Provost, as explained below. Interim sanctions are appealed under a different process (refer to Section 8 for information about the process for modifying interim sanctions).

In some cases, a student who brought a complaint against another student has the opportunity to appeal the decision of the Judicial Administrator or Hearing Officer. In cases resolved at a formal hearing by a Hearing Officer, the Charging Officer is permitted to appeal the Hearing Officer's interpretation and application of the conduct regulations. The Charging Officer and the complaining student are not permitted to appeal the Hearing Officer's conclusions as to the facts of the case except to argue they are not supported by substantial evidence.

A party who wishes to appeal the decision or sanctions must file a written notice of appeal with the Office of the Dean of Students. The student may elect to include supporting materials along with the written petition. The petition for appeal should specify the basis for appeal by choosing one or more grounds from the list of grounds set forth below. For an appeal to be considered, a written petition must be received by the Office of the Dean of Students no later than 10 University business days following student's receipt of the written notice of the decision. The appeal may be submitted electronically, by fax or hard copy. If the appeal deadline passes without a written request for review, the sanctions listed in the decision letter to the accused student will become effective and the complaint will be considered resolved. When the Dean of Students receives a petition within the timeframe and confirms the case as appropriate for appellate review, the Dean will refer the entire record of the case to the Vice President for Student Services or the Office of the Provost, as explained below.

Any sanctions imposed shall ordinarily remain in effect while the outcome of the appeal is being considered. A

request to stay or suspend disciplinary action must be included in the notice of appeal, or the ability to seek a stay or suspension of disciplinary action is waived. Affirmative written approval by the Dean of Students is required to stay or suspend the disciplinary action.

Grounds for Appeal

The petition for appeal should specify the basis for appeal by choosing one or more grounds from the following list: (1) the decision to find the accused student guilty or not guilty was unsupported by substantial evidence when the information compiled is viewed as a whole; (2) with respect to issues disputed during the investigation, the decision was, as a whole, unreasonable, arbitrary, or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion; (3) the sanction imposed for the violation was unreasonably harsh or lenient when the nature of the violation and the disciplinary record of the accused student are considered; (4) the procedures were not properly followed and the error or oversight substantially compromised the student's rights; or (5) new evidence, not reasonably available at the time of the hearing, is of sufficient importance to warrant reconsideration by the Judicial Administrator, Dean of Students, or the Hearing Officer.

Appeals Review Process

Appeals in cases that do not result in suspension or expulsion are reviewed by the Vice President for Student Services or designee (Vice President). Appeals in suspension and expulsion cases are reviewed by the Provost or designee (Provost). The Dean of Students shall deliver the appeal petition and the student's disciplinary file to the Vice President or Provost no later than 10 University business days after the Dean's receipt of the notice of appeal. Depending upon the nature of the complaint, the status of the appellant, and the content of the appeal petition, the Dean may notify the complaining party and/or the accused student of the contents of the appeal.

Before delivering the student's file to the Vice President or Provost, the Dean may decide to insert in the student's disciplinary file a written response to the appeal petition. A copy of this letter will be sent to the person who filed the appeal. Within 10 University business days of the date the record is sent, the appealing party may respond to the letter submitted by the Dean of Students. Any response shall be in writing addressed to Vice President or the Provost, with a copy provided to the Dean of Students.

In cases resolved by the Judicial Administrator, the Vice President may determine to affirm the Judicial Administrator's decision on appeal after reviewing the information compiled by the Judicial Administrator during the investigation and the past disciplinary record of the charge student. Alternatively, the Vice President may determine to reverse or modify the outcome, or grant other appropriate relief, or remand the complaint to the Judicial Administrator with instructions to investigate the complaint further. If the Vice President for Student Services believes a university suspension may be warranted, the Vice President may order a formal suspension hearing (in which case the accused student would be notified of the time and place of the hearing and the name of Hearing Officer as explained Section 5). A decision by the Vice President to grant relief to the appellant shall be based on one or more of the grounds listed above. The Vice President's decision on appeal will be transmitted in writing to the Judicial Administrator, to the accused student, and to other appropriate University officials within 20 University business days following receipt of the appeal petition. A summary of the outcome of the appeal may be provided to the complaining party. The final decision on appeal, as well as the notices and other related documents, will be kept in the student's disciplinary file in the Office of the Dean of Students.

In suspension and expulsion cases, the Provost shall review the record of the case and the past disciplinary records of the accused student. The Provost or designee may decide to affirm the decision. Alternatively, the Provost or designee may determine to reverse or modify the outcome, or grant other appropriate relief, or remand the complaint to the Hearing Officer (in cases which were resolved at a formal hearing) with instructions to reconsider the decision. If no formal hearing was conducted by an Administrative Hearing Officer prior to the appeal and an issue of fact is in dispute which is material to the outcome of the case, the Provost or designee may refer the case back to the Dean of Students and order an evidentiary hearing. A decision by the Provost to grant relief to the appellant shall be based on one or more of the grounds listed above. In responding to an

appeal by the Charging Party, the Provost or designee may affirm or modify the Hearing Officer's interpretation of the student conduct rules.

The decision on appeal and the reasons therefore will be transmitted in writing to the person who filed the appeal, to the accused student, the Charging Officer (in a case resolved at a hearing), to the Dean of Students, and to other appropriate University officials within 20 University business days of the receipt of the appeal petition. A summary of the decision on appeal may be provided to the complaining party. The decision of the Hearing Officer and the final decision on appeal, as well as the notices and other related documents, will be kept in the student's disciplinary file in the Office of the Dean of Students.

6. Sanctions

The following sanctions are to serve as guidelines rather than as a definitive list of sanctions. A single sanction or a combination of sanctions may be imposed.

- i. **Disciplinary Warning:** This sanction is a strong, written warning that if there is a repetition of the same action or any other action in violation of the Code of Student Life, the student can expect additional disciplinary action.
- ii. **Disciplinary Probation:** When on disciplinary probation a student is not considered to be in good standing with respect to the non-academic disciplinary system and any further violations may lead to suspension or expulsion from the University.
- iii. **Restitution and Fines:** A student may be assessed reasonable expenses related to the misconduct. This may include, but is not limited to, the repair/replacement cost for any damage he or she causes to property or medical or counseling expenses incurred by the victim. If a student violates a residence hall policy that calls for the imposition of a fine, a fine will be assessed consistent with residence hall practice.
- iv. **Educational Sanction:** A student may be required to provide a specific service or participate in a specific program, receive specific instruction, or complete a research assignment. The student is responsible for related expenses, including expenses for education, counseling, or treatment, if any expense is entailed.
- v. **Exclusion from University Facilities or Activities:** A student may be terminated from employment or prohibited from accessing University computer equipment or internet connections, attending a class, undertaking University employment, entering a building, participating in a co-curricular activity recognized or sponsored by the University, representing the University in an official capacity, or using other services provided by the University. Such exclusion may be for a definite or indefinite period of time.
- vi. **Disciplinary Suspension:** A student may be involuntarily separated from the University for a stated period of time after which readmission is possible. A student with one or more violations may be suspended from the University for an indefinite period of time. A student suspended indefinitely may petition to the Dean of Students for reinstatement.
- vii. **Expulsion:** When a student has a record of serious violations, he or she may be dismissed from the University permanently.
- viii. **Residence Hall Suspension or Transfer:** A student may be involuntarily removed from the residence halls or transferred to a different hall or floor. Unless specifically permitted to do so by the Dean of Students, a student suspended from the residence halls is ineligible to use residence hall services, including board plans, and may not enter the residence halls. For purposes of progressive discipline, a student suspended from the residence halls may be suspended or expelled from the University if he or she is found to have violated the Code of Student Life subsequent to the housing suspension.
- ix. **No-Contact Order:** A student may be prohibited from intentionally contacting a student, employee, or visitor to campus in any manner at any time. Such prohibition may be in effect for a specific or an indefinite period of time.

7. Interim Sanctions and other Temporary Restrictions

A student may be suspended from the University or have privileges revoked pending the outcome of a disciplinary proceeding if, in the judgment of the Dean of Students or the Judicial Administrator assigned to the case, the student's continued presence or use of privileges at the University pending the outcome of the proceeding is likely to cause harm to faculty, staff, other students, other specified persons or groups, or University property. The Dean of Students or Judicial Administrator will base an interim sanction judgment on evidence gathered in the initial stage of an investigation of the alleged conduct. Ordinarily, the Dean or Judicial Administrator will converse with the student when interim suspension is considered.

A student suspended or restricted under this section may seek review of that decision by requesting the Dean of Students reconsider the decision within 5 University business days after the student has received a notice of interim sanctions. If not satisfied with the response, the student may request that a University disciplinary hearing be held to resolve the merits of the complaint. When a student restricted on an interim basis requests a hearing to resolve the complaint, the type of hearing provided will be determined by the Dean of Students. If the Dean of Students decides to recommend a suspension or expulsion from University classes as the permanent sanction if the student is found responsible for violating Code of Student Life rules, the Dean will order a suspension hearing and assign a Hearing Officer to adjudicate the complaint. When the Dean of Students decides to recommend a sanction less than suspension if the student is found responsible for violating Code of Student Life rules, the Dean will assign a Judicial Administrator to adjudicate the complaint.

8. Compliance with Sanctions

Students who fail to comply with a sanction in a reasonably timely manner are subject to additional disciplinary action, which may include Suspension from the University. The Dean of Students' authority to take additional disciplinary action in cases of non-compliance extends to complaints resolved through informal agreement, complaints resolved at a formal hearing, and complaints resolved by another University department such as University Housing.

In the event that a student fails to comply with a sanction and the Dean of Students is prepared to impose a suspension, the student will be notified of the apparent failure to comply and of the Dean of Students' intent to suspend, and provided an opportunity to meet personally with the Dean of Students and explain the circumstances prior to a final decision by the Dean of Students. A student suspended for failing to comply with a sanction may appeal the Dean of Students' decision to the Provost but is not entitled to a formal hearing before a Hearing Officer. All appeals must be made in writing to the Provost within 10 business days following the date of the decision by the Dean of Students.

9. Records

If disciplinary action is taken against a student under these procedures and a sanction imposed, a record of the action will be kept by the Office of the Dean of Students. Ordinarily, disciplinary records are kept on file until a student graduates or 3 years following resolution of the case, whichever is longer. In suspension or expulsion cases, the disciplinary records are maintained indefinitely.

Under federal law, disciplinary records are part of the education records of the student and, consequently, are not ordinarily available for public disclosure or discussion without prior written permission from the student. There are exceptions in the law to the non-disclosure rule, and the Office of the Dean of Students reserves the right to disclose information contained in education records to other persons or to the public as permitted under the law (refer to "Student Records Policy," Section I.C of Policies & Regulations affecting Students).

10. Criminal Charges

Students who face criminal charges may also be subject to University disciplinary sanctions if the conduct which gave rise to the criminal charges also violates the Code of Student Life. An initial investigation may be undertaken before criminal procedures have concluded in order to determine whether interim sanctions are to be invoked. The Dean of Students or the Judicial Administrator may elect to delay the resolution of a Code of Student Life complaint if criminal charges are pending. If the Dean of Students elects to do so, the Code of Student Life complaint will be resolved after the criminal charges are resolved unless the student requests a

hearing to resolve a University complaint while criminal charges are pending.

University regulations and procedures are distinct from criminal statutes and procedures. The outcome in a criminal or civil proceeding is not dispositive of the question of whether the Code of Student Life was violated in all cases. If convicted in criminal court of conduct prohibited under the Code of Student Life, a student will be considered responsible for violating University conduct regulations and therefore subject to disciplinary sanctions. For purposes of these procedures, a conviction includes a guilty plea, jury verdict, judicial decision, or deferred judgment.

In the event a convicted student files a criminal appeal, the University will consider the question of criminal guilt to be final only after the matters on appeal have been resolved, although the Dean of Students may impose an interim sanction pending the outcome of an appeal or proceed with disciplinary charges. Due to the less stringent standard of proof under the Code of Student Life judicial procedures (i.e., the preponderance of evidence), a student accused but not convicted of a crime following a trial is still subject to University disciplinary action if found responsible of violating the Code of Student Life by a Judicial Administrator or Hearing Officer.

11. Minimum Sanctions for Violations of the University Alcohol and Drug Policies

Because of the threat to the health and safety of our students, the University has established mandatory minimum sanctions for alcohol and drug violations.

Alcohol and drug violations, both on and off-campus, shall include, but not be limited to the following:

Alcohol

- Possession of alcohol under the legal age (PAULA)
- Public intoxication
- Manufacture, use, or possession of false identification
- Alcohol related trip to an Emergency Room
- Operating a motor vehicle while intoxicated (OWI)
- Involvement in a crime while under the influence of alcohol
- Possession or consumption of alcoholic beverages in University Residence Halls, fraternity houses, or sorority houses
- Possession or consumption of alcoholic beverages on University property outdoors or in other public areas of campus

Drug

- Possession of a controlled substance
- Possession of drug paraphernalia
- Driving under the influence of drugs
- Drug trafficking
- Involvement in a crime while under the influence of drugs

Steps

Sanctions usually begin at Step 1 and are progressive in nature. However, the type of violation or circumstances may modify the sanctions. The modification may result in more severe or lenient sanctions.

Because of the serious and potentially life-threatening consequences, Operating under the influence (OWI) or a

trip to the Emergency Room with a Blood Alcohol Content equal to or greater than .20 will automatically be considered to be 2nd step offenses. Possession of marijuana over 10 grams and other illegal drug offenses also normally result in 2nd step sanctions, except for drug trafficking offenses which are considered 3rd step offenses. If a student has been suspended after reaching the 3rd step and is readmitted to The University of Iowa, the student is readmitted at the 2nd step.

1st Step

- Parent/Guardian notification, if the student is under 21.
- Satisfactory completion of a defined alcohol education program.
- Assignment to meet with Critical MASS advisor.
- Disciplinary Warning.

2nd Step

- Parent/Guardian notification with a follow-up telephone call, if the student is under 21.
- Satisfactory completion of a recommended alcohol or drug counseling program.
- Disciplinary Probation for remainder of current semester and the following two semesters (Fall or Spring) enrolled at the University. Probation extends through any intervening summer terms, inter-sessions, and/or any institutional breaks.
- Ordinarily, cancellation of a student's Housing contract if the student lives in a residence hall.

3rd Step

- Parent/Guardian notification, if the student is under 21.
- Suspension from the University for at least one complete Fall or Spring semester following the suspension's effective date, including any intervening summer terms or inter-sessions. The Dean of Students may elect for the suspension to take effect immediately or to take effect upon completion of the current semester or term.

Removal and Deferral of Steps

Any student disciplinary record is maintained in the Office of the Dean of Students as described in Section 10 above.

Students who have received a 1st step sanction may request that the step and the record be removed from their student disciplinary file. A request must be made in writing to the Dean of Students. In order to be eligible to have the step removed, the student must meet the following criteria and present supporting documentation:

- It has been at least 12 months since the disposition of the offense by the University.
- The student has not received any additional Code of Student Life charges or any alcohol or drug related offenses on or off campus in the past 12 months.
- The student completed all sanctions required by the University and, if applicable, the court having jurisdiction over the matter.

Removal of a 1st step is at the sole discretion of the Dean of Students. Additionally, this opportunity for a student to have the 1st step removed does not apply to violations which may have resulted in a sanction above the 1st step.

At the discretion of the Dean of Students, a student receiving a PAULA or similar violation may be granted a deferred 1st step. A deferred 1st step will not be considered an "offense" and will not be maintained as a disciplinary record. However, a letter may be sent to the student's parents notifying them of the violation. If the student receives another alcohol offense of any nature, within a 12-month period, the deferral of the 1st step may be revoked and the second alcohol offense may be considered a 2nd step violation. Moreover, students are only entitled to one deferred step during their attendance at the University.

12. Responsible Action Protocol (aka Good Samaritan Policy)

The health and safety of its students is of primary concern to the University of Iowa. The UI is aware that students are sometimes reluctant to seek medical attention in alcohol and drug related emergencies out of fear they may face University sanctions related to possessing or consuming alcohol or drugs. Because these emergencies are potentially life-threatening, the University of Iowa wants to do what it can to reduce barriers that prevent students from seeking assistance.

University staff members are available to provide medical assistance to students whose health is at risk due to excessive consumption of alcohol and/or drug abuse. **When someone is in danger, a student should not hesitate to contact a staff member or to call 9-1-1.** In most situations, administrators will not impose disciplinary sanctions on the caller or on the impaired student if timely action is taken to alert emergency personnel.

The Responsible Action Protocol

A student who calls for or seeks emergency assistance on his/her own behalf or on behalf of a student experiencing an alcohol or other drug related emergency will not, in most cases, be subject to status sanctions such as disciplinary probation or suspension under the Code of Student Life. However, the Dean of Students may require completion of alcohol and/or other drug education/counseling. The dean may also notify the student's parents of the alcohol or drug violation.

Scope of Protocol

1. The Responsible Action Protocol applies to students who seek and obtain emergency assistance on their own behalf or on the behalf of another student for a medical emergency related to consumption of drugs and/or alcohol. When a student calls on behalf of an impaired individual and remains with that individual until medical assistance arrives, the caller may not be subject to disciplinary action for violating University alcohol and/or drug rules so long as the caller cooperates with emergency responders.
2. An "emergency" communication is a timely contact with 9-1-1 or University Housing staff when those staff members are not yet aware of the situation. The Responsible Action Protocol does not apply to individuals who telephone friends for assistance, for example, or who experience an alcohol or drug-related emergency that is first discovered by University employees or public safety officials.
3. In most cases, neither the student requiring emergency assistance nor an individual or group who assists will be subject to punitive University disciplinary action. This protocol does not excuse or protect those who flagrantly or repeatedly violate the Code of Student Life and the University Housing Guidebook in regard to alcohol or illegal drug use.
4. The Responsible Action Protocol does not apply if the caller purchased, supplied, or otherwise made available the alcohol or other drug to the student needing medical assistance.
5. If a representative of an organization hosting an event calls for medical assistance, this act of responsibility may mitigate potential judicial consequences that could arise against the organization (i.e., the fact that an organization representative sought help may be considered in potential sanctioning of the organization for policy violations).
6. The protocol applies ONLY to the Code of Student Life and to the University Housing Guidebook. Law enforcement agencies enforcing the laws enacted by the State of Iowa within their jurisdictions, including

University of Iowa Police, are not bound by this protocol.

7. The Responsible Action Protocol applies only to alcohol and other drug-related medical emergencies. It does not apply to other prohibited behavior such as disorderly conduct (including physical or verbal abuse), property damage, or distribution of illicit substances.

8. In those cases where a student has been a victim of sexual misconduct while under the influence of alcohol, the Dean of Students will not pursue disciplinary violations against the student (or against a witness) for his or her improper use of alcohol or drugs (e.g., underage drinking) if the student is making a good faith report of sexual misconduct. A student who is under the influence of alcohol or drugs at the time of a sexual misconduct incident should not be reluctant to seek assistance for that reason. In addition, law enforcement authorities in Johnson County have a policy of not pursuing charges for improper use of alcohol against a victim of sexual assault.

Requirements of Protocol

Students considered for the Responsible Action Protocol are required to meet with an administrator from the Office of the Dean of Students or University Housing following the incident. When one student seeks emergency assistance on behalf of another student, both students may be required to meet with the administrator. After evaluating the situation, the administrator may refer either or both students to a substance abuse specialist for assessment, education, and/or possible referral for treatment. Students who are referred for substance abuse counseling, but fail to meet with the counselor and/or fail to complete the recommendations, will be subject to disciplinary action.

Non-emergency referrals for substance abuse counseling are always confidential. Counselors and hospital staff will not disclose the name of a student who has sought counseling assistance to individuals outside of the campus health centers without permission from the student.

Even if disciplinary action is not taken, the Dean of Students reserves the right to notify the student's parents, per standard practice. In accordance with the Discipline Records Management protocol, a case file will be maintained for reference should subsequent alcohol or other drug violations occur. In those subsequent cases, administrators will take into account the previous emergency incident when considering sanctions. Academic transcripts will not reflect the incident.

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Good Samaritan Provision

University of Northern Iowa Student Conduct Code

The health and safety of our students is of the highest priority. At times students may need immediate medical or other professional assistance. However, students may be reluctant to get help because of concerns that their own behavior may be a violation of the student conduct code. To minimize any hesitation students or student organizations may have in obtaining help due to these concerns, the University has enacted the following “good samaritan” provision.

Students who seek medical assistance for themselves or another person who is intoxicated due to alcohol and/or drugs will not be subject to university disciplinary action, except when it has been determined that another violation of university policy has occurred (for example destruction of university property; fire safety violation; physical harm to another person, etc.). This includes an alleged victim of sexual misconduct or another student who shares information as either a witness to or as a reporter of sexual misconduct as long as the report is made in good faith. In order for this policy to apply, the student must agree to complete any and all recommended educational programming or other treatment recommended by the Dean of Students or a Student Conduct Administrator.

Examples where this policy would apply include:

1. A student is reluctant to call an ambulance when a friend becomes unconscious following excessive consumption of alcohol because the reporting student is under the age of 21 and was also consuming alcohol.
2. A student is reluctant to report that he/she has been sexually assaulted because he/she had been consuming alcohol and is under the age of 21.

Any exemption from disciplinary action granted under this policy may only apply to disciplinary action

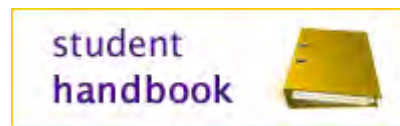
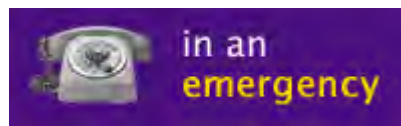
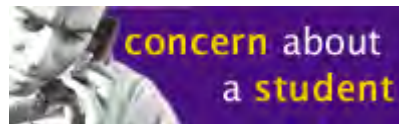
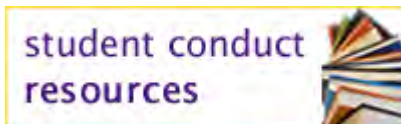
and/or sanctions under the Student Conduct Code and does not apply to any criminal action taken by law enforcement, such as issuing a citation or making an arrest.

While this provision applies to individual students, if an organization has been found in violation of the Student Conduct Code, then the organization's willingness to seek medical assistance for a guest may be viewed as a mitigating factor if or when sanctions are issued.

Office of the Vice-President for Student Affairs
President's Cabinet Approval August 31, 2009

Quicklinks

- [Safe Zone Ally Orientation](#)
- [Northern Iowa Student Government](#)
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- [Student Handbook](#)
- [UNI Police](#)
- [Violence Intervention Services](#)
- [Welcome Week Schedule](#)



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Medical Amnesty Policy (MAP)

It is imperative that someone calls for medical assistance when an individual experiences severe intoxication or a serious injury after consuming alcohol or other substances. People may be reluctant to seek help in such alcohol or other substance related emergencies because of potential judicial consequences for themselves or the person in need of assistance. Since these emergencies are potentially life threatening, the Medical Amnesty Policy reduces or eliminates disciplinary consequences for students who obtain medical help for an intoxicated student or guest or even for themselves.

This policy is part of Washington College's comprehensive approach to **reducing harmful consequences** caused by the consumption of alcohol or other drugs. The Medical Amnesty Policy represents the College's **commitment to increasing the likelihood that community members will call for medical assistance when faced with an alcohol or substance-related emergency**. The Medical Amnesty Policy also provides education for individuals who receive emergency medical attention to reduce the likelihood of future occurrences.

How does the Medical Amnesty Policy work?

The Medical Amnesty Policy reduces or eliminates disciplinary consequences when medical help is obtained for an intoxicated student as follows:

Person in need of medical attention

If an individual who receives emergency medical attention related to his or her consumption of alcohol or other substances completes a required educational follow-up at Health Services and/or with the Director of Student Development he or she will **not be subject to judicial action** for the following policy violations should they occur at the time of the emergency:

- underage consumption and/or possession of alcohol and illegal drugs
- disorderly conduct

A person in need of medical attention is eligible for medical amnesty on more than one occasion.

Calling on behalf of someone else

An individual who calls for emergency assistance on behalf of a person experiencing an alcohol-or other substance related emergency would not be subject to judicial action for the following policy violations should they occur at the time of the emergency:

- underage consumption and/or possession of alcohol
- provision of alcohol to an underage person

For more information about the Medical Amnesty Policy, contact Beth Anne Langrell, the Director of Student Development, blangrell2@washcoll.edu.

University of Florida - Division of Student Affairs

The Dean of Students Office

Student Conduct and Conflict Resolution

Frequently Asked Questions: UF Medical Amnesty Policy (MAP)

What Is the Purpose of the Medical Amnesty Policy?

The University of Florida is committed to promoting a safe and healthy environment for **all** students. The Medical Amnesty Policy is designed to encourage students to make responsible decisions and seek prompt, professional, medical assistance and treatment in serious or life-threatening situations that result from alcohol and/or other drug abuse such as alcohol poisoning or drug overdose. MAP seeks to diminish fear of disciplinary and conduct sanctions in such situations and to encourage individuals and organizations to seek needed medical attention for students in distress from alcohol and drug use.

How Does the Medical Amnesty Policy Work?

In serious or life-threatening situations, particularly where alcohol poisoning or drug overdose is suspected or where other medical treatment is reasonably believed to be appropriate, students are asked to take the following steps:

- Call 911.
- Stay with the person needing assistance until help arrives.
- Be prepared to give the emergency medical personnel as much information as possible including the amount and type of alcohol or substances consumed.

If a student is so intoxicated s/he is unable to be awakened, letting that person "sleep it off" is not a reasonable alternative to getting him/her the necessary medical help.

What Happens After Medical Help Is Provided?

The following next steps outline the process after medical help is provided to students in need of medical attention as a result of alcohol and/or drug use:

1. The situation is first evaluated by the Dean of Students Office to determine if the Medical Amnesty Policy applies.
2. If the situation qualifies, students are required to meet with a staff member at the GatorWell Health Promotion Services office.
3. The staff member, after evaluating the situation, may also refer the student to a substance abuse specialist for assessment, counseling, and/or possible referral for treatment.

Students who are referred but fail to meet and complete the recommendations in their entirety may be subject to additional requirements after an opportunity to meet with a staff member from the Dean of Students Office.

Will My Parents Find Out?

Possibly, but not necessarily. If a registered student is transported to an emergency medical treatment center for alcohol or drug use, the student's parents or guardians may be notified by a phone call from the Dean of Students Office if necessary to protect the health or safety of the student or other individuals.

Does the Medical Amnesty Policy Protect Students from Police or Legal Actions?

No. The Medical Amnesty Policy only applies to the UF Student Code of Conduct, Housing & Residence Education Community Standards, and Greek Life policies. It does not prevent or preclude police or other legal actions.

Will Incidents Involving the Medical Amnesty Policy Be on My Academic Record?

No. Medical Amnesty Policy incidents will not be entered on the student's official academic record.

Does the Medical Amnesty Policy Cover Student Groups and Organizations?

If a representative of a UF student organization hosting an event calls for medical assistance, this act of responsibility might mitigate potential Student Conduct Code consequences, i.e., the fact that an organization sought help will be favorably considered in potential sanctioning for university policy violations.

UF student organizations involved in an incident must agree to take recommended steps to address concerns.

In appropriate situations as determined in the conduct process, mitigation could result in the requirement of participation in an educational program or educational activities rather than other disciplinary consequences.

What Does the Medical Amnesty Policy Apply To?

The Medical Amnesty Policy applies to the following situations:

- UF students who initiate and seek assistance and/or medical treatment on behalf of him- or herself, another student, or a friend experiencing an alcohol and/or other drug related emergency.
- UF students' use of alcohol or drugs where medical attention is needed.
- UF students who are a victim of sexual assault and have also engaged in underage alcohol consumption.

What Does the Medical Amnesty Policy NOT Apply To?

Other prohibited behavior such as illegal distribution of illicit substances, harassment, or assault.

Is There a Limit to the Number of Times the Medical Amnesty Policy Can Be Used?

No. Students are always encouraged to look after their friends and peers, and are encouraged to take responsible actions anytime they are necessary.

However, if a student is involved in **repeat** alcohol and/or drug abuse incidents, the following will occur:

1. The situation will be evaluated by the Dean of Students Office and/or the Coordinator of Residential Judicial Programs to determine if the student qualifies for medical amnesty.
2. The availability of medical amnesty for students with repetitive violations will be determined on a case by case basis.
3. Situations will be handled through the regular conduct process and will be considered for sanctioning purposes if a student does not demonstrate a commitment to the recommended steps and is involved in repetitive alcohol and/or drug abuse incidents.

What Other Institutions Have Implemented a Similar Policy?

Several universities have created and implemented either a Medical Amnesty Policy or a Good Samaritan Policy. These institutions include but are not limited to: Cornell University, University of Toledo, University of Pennsylvania, Emory University, Tulane University, Clemson University, Rollins College, Northwestern University, University of Georgia, University of Kansas, Ohio State University, University of Texas at Austin, and University of Virginia.

What Is Alcohol Poisoning?

Alcohol poisoning is another term for an alcohol overdose, which may occur when individuals consume so much alcohol that their bodies can no longer process it fast enough. Alcohol poisoning and overdoses are potentially lethal; the human body simply cannot tolerate or process excessive amounts of alcohol. Too many college students have died as a result of alcohol poisoning.

What Are the Signs or Symptoms of Alcohol Poisoning or Overdose?

The signs or symptoms of alcohol poisoning include (not all of these need to be present):

- Confusion or stupor
- Vomiting while passed out, not waking up after vomiting, or incoherent while vomiting
- Seizures
- Breathing is slow (less than 8 breaths per minute) or irregular, with 10 seconds or more between breaths
- Weak pulse, very rapid pulse, or very slow pulse
- Cold, clammy, pale or bluish skin
- Loss of consciousness: Inability to awaken a person with loud shouting, or inability of a person to remain awake for more than 2-3 minutes or to carry on a coherent conversation when awake (semi-conscious)

*A person who has lost consciousness and cannot be awakened is in danger of dying. Help is needed immediately.

How Do I Help a Friend Who Might Be Experiencing Alcohol Poisoning or Overdose?

1. Call 911. Then (if you are in the residence halls) call or send someone else to notify your RA on duty, but don't leave the person alone.
2. Stay with the person until emergency help arrives.

3. Be prepared to give the emergency medical personnel as much information as possible including the amount and type of alcohol or substances consumed.

What Should I NOT Do When Helping Someone Experiencing Alcohol Poisoning or Overdose?

- **Do not hesitate to call 911.** The person's life is in danger. Better to be safe than sorry.
- **Do not leave the person alone.** The person may seem to be okay, but the alcohol ingested may take some time to be absorbed before peak levels are reached in the brain.
- **Do not try to give the person anything to eat or drink.**
- **Do not put the person in a cold shower.** The person could fall or the shock could make him/her pass out.
- **Don't just let him or her "sleep it off."**

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Phone: (352) 392-1261; Fax: (352) 392-5566



Northeastern University

OPEN

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Medical Amnesty Policy

OPEN Check-Ins

electronic CHECKUP To Go/ Online Self Checks

OPEN Group Signup & Information

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Other Resources

In cases of a drug or alcohol emergency, the primary concern is the health and safety of the individual(s) involved. Students/organizations are strongly encouraged to call for medical assistance (617.373.3333) for themselves or for another student who they observe to be or feel is dangerously intoxicated/under the influence of alcohol or drugs. If a student/organization calls on behalf of another student, that student/organization is required to remain with the student experiencing the emergency until medical assistance arrives.

No student seeking medical assistance for an alcohol or other drug-related emergency will be subject to University disciplinary action for the violation of possession or consumption of alcohol or drugs. This policy shall extend to the referring student/organization who called for medical assistance.

The student requiring medical assistance (and possibly the referring student(s)/organization) will be required to contact the Office of Prevention and Education at Northeastern within two weeks of written notification to schedule a meeting and follow-up plans. As long as the student/organization complies with all directives, there will be no disciplinary action taken related to the violation of possession or consumption of alcohol or drugs and no disciplinary record of the incident kept in the Office of Student Conduct and Conflict Resolution.

This policy applies only to those students or organizations who seek emergency medical assistance in connection with an alcohol or drug-related medical emergency and does not apply to individuals experiencing an alcohol or drug-related medical emergency who are found by University employees (e.g., Northeastern University police, faculty, administrative staff, or residence hall staff), or where the reporting student(s)/organization did not stay with them.

The Medical Amnesty Policy is not intended to shield or protect those students or organizations that repeatedly violate the Code of Student Conduct. *In cases where repeated violations of the Code of Student Conduct occur, the University reserves the right to take disciplinary action on a case-by-case basis regardless of the manner in which the incident was reported.*

Medical amnesty applies only to alcohol or other drug-related emergencies *but does not apply to other conduct violations such as assault, property damage, or distribution of illicit substances*. If other violations occur, then a student will face disciplinary charges for those violations. The use/or abuse of alcohol or drugs is never considered a mitigating circumstance for any other violations of the [Code of Student Conduct](#).

Medical amnesty applies only to the University response to a medical emergency. Criminal/ police action may still occur separately from the [Office of Student Conduct and Conflict Resolution](#).

Have questions about Medical Amnesty? Check out the [January 2010 Husky Headlines](#); it covers the Medical Amnesty Policy and answers common questions like *Why does Northeastern have a Medical Amnesty policy? How does Medical Amnesty work? In the crime log in the Huntington News, it sounds like you have to go to OSCCR in cases of medical amnesty, are you in trouble anyway?*

You can also always contact OPEN with any questions at: open@neu.edu or 617-373-4459.



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Amnesty Policy

Student health and safety are of primary concern at the College. As such, in cases of extreme intoxication as a result of alcohol or other substances, the College encourages individuals to seek medical assistance for themselves or others. If an individual seeks medical attention due to a concern for health or safety as a result of consumption, the Dean of Students Office will not pursue student conduct sanctions against the student for violations of the Alcohol Beverage Policy or the Drug Policy. Additionally, those students who assist in obtaining medical attention for individuals who are intoxicated will not receive sanctions for violations of the Alcohol Beverage Policy or possession of drugs under the Drug Policy of the Student Code of Conduct.

This policy does not preclude sanctions due to any other violations of the Code of Conduct (not related to the Alcohol Beverage Policy or Drug Policy). Likewise, the Medical Amnesty Policy does not prevent action by police or other law enforcement personnel.

This policy does not grant amnesty for possession *with intent to distribute drugs*.

In lieu of sanctions, the intoxicated student, as well as the referring student(s), will be required to meet with a member of the Dean of Students staff who may issue educational requirements that may include, but are not limited to, alcohol and/or drug education, counseling, and/or a substance abuse assessment. Serious or repeated incidents will prompt a higher degree of concern/response. Failure to complete educational assignments or treatment recommendations issued under this policy normally will result in disciplinary action. The student will be responsible for any costs associated with drug or alcohol education interventions.

Application to Student Organizations:

In circumstances where an organization is found to be hosting an event where medical assistance is sought for an intoxicated guest, the organization (depending upon the circumstances) may be held responsible for violations of the Alcohol Policy or Drug Policy. However, the organization's willingness to seek medical assistance for a member or guest will be viewed as a mitigating factor in determining a sanction for any violations of the Alcohol Policy or Drug Policy.

Disclosure of Amnesty Incidents:

The College may disclose amnesty incidents if a student is requesting that their discipline record be shared with Study Abroad, the Student Conduct system, and Residence Life when considering applicants for employment.



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OFFICE OF STUDENT CONDUCT

Medical Amnesty Policy

I. Philosophy

- a. The health and safety of members of the Lehigh University community is a primary concern.
- b. Students need to seek immediate medical attention for themselves or others when someone's health and/or safety is at risk.
- c. Students may be reluctant to seek assistance for themselves or someone else for fear of facing action from the Office of Student Conduct.
- d. Lehigh University seeks to remove barriers that prevent students from seeking the medical attention they need.

II. POLICY

Note: *This Policy only provides amnesty from violations of the Lehigh University Code of Conduct. It does not grant amnesty for criminal, civil, or legal consequences for violations of Federal, State, or Local law.*

- a. Students who seek emergency medical attention for themselves related to consumption of drugs or alcohol will not be charged with violations of the Lehigh University Code of Conduct related to that consumption (specifically: Art III, Section V., A,B,C,D), provided that the student subsequently completes an evaluation and any recommended treatment at the University Counseling and Psychological Services center within a reasonable time frame to be determined by the Office of Student Conduct. Failure to complete this evaluation/treatment may result in charges being filed with the Office of Student Conduct.
- b. Students who seek emergency medical attention for someone else will not be charged with violations of the Lehigh University Code of Conduct related to consumption of alcohol or drugs (specifically: Art III, Section V., A,B,C,D), or intoxication, provided that the student subsequently completes an evaluation and any recommended treatment at the University Counseling and Psychological Services center within a reasonable time frame if determined necessary by the Office of Student Conduct.
- c. Student Organizations are required to seek immediate medical assistance for their members or guests when any potential health risk is observed, including medical emergencies related to the use of alcohol and/or drugs. A Student Organization that seeks immediate assistance from appropriate sources will not be charged with violations of the Lehigh University Social Policy or the Code of Conduct related to providing alcohol, providing that the organization completes any educational programming required by the Office of Student Conduct and the Office of Fraternity and Sorority Affairs. However, the organization can and will be held accountable for any other violations of the Code of Conduct related to the incident (e.g. endangering the health or safety of others, covered smoke detectors, etc.). Student Organizations that fail to seek immediate medical assistance for members or guests in need of attention will likely be charged with violations of the Code of Conduct and face dissolution or termination as the outcome of such charges. It is imperative that student organizations seek medical assistance for their members or guests in such an emergency situation.
- d. This Policy applies only to those students or organizations who seek emergency medical assistance in connection with an alcohol or drug-related medical emergency and does not apply to individuals experiencing an alcohol or drug-related medical emergency who are found by University employees. (i.e. University Police, Faculty, administrative staff, residence hall staff including gryphons)
- e. The Lehigh University Medical Amnesty Policy is not intended to shield or protect those students or organizations that repeatedly violate the Code of Conduct. In cases where repeated violations of the Lehigh University Code of Conduct occur, the University reserves the right to take judicial action on a case by case basis regardless of the manner in which the incident was reported. Additionally the University reserves the right to adjudicate any case in which the violations are egregious.
- f. The Office of Student Conduct reserves the right to contact any student to discuss an

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CONTACT US

DOS HOME

incident whether or not the Lehigh University Medical Amnesty Policy is in effect.

**FOR ASSISTANCE IN AN EMERGENCY SITUATION CONTACT THE LEHIGH UNIVERSITY POLICE AT
ext. 84200**

Office of Student Conduct
227-229 Warren Square, Bethlehem, PA 18015 | 610.758.4632

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- About Us.
- Penn Plays Safe.
- Play Safe.

Get help

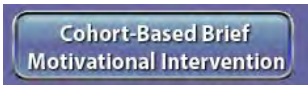
- First Step
- Education and Prevention Activities and Initiatives
- Prescription Drug Abuse
- Say Something

Host an event

- Hosting an event with alcohol

Penn's Alcohol and Other Drug Policy

Medical Amnesty Policy



The University Alcohol and Drug Policy Section II, paragraph A3

In cases of intoxication and/or alcohol poisoning, the primary concern is the health and safety of the individual(s) involved. Individuals are strongly encouraged to call for medical assistance (511 on campus, 911 off campus) for themselves or for a friend/acquaintance who is dangerously intoxicated.



No student seeking medical treatment for an alcohol or other drug-related overdose will be subject to University discipline for the sole violation of using or possessing alcohol or drugs. This policy shall extend to another student seeking help for the intoxicated student.

Tulane University Medical Amnesty Program

The Medical Amnesty Program (MAP) represents the University's commitment to increasing the likelihood that community members will call for medical assistance when faced with an alcohol or drug-related emergency. Every student, as a part of the Tulane University community, has a responsibility for care. In alcohol or drug related incidents, the primary concern of the University is the well-being, health, and safety of students.

Tulane University has an obligation to make mandatory administrative referrals of students for incidents related to alcohol and other drug-related emergencies. The potential for student conduct action by the University against the student in need of medical attention and/or the student reporting the incident may act as a barrier to students getting the immediate medical attention they need. In order to alleviate the behavioral consequences associated with these alcohol and other drug-related emergencies, and increase the likelihood that students will get the medical attention they need, the University has developed a Medical Amnesty Program. This policy applies to all students who call on behalf of another student and students who are in need of immediate medical assistance including being transported by EMS (either Tulane EMS or New Orleans EMS).

In order to receive Medical Amnesty, students must use the policy proactively. This means that students must take the initiative to get assistance and that asking for medical amnesty after being confronted for possible alcohol or drug policy violations will not result in application of MAP.

In addition, this policy does not prevent action by police or other law enforcement personnel.

Medical Amnesty Program

In order for medical amnesty to be granted, a student or representative from an organization hosting an event is expected to promptly call TUPD dispatch for medical assistance in an alcohol or drug-related emergency. There is no limit to the number of times a student can receive medical amnesty.

For the Student in Need of Medical Attention

A student in need of medical attention will not be subject to student conduct charges for the following Code of Student Conduct violations:

- III.B.4 – Unauthorized use and/or possession of any controlled substance or illegal drug
- III.B.6 – Use, possession, or distribution of alcoholic beverages in violation of the Tulane Alcohol Beverage Policy.

However, medical amnesty **does not preclude** students from the following:

1. Being charged with other violations of the Code of Student Conduct related to the incident (e.g., property damage, physical violence, disorderly conduct, or being in possession of false identification), or
2. Being required to meet with a Student Affairs professional and to complete the BASICS (Brief Alcohol Screening and Intervention for College Students) program and/or other appropriate administrative referral.

Failure to meet with a Student Affairs professional and/or complete the BASICS program or other appropriate administrative referral **will not** result in conduct charges. However, other penalties,

including but not limited to fines, blocked registration, and/or parental notification, will be levied until the student completes all requirements.

A student transported by EMS for alcohol or drug-related emergency will be required to meet with a Student Affairs professional and must complete the BASICS program and/or other appropriate administrative referral. There is an assessment fee for the BASICS program (which the student will be responsible for paying) and the student will have a required time frame by which to complete the program or referral. If additional follow up is required by the Student Affairs professional, the student must also complete those requirements in order to be in compliance. In no case will these additional penalties result in a student conduct case for the student.

A student who is not transported by EMS will be required to meet with a Student Affairs professional and may be referred to the BASICS program.

There is no limit to the number of times a student can receive medical attention and be immune from the Code of Student Conduct violations mentioned above.

For the Caller

A student who calls for medical assistance on behalf of someone else will not be subject to student conduct sanctions for the following Code of Student Conduct violations in relation to the incident:

- III.B.4 – Unauthorized use and/or possession of any controlled substance or illegal drug
- III.B.6 – Use, possession, or distribution of alcoholic beverages in violation of the Tulane Alcohol Beverage Policy

However, medical amnesty **does not preclude** the caller from being charged with other violations of the Code of Student Conduct related to the incident (e.g., property damage, physical violence, disorderly conduct, or being in possession of false identification).

There is no limit to the number of times a student can call on behalf of someone else who needs medical attention and be immune from the Code of Student Conduct violations mentioned above.

For the Organization

A representative of a student organization hosting an event is expected to call for medical assistance in an alcohol or other drug-related emergency. In this circumstance, the organization hosting the event and the caller who called for medical assistance on behalf someone else will not be subject to student conduct charges for the following Code of Student Conduct violations in relation to the incident:

- III.B.4 – Unauthorized use and/or possession of any controlled substance or illegal drug
- III.B.6 – Use, possession, or distribution of alcoholic beverages in violation of the Tulane Alcohol Beverage Policy

However, medical amnesty **does not preclude** organization from the following:

1. Being charged with other violations of the Code of Student Conduct related to the incident (e.g., hosting an unregistered event, providing alcohol to a minor, hazing, etc), or
2. Being required to meet with a Student Affairs professional in regards to education about appropriate alcohol use and university policies.

Medical amnesty only applies to an organization if medical assistance is requested at the event. If a student leaves the event and medical assistance is rendered later, the organization does not qualify for medical amnesty and faces all possible student conduct charges.

FAQs about Medical Amnesty

What is an alcohol or drug-related emergency?

A drug or alcohol related emergency is defined as any person whose health status is potentially at risk due to the intake of drugs or alcohol. This includes but is not limited to excessive vomiting, seizures, disorientation, or unresponsiveness.

Does this mean that Tulane University encourages students to drink?

No. Tulane University recognizes a student's safety and well being can be compromised due to excessive use of alcohol and/or other drugs. The medical amnesty program was put into place so a student can get the required medical emergency attention without fear of "getting in trouble" or the incident appearing on the student's conduct record.

So are EMS calls for medical assistance really confidential if Student Affairs is notified?

A call for medical assistance includes a response from TUPD as well. TUPD is required to write a report based on what the officer observes, **not information received from EMS personnel.**

Will my parents find out?

As a general rule, your parents will not be notified. However, your parents may be notified if your alcohol or drug-related emergency is life threatening and/or you fail to meet with a Student Affairs professional and/or complete the BASICS program

What is BASICS?

Brief Alcohol Screening and Intervention for College Students (BASICS) is a harm reduction approach to alcohol consumption that ultimately focuses on reducing the risky behaviors and harmful consequences associated with drinking alcohol. BASICS was specifically designed for college students 18 to 24 years old and is non-confrontational and non-judgmental. BASICS consists of two 50 minute sessions with a trained professional staff member. The first session, which takes place with a small group, will be an opportunity for the student to meet the BASICS facilitator and take an online assessment. Two weeks later the student will return to meet individually with the facilitator during which time they will discuss the results from the online assessment, examine their current alcohol use and have the opportunity to create personal goals for the future.

Adopted: 01/09/07
Reviewed & modified: 01/22/08
Reviewed & modified: 02/26/09
Reviewed & modified: 08/02/10

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5516

61st Legislature
2010 Regular Session

Passed by the Senate February 5, 2010
YEAS 47 NAYS 1

President of the Senate

Passed by the House February 28, 2010
YEAS 57 NAYS 39

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5516** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5516

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senators Franklin, Kline, Kohl-Welles, Regala, Fraser, Kauffman,
and Shin

Read first time 01/26/09. Referred to Committee on Judiciary.

1 AN ACT Relating to drug overdose prevention; amending RCW
2 18.130.180; reenacting and amending RCW 9.94A.535; adding a new section
3 to chapter 69.50 RCW; adding a new section to chapter 18.130 RCW; and
4 creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature intends to save lives by
7 increasing timely medical attention to drug overdose victims through
8 the establishment of limited immunity from prosecution for people who
9 seek medical assistance in a drug overdose situation. Drug overdose is
10 the leading cause of unintentional injury death in Washington state,
11 ahead of motor vehicle related deaths. Washington state is one of
12 sixteen states in which drug overdoses cause more deaths than traffic
13 accidents. Drug overdose mortality rates have increased significantly
14 since the 1990s, according to the centers for disease control and
15 prevention, and illegal and prescription drug overdoses killed more
16 than thirty-eight thousand people nationwide in 2006, the last year for
17 which firm data is available. The Washington state department of
18 health reports that in 1999, unintentional drug poisoning was
19 responsible for four hundred three deaths in this state; in 2007, the

1 number had increased to seven hundred sixty-one, compared with six
2 hundred ten motor vehicle related deaths that same year. Many drug
3 overdose fatalities occur because peers delay or forego calling 911 for
4 fear of arrest or police involvement, which researchers continually
5 identify as the most significant barrier to the ideal first response of
6 calling emergency services.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 69.50 RCW
8 to read as follows:

9 (1)(a) A person acting in good faith who seeks medical assistance
10 for someone experiencing a drug-related overdose shall not be charged
11 or prosecuted for possession of a controlled substance pursuant to RCW
12 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the
13 charge of possession of a controlled substance was obtained as a result
14 of the person seeking medical assistance.

15 (b) A person acting in good faith may receive a naloxone
16 prescription, possess naloxone, and administer naloxone to an
17 individual suffering from an apparent opiate-related overdose.

18 (2) A person who experiences a drug-related overdose and is in need
19 of medical assistance shall not be charged or prosecuted for possession
20 of a controlled substance pursuant to RCW 69.50.4013, or penalized
21 under RCW 69.50.4014, if the evidence for the charge of possession of
22 a controlled substance was obtained as a result of the overdose and the
23 need for medical assistance.

24 (3) The protection in this section from prosecution for possession
25 crimes under RCW 69.50.4013 shall not be grounds for suppression of
26 evidence in other criminal charges.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.130 RCW
28 to read as follows:

29 The administering, dispensing, prescribing, purchasing,
30 acquisition, possession, or use of naloxone shall not constitute
31 unprofessional conduct under chapter 18.130 RCW, or be in violation of
32 any provisions under this chapter, by any practitioner or person, if
33 the unprofessional conduct or violation results from a good faith
34 effort to assist:

35 (1) A person experiencing, or likely to experience, an opiate-
36 related overdose; or

1 (2) A family member, friend, or other person in a position to
2 assist a person experiencing, or likely to experience, an opiate-
3 related overdose.

4 **Sec. 4.** RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9 are
5 each reenacted and amended to read as follows:

6 The court may impose a sentence outside the standard sentence range
7 for an offense if it finds, considering the purpose of this chapter,
8 that there are substantial and compelling reasons justifying an
9 exceptional sentence. Facts supporting aggravated sentences, other
10 than the fact of a prior conviction, shall be determined pursuant to
11 the provisions of RCW 9.94A.537.

12 Whenever a sentence outside the standard sentence range is imposed,
13 the court shall set forth the reasons for its decision in written
14 findings of fact and conclusions of law. A sentence outside the
15 standard sentence range shall be a determinate sentence.

16 If the sentencing court finds that an exceptional sentence outside
17 the standard sentence range should be imposed, the sentence is subject
18 to review only as provided for in RCW 9.94A.585(4).

19 A departure from the standards in RCW 9.94A.589 (1) and (2)
20 governing whether sentences are to be served consecutively or
21 concurrently is an exceptional sentence subject to the limitations in
22 this section, and may be appealed by the offender or the state as set
23 forth in RCW 9.94A.585 (2) through (6).

24 (1) Mitigating Circumstances - Court to Consider

25 The court may impose an exceptional sentence below the standard
26 range if it finds that mitigating circumstances are established by a
27 preponderance of the evidence. The following are illustrative only and
28 are not intended to be exclusive reasons for exceptional sentences.

29 (a) To a significant degree, the victim was an initiator, willing
30 participant, aggressor, or provoker of the incident.

31 (b) Before detection, the defendant compensated, or made a good
32 faith effort to compensate, the victim of the criminal conduct for any
33 damage or injury sustained.

34 (c) The defendant committed the crime under duress, coercion,
35 threat, or compulsion insufficient to constitute a complete defense but
36 which significantly affected his or her conduct.

1 (d) The defendant, with no apparent predisposition to do so, was
2 induced by others to participate in the crime.

3 (e) The defendant's capacity to appreciate the wrongfulness of his
4 or her conduct, or to conform his or her conduct to the requirements of
5 the law, was significantly impaired. Voluntary use of drugs or alcohol
6 is excluded.

7 (f) The offense was principally accomplished by another person and
8 the defendant manifested extreme caution or sincere concern for the
9 safety or well-being of the victim.

10 (g) The operation of the multiple offense policy of RCW 9.94A.589
11 results in a presumptive sentence that is clearly excessive in light of
12 the purpose of this chapter, as expressed in RCW 9.94A.010.

13 (h) The defendant or the defendant's children suffered a continuing
14 pattern of physical or sexual abuse by the victim of the offense and
15 the offense is a response to that abuse.

16 (i) The defendant was making a good faith effort to obtain or
17 provide medical assistance for someone who is experiencing a drug-
18 related overdose.

19 (2) Aggravating Circumstances - Considered and Imposed by the Court
20 The trial court may impose an aggravated exceptional sentence
21 without a finding of fact by a jury under the following circumstances:

22 (a) The defendant and the state both stipulate that justice is best
23 served by the imposition of an exceptional sentence outside the
24 standard range, and the court finds the exceptional sentence to be
25 consistent with and in furtherance of the interests of justice and the
26 purposes of the sentencing reform act.

27 (b) The defendant's prior unscored misdemeanor or prior unscored
28 foreign criminal history results in a presumptive sentence that is
29 clearly too lenient in light of the purpose of this chapter, as
30 expressed in RCW 9.94A.010.

31 (c) The defendant has committed multiple current offenses and the
32 defendant's high offender score results in some of the current offenses
33 going unpunished.

34 (d) The failure to consider the defendant's prior criminal history
35 which was omitted from the offender score calculation pursuant to RCW
36 9.94A.525 results in a presumptive sentence that is clearly too
37 lenient.

1 (3) Aggravating Circumstances - Considered by a Jury -Imposed by
2 the Court

3 Except for circumstances listed in subsection (2) of this section,
4 the following circumstances are an exclusive list of factors that can
5 support a sentence above the standard range. Such facts should be
6 determined by procedures specified in RCW 9.94A.537.

7 (a) The defendant's conduct during the commission of the current
8 offense manifested deliberate cruelty to the victim.

9 (b) The defendant knew or should have known that the victim of the
10 current offense was particularly vulnerable or incapable of resistance.

11 (c) The current offense was a violent offense, and the defendant
12 knew that the victim of the current offense was pregnant.

13 (d) The current offense was a major economic offense or series of
14 offenses, so identified by a consideration of any of the following
15 factors:

16 (i) The current offense involved multiple victims or multiple
17 incidents per victim;

18 (ii) The current offense involved attempted or actual monetary loss
19 substantially greater than typical for the offense;

20 (iii) The current offense involved a high degree of sophistication
21 or planning or occurred over a lengthy period of time; or

22 (iv) The defendant used his or her position of trust, confidence,
23 or fiduciary responsibility to facilitate the commission of the current
24 offense.

25 (e) The current offense was a major violation of the Uniform
26 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
27 trafficking in controlled substances, which was more onerous than the
28 typical offense of its statutory definition: The presence of ANY of
29 the following may identify a current offense as a major VUCSA:

30 (i) The current offense involved at least three separate
31 transactions in which controlled substances were sold, transferred, or
32 possessed with intent to do so;

33 (ii) The current offense involved an attempted or actual sale or
34 transfer of controlled substances in quantities substantially larger
35 than for personal use;

36 (iii) The current offense involved the manufacture of controlled
37 substances for use by other parties;

1 (iv) The circumstances of the current offense reveal the offender
2 to have occupied a high position in the drug distribution hierarchy;

3 (v) The current offense involved a high degree of sophistication or
4 planning, occurred over a lengthy period of time, or involved a broad
5 geographic area of disbursement; or

6 (vi) The offender used his or her position or status to facilitate
7 the commission of the current offense, including positions of trust,
8 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
9 other medical professional).

10 (f) The current offense included a finding of sexual motivation
11 pursuant to RCW 9.94A.835.

12 (g) The offense was part of an ongoing pattern of sexual abuse of
13 the same victim under the age of eighteen years manifested by multiple
14 incidents over a prolonged period of time.

15 (h) The current offense involved domestic violence, as defined in
16 RCW 10.99.020, and one or more of the following was present:

17 (i) The offense was part of an ongoing pattern of psychological,
18 physical, or sexual abuse of the victim manifested by multiple
19 incidents over a prolonged period of time;

20 (ii) The offense occurred within sight or sound of the victim's or
21 the offender's minor children under the age of eighteen years; or

22 (iii) The offender's conduct during the commission of the current
23 offense manifested deliberate cruelty or intimidation of the victim.

24 (i) The offense resulted in the pregnancy of a child victim of
25 rape.

26 (j) The defendant knew that the victim of the current offense was
27 a youth who was not residing with a legal custodian and the defendant
28 established or promoted the relationship for the primary purpose of
29 victimization.

30 (k) The offense was committed with the intent to obstruct or impair
31 human or animal health care or agricultural or forestry research or
32 commercial production.

33 (l) The current offense is trafficking in the first degree or
34 trafficking in the second degree and any victim was a minor at the time
35 of the offense.

36 (m) The offense involved a high degree of sophistication or
37 planning.

1 (n) The defendant used his or her position of trust, confidence, or
2 fiduciary responsibility to facilitate the commission of the current
3 offense.

4 (o) The defendant committed a current sex offense, has a history of
5 sex offenses, and is not amenable to treatment.

6 (p) The offense involved an invasion of the victim's privacy.

7 (q) The defendant demonstrated or displayed an egregious lack of
8 remorse.

9 (r) The offense involved a destructive and foreseeable impact on
10 persons other than the victim.

11 (s) The defendant committed the offense to obtain or maintain his
12 or her membership or to advance his or her position in the hierarchy of
13 an organization, association, or identifiable group.

14 (t) The defendant committed the current offense shortly after being
15 released from incarceration.

16 (u) The current offense is a burglary and the victim of the
17 burglary was present in the building or residence when the crime was
18 committed.

19 (v) The offense was committed against a law enforcement officer who
20 was performing his or her official duties at the time of the offense,
21 the offender knew that the victim was a law enforcement officer, and
22 the victim's status as a law enforcement officer is not an element of
23 the offense.

24 (w) The defendant committed the offense against a victim who was
25 acting as a good samaritan.

26 (x) The defendant committed the offense against a public official
27 or officer of the court in retaliation of the public official's
28 performance of his or her duty to the criminal justice system.

29 (y) The victim's injuries substantially exceed the level of bodily
30 harm necessary to satisfy the elements of the offense. This aggravator
31 is not an exception to RCW 9.94A.530(2).

32 (z)(i)(A) The current offense is theft in the first degree, theft
33 in the second degree, possession of stolen property in the first
34 degree, or possession of stolen property in the second degree; (B) the
35 stolen property involved is metal property; and (C) the property damage
36 to the victim caused in the course of the theft of metal property is
37 more than three times the value of the stolen metal property, or the
38 theft of the metal property creates a public hazard.

1 (ii) For purposes of this subsection, "metal property" means
2 commercial metal property, private metal property, or nonferrous metal
3 property, as defined in RCW 19.290.010.

4 (aa) The defendant committed the offense with the intent to
5 directly or indirectly cause any benefit, aggrandizement, gain, profit,
6 or other advantage to or for a criminal street gang as defined in RCW
7 9.94A.030, its reputation, influence, or membership.

8 **Sec. 5.** RCW 18.130.180 and 2008 c 134 s 25 are each amended to
9 read as follows:

10 The following conduct, acts, or conditions constitute
11 unprofessional conduct for any license holder under the jurisdiction of
12 this chapter:

13 (1) The commission of any act involving moral turpitude,
14 dishonesty, or corruption relating to the practice of the person's
15 profession, whether the act constitutes a crime or not. If the act
16 constitutes a crime, conviction in a criminal proceeding is not a
17 condition precedent to disciplinary action. Upon such a conviction,
18 however, the judgment and sentence is conclusive evidence at the
19 ensuing disciplinary hearing of the guilt of the license holder of the
20 crime described in the indictment or information, and of the person's
21 violation of the statute on which it is based. For the purposes of
22 this section, conviction includes all instances in which a plea of
23 guilty or nolo contendere is the basis for the conviction and all
24 proceedings in which the sentence has been deferred or suspended.
25 Nothing in this section abrogates rights guaranteed under chapter 9.96A
26 RCW;

27 (2) Misrepresentation or concealment of a material fact in
28 obtaining a license or in reinstatement thereof;

29 (3) All advertising which is false, fraudulent, or misleading;

30 (4) Incompetence, negligence, or malpractice which results in
31 injury to a patient or which creates an unreasonable risk that a
32 patient may be harmed. The use of a nontraditional treatment by itself
33 shall not constitute unprofessional conduct, provided that it does not
34 result in injury to a patient or create an unreasonable risk that a
35 patient may be harmed;

36 (5) Suspension, revocation, or restriction of the individual's
37 license to practice any health care profession by competent authority

1 in any state, federal, or foreign jurisdiction, a certified copy of the
2 order, stipulation, or agreement being conclusive evidence of the
3 revocation, suspension, or restriction;

4 (6) Except when authorized by section 3 of this act, the
5 possession, use, prescription for use, or distribution of controlled
6 substances or legend drugs in any way other than for legitimate or
7 therapeutic purposes, diversion of controlled substances or legend
8 drugs, the violation of any drug law, or prescribing controlled
9 substances for oneself;

10 (7) Violation of any state or federal statute or administrative
11 rule regulating the profession in question, including any statute or
12 rule defining or establishing standards of patient care or professional
13 conduct or practice;

14 (8) Failure to cooperate with the disciplining authority by:

15 (a) Not furnishing any papers, documents, records, or other items;

16 (b) Not furnishing in writing a full and complete explanation
17 covering the matter contained in the complaint filed with the
18 disciplining authority;

19 (c) Not responding to subpoenas issued by the disciplining
20 authority, whether or not the recipient of the subpoena is the accused
21 in the proceeding; or

22 (d) Not providing reasonable and timely access for authorized
23 representatives of the disciplining authority seeking to perform
24 practice reviews at facilities utilized by the license holder;

25 (9) Failure to comply with an order issued by the disciplining
26 authority or a stipulation for informal disposition entered into with
27 the disciplining authority;

28 (10) Aiding or abetting an unlicensed person to practice when a
29 license is required;

30 (11) Violations of rules established by any health agency;

31 (12) Practice beyond the scope of practice as defined by law or
32 rule;

33 (13) Misrepresentation or fraud in any aspect of the conduct of the
34 business or profession;

35 (14) Failure to adequately supervise auxiliary staff to the extent
36 that the consumer's health or safety is at risk;

37 (15) Engaging in a profession involving contact with the public

1 while suffering from a contagious or infectious disease involving
2 serious risk to public health;

3 (16) Promotion for personal gain of any unnecessary or
4 inefficacious drug, device, treatment, procedure, or service;

5 (17) Conviction of any gross misdemeanor or felony relating to the
6 practice of the person's profession. For the purposes of this
7 subsection, conviction includes all instances in which a plea of guilty
8 or nolo contendere is the basis for conviction and all proceedings in
9 which the sentence has been deferred or suspended. Nothing in this
10 section abrogates rights guaranteed under chapter 9.96A RCW;

11 (18) The procuring, or aiding or abetting in procuring, a criminal
12 abortion;

13 (19) The offering, undertaking, or agreeing to cure or treat
14 disease by a secret method, procedure, treatment, or medicine, or the
15 treating, operating, or prescribing for any health condition by a
16 method, means, or procedure which the licensee refuses to divulge upon
17 demand of the disciplining authority;

18 (20) The willful betrayal of a practitioner-patient privilege as
19 recognized by law;

20 (21) Violation of chapter 19.68 RCW;

21 (22) Interference with an investigation or disciplinary proceeding
22 by willful misrepresentation of facts before the disciplining authority
23 or its authorized representative, or by the use of threats or
24 harassment against any patient or witness to prevent them from
25 providing evidence in a disciplinary proceeding or any other legal
26 action, or by the use of financial inducements to any patient or
27 witness to prevent or attempt to prevent him or her from providing
28 evidence in a disciplinary proceeding;

29 (23) Current misuse of:

30 (a) Alcohol;

31 (b) Controlled substances; or

32 (c) Legend drugs;

33 (24) Abuse of a client or patient or sexual contact with a client
34 or patient;

35 (25) Acceptance of more than a nominal gratuity, hospitality, or
36 subsidy offered by a representative or vendor of medical or health-
37 related products or services intended for patients, in contemplation of
38 a sale or for use in research publishable in professional journals,

1 where a conflict of interest is presented, as defined by rules of the
2 disciplining authority, in consultation with the department, based on
3 recognized professional ethical standards.

--- END ---



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

CHAPTER # 154
APPROVAL # 4

JUL 20 2011

MEMORANDUM filed with Senate Bill Number 2063-C, entitled:

“AN ACT to amend the penal law and the criminal procedure law, in relation to prosecution of a person who, in good faith, seeks health care for someone who is experiencing a drug or alcohol overdose or other life threatening medical emergency”

APPROVED

By my approval of this bill, New York will adopt a “good Samaritan 911 law” to encourage witnesses and victims to seek medical assistance for persons who are experiencing drug overdoses. I have received compelling letters from parents whose children have died from a drug overdose or are struggling with drug addiction urging me to approve this bill. These letters, and other information provided to me, has convinced me that this new law will save lives. The statistics on overdose deaths in New York are startling. According to the New York Academy of Medicine, which has urged approval of this bill, accidental drug overdose is the fourth leading cause of death among adults in New York. Approximately 85% of overdose events occur in the company of others, but no medical assistance was sought in half of those cases and in only 14% of cases was calling an ambulance the first response to a peer’s overdose.

Balanced against the bill’s potential to save lives are the concerns of law enforcement agencies that will have to apply this new law. Under the new law, some persons who, in good faith, seek medical assistance for a person experiencing a drug overdose or other life-threatening medical emergency may receive relief from prosecution or conviction for certain drug crimes.

Some law enforcement agencies are apprehensive that police officers responding to a scene of a drug overdose where drugs are found could have difficulty determining whether anyone can legally be charged with an offense, and could be subject to civil liability for arresting someone who might later be determined to have this statutory exemption from prosecution. That would be a perverse and unacceptable result, and the removal of the word “arrest” from an earlier version of this bill was meant to give these responding officers the ability to detain individuals who may or may not be entitled to the statutory exemption from prosecution conferred by this bill in order to investigate all the facts and circumstances of any criminal conduct and seek guidance from the appropriate officials.

Some law enforcement agencies also are concerned that responding police officers may be expected to make on-the-spot decisions about whether someone was suffering from an overdose or genuinely in need of medical care, and whether the person who sought aid acted in good faith. I understand these apprehensions about this new law, and believe that it is critical to offer training to these officers to assist them in making these very difficult decisions. I have therefore asked the Division of Criminal Justice Services to work with law enforcement groups to ensure that appropriate training and guidance is provided to law enforcement personnel who will be making these difficult determinations.

Finally, some are concerned that the bill will enable criminals to manipulate the exemptions to avoid prosecution when it is warranted. This bill is not intended to provide an escape hatch for those predatory drug traffickers who entice our children to consume the very substances that cause their overdose. I believe that law enforcement personnel, prosecutors and the courts will be able to thwart such manipulation, but if it occurs, I urge the Legislature to amend the law to ensure that it can serve its salutary purpose of saving lives, while at the same time ensuring that the very criminals who prey on those addicted to drugs are properly punished.

I appreciate these law enforcement concerns, but I believe that the benefit to be gained by the bill – saving lives – must be paramount.

This bill is approved.

A handwritten signature in black ink, appearing to read "Adriano". The signature is stylized with a large, looped initial "A" and a long, sweeping underline.



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Bill Text: NY Senate Bill 5191 - 2010 General Assembly

New York S05191 (*Prior Session Legislation*)

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S T A T E O F N E W Y O R K

5191--A

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to seeking or receiving health care for a drug or alcohol overdose

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. It is the intent of the legislature to encourage a witness
2 or victim of a drug or alcohol related overdose to call 911 or seek
3 other emergency assistance in order to save the life of an overdose
4 victim by establishing a state policy of protecting the witnesses or
5 victim from arrest, charge, prosecution, and conviction for drug
6 possession, drug paraphernalia possession, and certain alcohol related
7 offenses. It is not the intent of the legislature to protect individuals
8 from arrest, charge, or prosecution for other offenses, including drug
9 trafficking, or to interfere with law enforcement protocols to secure
10 the scene of an overdose.

11 S 2. The criminal procedure law is amended by adding a new section
12 140.60 to read as follows:

13 S 140.60 WITNESS OR VICTIM OF DRUG OR ALCOHOL OVERDOSE.

14 1. DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE
15 THE FOLLOWING MEANINGS:

16 (A) "DRUG OR ALCOHOL OVERDOSE" OR "OVERDOSE" MEANS AN ACUTE CONDITION
17 INCLUDING, BUT NOT LIMITED TO, PHYSICAL ILLNESS, COMA, MANIA, HYSTERIA
18 OR DEATH, WHICH IS THE RESULT OF CONSUMPTION OR USE OF A CONTROLLED
19 SUBSTANCE OR ALCOHOL AND RELATES TO AN ADVERSE REACTION TO OR THE QUAN-
20 TITY OF THE CONTROLLED SUBSTANCE OR ALCOHOL OR A SUBSTANCE WITH WHICH
21 THE CONTROLLED SUBSTANCE OR ALCOHOL WAS COMBINED; PROVIDED THAT A
22 PATIENT'S CONDITION SHALL BE DEEMED TO BE A DRUG OR ALCOHOL OVERDOSE IF
EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets

[] is old law to be omitted.

LBD11568-06-0

S. 5191--A

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1 A PRUDENT LAYPERSON, POSSESSING AN AVERAGE KNOWLEDGE OF MEDICINE AND
2 HEALTH, COULD REASONABLY BELIEVE THAT THE CONDITION IS IN FACT A DRUG OR
3 ALCOHOL OVERDOSE AND (EXCEPT AS TO DEATH) REQUIRES HEALTH CARE.

4 (B) "HEALTH CARE" MEANS THE PROFESSIONAL SERVICES PROVIDED TO A PERSON
5 EXPERIENCING A DRUG OR ALCOHOL OVERDOSE BY A HEALTH CARE PROFESSIONAL
6 LICENSED, REGISTERED OR CERTIFIED UNDER TITLE EIGHT OF THE EDUCATION LAW
7 OR ARTICLE THIRTY OF THE PUBLIC HEALTH LAW WHO, ACTING WITHIN HIS OR HER
8 LAWFUL SCOPE OF PRACTICE, MAY PROVIDE DIAGNOSIS, TREATMENT OR EMERGENCY
9 SERVICES FOR A PERSON EXPERIENCING A DRUG OR ALCOHOL OVERDOSE.

10 2. A PERSON OR PERSONS WHO, IN GOOD FAITH, SEEKS HEALTH CARE FOR SOME-
11 ONE WHO IS EXPERIENCING A DRUG OR ALCOHOL OVERDOSE OR OTHER LIFE THREAT-
12 ENING MEDICAL EMERGENCY SHALL NOT BE ARRESTED, CHARGED, PROSECUTED FOR
13 OR CONVICTED OF CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE UNDER
14 ARTICLE TWO HUNDRED TWENTY OF THE PENAL LAW, OR FOR UNLAWFUL OR CRIMINAL
15 POSSESSION OF MARIHUANA UNDER ARTICLE TWO HUNDRED TWENTY-ONE OF THE
16 PENAL LAW, OR FOR POSSESSION OF ALCOHOL BY A PERSON UNDER AGE TWENTY-ONE
17 YEARS UNDER SECTION SIXTY-FIVE-C OF THE ALCOHOLIC BEVERAGE CONTROL LAW,
18 OR FOR POSSESSION OF DRUG PARAPHERNALIA UNDER ARTICLE THIRTY-NINE OF THE
19 GENERAL BUSINESS LAW, WITH RESPECT TO ANY SUBSTANCE, MARIHUANA, ALCOHOL
20 OR PARAPHERNALIA THAT WAS OBTAINED AS A RESULT OF SUCH SEEKING OR
21 RECEIVING SUCH HEALTH CARE.

22 3. A PERSON WHO IS EXPERIENCING A DRUG OR ALCOHOL OVERDOSE OR OTHER
23 LIFE THREATENING MEDICAL EMERGENCY AND, IN GOOD FAITH, SEEKS HEALTH CARE
24 FOR HIMSELF OR HERSELF OR IS THE SUBJECT OF SUCH A GOOD FAITH REQUEST
25 FOR HEALTH CARE, SHALL NOT BE ARRESTED, CHARGED, PROSECUTED FOR OR
26 CONVICTED OF CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE UNDER ARTICLE
27 TWO HUNDRED TWENTY OF THE PENAL LAW, OR FOR UNLAWFUL OR CRIMINAL
28 POSSESSION OF MARIHUANA UNDER ARTICLE TWO HUNDRED TWENTY-ONE OF THE
29 PENAL LAW, OR FOR POSSESSION OF ALCOHOL BY A PERSON UNDER AGE TWENTY-ONE
30 YEARS UNDER SECTION SIXTY-FIVE-C OF THE ALCOHOLIC BEVERAGE CONTROL LAW,
31 OR FOR POSSESSION OF DRUG PARAPHERNALIA UNDER ARTICLE THIRTY-NINE OF THE
32 GENERAL BUSINESS LAW, WITH RESPECT TO ANY SUBSTANCE, MARIHUANA, ALCOHOL
33 OR PARAPHERNALIA THAT WAS OBTAINED AS A RESULT OF SUCH SEEKING OR
34 RECEIVING SUCH HEALTH CARE.

35 S 3. Section 390.40 of the criminal procedure law is amended by adding
36 a new subdivision 3 to read as follows:

37 3. THE ACT OF SEEKING HEALTH CARE FOR SOMEONE WHO IS EXPERIENCING A
38 DRUG OR ALCOHOL OVERDOSE OR OTHER LIFE THREATENING MEDIAL EMERGENCY
39 SHALL BE CONSIDERED BY THE COURT WHEN PRESENTED AS A MITIGATING FACTOR
40 IN ANY CRIMINAL PROSECUTION FOR A CONTROLLED SUBSTANCE, MARIHUANA, DRUG
41 PARAPHERNALIA, OR ALCOHOL RELATED OFFENSE.

42 S 4. This act shall take effect immediately.

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underscored material = new
[bracketed material] = delete

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SENATE BILL 200

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO CONTROLLED SUBSTANCES; PROVIDING LIMITED IMMUNITY FROM PROSECUTION FOR A PERSON WHO SEEKS OR OBTAINS MEDICAL ASSISTANCE FOR A DRUG-RELATED OVERDOSE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Controlled Substances Act is enacted to read:

"[NEW MATERIAL] OVERDOSE PREVENTION--LIMITED IMMUNITY.--

A. A person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose shall not be charged or prosecuted for possession of a controlled substance pursuant to the provisions of Section 30-31-23 NMSA 1978 if the evidence for the charge of possession of a controlled substance was gained as a result of the seeking of medical assistance.

underscored material = new
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B. A person who experiences a drug-related overdose and is in need of medical assistance shall not be charged or prosecuted for possession of a controlled substance pursuant to the provisions of Section 30-31-23 NMSA 1978 if the evidence for the charge of possession of a controlled substance was gained as a result of the overdose and the need for medical assistance.

C. The act of seeking medical assistance for someone who is experiencing a drug-related overdose may be used as a mitigating factor in a criminal prosecution pursuant to the Controlled Substances Act."