

# STUDENT CODE OF CONDUCT MUHLENBERG COLLEGE

## STATEMENT OF PURPOSE

Muhlenberg College is committed to the health, safety and success of all students. In addition, the College believes that diversity, in many forms and expressions, is essential to its educational mission and to its success as a community. Achieving our educational mission requires that we foster a campus environment that is safe and inclusive and allows for students to maximize their academic and personal potential.

As such, this Code of Conduct (“Code”) outlines the rights, responsibilities and expectations for all student members of the Muhlenberg College community. The College’s disciplinary processes emphasize education by focusing on the growth and development of the individual student, encouraging self-discipline, and fostering a sense of respect for the rights of others.

The College also has an obligation to maintain socially and educationally responsible behavior among its members. To this end, the disciplinary process is designed to redirect the behavior of a student into acceptable patterns and to protect the College community while helping each student clarify and solidify individual values.

Ultimately, in accordance with its mission, Muhlenberg College aims to develop independent critical thinkers who are intellectually agile, characterized by a zest for reasoned and civil debate, committed to understanding the diversity of the human experience, able to express ideas with clarity and grace, committed to life-long learning, equipped with ethical and civic values, and prepared for lives of leadership and service. **The policies and procedures specified in this Code are designed to affirm, protect, and model these goals.**

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## ARTICLE I – DEFINITIONS

1. **Academic Days** - A “day,” as defined in this Code, unless otherwise indicated, shall refer to academic days, Monday through Friday, when the College is in session provided that when matters are unresolved as of the last day of finals, for the purpose of concluding such matters expeditiously, “days” shall mean calendar days immediately following the last day of finals.
2. **College** – Refers to Muhlenberg College.
3. **College Official** – Any person who is empowered by the institution with some level of authority. A non-exhaustive list of College Officials includes: faculty, administrative managers, staff, resident advisors, and other student employees.
4. **Complainant** – Refers to any person or group that files a report or complaint alleging violations of this Code. Muhlenberg College reserves the right to act as the complainant in any disciplinary matter.
5. **Conduct Officer** – The person or persons designated by the College as primarily responsible for administering the student disciplinary process.
6. **Disciplinary Proceedings** – Any process used to resolve student conduct matters including, Disciplinary Conferences, Hearing Boards, Restorative Practices or other processes outlined in this Code or other related policies.
7. **Hearing Officer or Hearing Board** – A person or a group of people, respectively, authorized by the College to determine whether a student or student group has violated this Code and to recommend or impose sanctions during a disciplinary proceeding.
8. **May and Shall** – The word “may” will be used in the permissive sense and the word “shall” will be used in the imperative sense.
9. **Member of the College Community** – Includes any person who is a student, instructor, faculty member, administrative manager, College official, or any other person employed or contracted by the College. A person’s status in a particular situation shall be determined by the College.
10. **Policy** - Any written policy, directive, rule or regulation of Muhlenberg College.
11. **Preponderance of the Evidence** - Means that it is “more likely than not” or there is a greater than 50 percent chance that conduct in violation of this Code has occurred.

12. **Respondent** – Refers to any student or student group against whom a report or complaint alleging violations of this Code is filed.
13. **Student** – A person is considered a student from the time they are notified of their acceptance to Muhlenberg and submit their initial deposit until they have completed the required units, applied for candidacy, and received their diplomas, unless the person's enrollment at the College is terminated for other reasons.
14. **Student Group** – Any number of persons recognized collectively by the College, including clubs, organizations, athletic teams, and/or fraternities and sororities.

## **ARTICLE II – AUTHORITY AND JURISDICTION**

1. Student conduct standards at the College should not be equated to state or federal criminal codes. Even in cases involving suspension or expulsion, the goals of the College include education and student development as well as community protection. Consequently, College disciplinary policies and procedures, grounded in fundamental fairness, are focused on truth-seeking, and are not adversarial procedures. The College conducts investigatory proceedings and conferences, not trials. Disciplinary authority has been delegated by the Board of Trustees to College administrative managers, faculty members, committees, and student groups, as set forth in this Code, or in other policies adopted by the Board of Trustees.
2. Students and student groups are expected to live up to the expectations of positive behavior as set forth in this Code and other College policies. This Code applies to conduct occurring on property owned, controlled, used or managed by the College, and adjacent streets and sidewalks, and at College sponsored activities on or off-campus, including off-campus study programs. The College also reserves the right to hold students accountable for any violation(s) of this Code or of local, state, or federal law that occurs off-campus and could reasonably have an adverse effect on the College, any member of the Muhlenberg College community or the stability and continuance of College functions.
3. This Code applies to individual students and student groups. A student group and each member of a student group may be charged with violations of this Code and may be held responsible for any such violations. A Student group may be held accountable for the actions of any of its members if the alleged violation of this Code is in any way related to the student group. The actions in question need not be officially approved or

sanctioned by the entire membership of the student group and there is no minimum number of members that must be involved to hold the student group accountable. In some instances, the conduct of a single member of a student group may provide sufficient grounds to hold the student group accountable. An appropriate but non-exhaustive test to determine if a student group can be held accountable is to examine the behavior and ask if it is likely that the individuals would have been involved in the incident if they were not members of the student group or, if, by group action, the incident was encouraged, fostered, or might have been prevented.

4. Notwithstanding any other provision of this Code to the contrary, at the discretion of the Dean of Students and in compliance with the Family Educational Rights and Privacy Act, if a student group is alleged to have violated this Code, the College may communicate to the College community the allegations, findings of fact, violations and/or sanctions imposed in connection with violations, if any.
5. Students are responsible for the actions of their invited visitors. As set forth in the Muhlenberg College Visitor Policy attached as Appendix A to this Code, violation of any College policy by a visitor of a Muhlenberg student may subject that student to disciplinary action under this Code.
6. Student behavior that violates this Code may also result in allegations of illegal activity. When student behavior is in violation of law and of this Code, the College reserves the right to administer disciplinary action independent of any civil or criminal action by governmental agencies. Disciplinary action at the College will normally proceed while criminal charges are pending and will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced. However, the College may elect, considering the circumstances of the case, to delay on-campus disciplinary action pending the resolution of criminal charges. When the College has jurisdiction in a matter subject to this Code, it also has the right to report the matter, whenever appropriate, to law enforcement or other civil authorities.

### **ARTICLE III – EXPECTATIONS OF COMMUNITY MEMBERS**

Muhlenberg College students are expected to be members of a community of responsibility. They have a duty to foster and preserve a collegiate environment that encourages the maximum development of themselves, their fellow students, and the larger society. They adhere to the highest standards of good citizenship. They conduct themselves with honesty, integrity, and due regard for the rights and property of others. The lists of prohibited conduct below are not exhaustive and represent a range of possible violations.

1. **Care for Others.** Muhlenberg College students are expected to show maturity, social responsibility, and care for other people.
  - a. Prohibited conduct:
    - i. **Physical Violence**
    - ii. **Threats of Physical Violence**
    - iii. **Harassment** defined as any behavior that causes undue worry and/or torment.
    - iv. **Hazing** as defined in the Muhlenberg College Anti-Hazing Policy attached as Appendix B to this Code.
    - v. **Threats to Safety** - Any conduct which threatens the health or safety of a person or persons.
    - vi. **Weapons** - Possession of any weapon on property owned, controlled, used or managed by the College, or at College sponsored activities on or off-campus, including off-campus study programs or otherwise violating the Muhlenberg College Firearms and Other Weapons Policy attached as Appendix C to this Code.
  
2. **Care for Property.** Muhlenberg College students are expected to treat the property of others, including College property, with respect.
  - a. Prohibited conduct:
    - i. Intentionally or recklessly interfering with the property of another, including taking without permission, destroying, defacing, or damaging the property of another.
    - ii. Theft of services including, but not limited to, services such as telephone or computer services, including copyrighted computer programs, and other copyrighted material such as movies and/or music, or otherwise violating the Muhlenberg College Electronic Communications and Information Technology Access Policy attached as Appendix D to this Code.
    - iii. Knowingly possessing stolen property.
    - iv. Trespassing and/or occupying or possessing College property without permission or purpose.
    - v. Misuse of College property including laboratory and lab equipment, athletic equipment and/or all other College property.
  
3. **Care for the Community.** Muhlenberg College expects that its students will treat the community with care and respect. Students are expected to be ethical representatives of the standards of Muhlenberg College, know and show respect for College policies including this Code, and to hold themselves and others accountable for their behavior.
  - a. Prohibited conduct:

- i. Disorderly Conduct – Conduct which causes inconvenience, annoyance or alarm, or recklessly creates a risk by:
  - 1. engaging in fighting or threatening, or in violent or tumultuous behavior;
  - 2. making unreasonable noise;
  - 3. using obscene language, or making an obscene gesture; or
  - 4. creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.
- ii. Intentionally providing false information to any College official including Campus Safety staff and Residential Services staff.
- iii. Failure to comply with the reasonable requests of a College official, including presenting appropriate identification.
- iv. Violation of an issued No Contact Letter.
- v. Intentionally providing false or misleading testimony to a Hearing Officer or Hearing Board.
- vi. Failure to participate in or disruption of the College disciplinary process.
- vii. Knowingly instituting proceedings or filing false allegations through the College disciplinary process.
- viii. Harassment, intimidation, or retaliation against any person for participating in the College disciplinary process.
- ix. Intentionally or recklessly causing an emergency or dangerous environment or condition.
- x. Failure to complete any assigned sanction.
- xi. Violating any College policy including, but not limited to, the Muhlenberg College Student Alcohol Policy (attached as Appendix E to this Code) and the Drug Use and Controlled Substance Policy (attached as Appendix F to this Code).
- xii. Encouraging or facilitating others in violating this Code or any other College policy.
- xiii. Violation of any Federal, state, or local laws or ordinances.

4. **Discrimination, Harassment, Sexual Misconduct, Intimate Partner Violence, Stalking, and Retaliation Behavior.** Muhlenberg College believes that deeply engaging with the multiple concerns, forms and expressions of diversity enriches the liberal arts education of all our students, prepares our graduates for lives of leadership and global citizenship, and enhances the quality of life on campus for all of our community members. As such, Muhlenberg College expects that its students will treat others with dignity, respect, and empathy. Students shall not engage in behavior prohibited in the Muhlenberg College Equal Opportunity and Nondiscrimination Policy (attached as Appendix G to this Code). The definitions of discrimination,

harassment, sexual misconduct, intimate partner violence, stalking, and retaliation are contained in the Equal Opportunity and Nondiscrimination Policy. In instances where a student is alleged to have violated the Equal Opportunity and Nondiscrimination Policy, the procedures set forth in the Student Equal Opportunity Complaint and Resolution Process (attached as Appendix H to this Code) shall be used rather than the procedures set forth in this Code.

#### **ARTICLE IV – EMERGENCY AUTHORITY**

1. The Dean of Students or the Dean's designee shall have the authority to take emergency action at any time when, in his or her judgement, it is necessary to do so. This includes enacting or suspending College rules and regulations.
2. Whenever the Dean of Students or the Dean's designee determines that the continued presence of a student or student group at the College poses a substantial and immediate threat to the student or to others, or to the stability and continuance of College functions, the Dean of Students or the Dean's designee may, without prior notice, immediately suspend a student or student group from the College; restrict a student's or student group's access to College property; remove a student or members of a student group from College housing; and/or impose such other interim measures as deemed appropriate. Students that are subject to an interim suspension and removed from campus may contact faculty to attempt to make arrangements regarding coursework but such arrangements are at the sole discretion of the faculty.
3. The Dean of Students or the Dean's designee may issue No-Contact Letters to any individuals involved in a matter that could constitute a violation of this Code. Any violation of a No-Contact Letter may be deemed a violation of this Code.

#### **ARTICLE V – RESPONSIBILITIES AND FUNDAMENTAL FAIRNESS**

1. **Responsibilities of Individual Students**
  - a. Students are responsible for knowing and adhering to the expectations outlined in this Code.
  - b. Students are responsible for fully cooperating with College officials investigating alleged violations of this Code or any other College policy and are required to provide complete, accurate, and truthful information and any potentially relevant documentation in any format.

- c. Student witnesses are responsible for appearing at any disciplinary proceeding when called to do so and providing truthful and complete information to the Hearing Board or the Hearing Officer when asked.
- d. Individual respondents are not required to provide statements or answer questions in connection with any investigation of alleged violations of this Code or at any related disciplinary proceeding. However, all such investigations and disciplinary proceedings shall proceed notwithstanding the decision by an individual respondent to remain silent.

## 2. Responsibilities of Student Groups

- a. Student groups are responsible for educating their members on this Code and other College policies and how they relate to student groups.
  - b. Student groups are responsible for fully cooperating with College officials investigating alleged violations of this Code or any other College policy. Student groups are responsible for ensuring that their members provide complete, accurate, and truthful information and any potentially relevant documentation in any format.
  - c. Student Groups are responsible for having a representative appear at any disciplinary proceeding when called to do so and providing truthful and complete information to the Hearing Board or the Hearing Officer when asked.
  - d. Members of a respondent student group are required to provide statements and/or answer questions in connection with any investigation of alleged violations of this Code by the respondent student group and/or at any related disciplinary proceeding.
3. Muhlenberg College has an interest in providing fundamental fairness in all conduct matters. The College will provide the following to respondent students and student groups in relation to alleged violations of this Code.
- a. **Presumption of non-responsibility.** A respondent shall be considered not responsible unless sufficient evidence is presented to the contrary. A “preponderance of evidence” (as defined in Article 1) must be present to find a respondent student or student group responsible for a particular violation of this Code.
  - b. **Written Notification.** A respondent is entitled to written notification of any allegations brought against the respondent and an outline of the College’s disciplinary procedures under this Code. If additional allegations are brought against a respondent, a further written notice must be sent. These notices may be sent via a secure electronic system to an official Muhlenberg College email address, via campus mail or U.S. mail (to the last known address maintained by the

College) or personally delivered to the respondent. Any of these methods of notification shall be considered sufficient. If a disciplinary proceeding is scheduled, the Conduct Officer shall notify the respondent of the time, date, and location of the disciplinary proceeding at least two (2) days before a scheduled Disciplinary Conference and at least five (5) days before a scheduled Hearing Board.

- c. **Review of available information.** Prior to any disciplinary proceeding, a respondent is entitled to review the available information and documents compiled by the Conduct Officer in connection with any allegations brought against the respondent, and a list of witnesses, if any, who have been called by the Conduct Officer to present information at any disciplinary proceeding. Any such document review shall be at a time and location established by the Conduct Officer.
- d. **Representation by a member.** Respondent student groups have the right to choose one current student member to represent it at a disciplinary proceeding. At the discretion of the Conduct Officer, the respondent student group is also permitted to have two additional student members present to witness the proceedings. These members may not be called as witnesses, may not participate in the disciplinary proceeding in any way, and may be removed by the Hearing Officer or the Hearing Board if they are disruptive or prove distracting or intimidating to any participant. Permission may be given by the Conduct Officer to allow non-member representatives of the student group to replace the two student observers.
- e. **Advisory assistance.** Upon being referred to a Hearing Board, the respondent student or student group shall be assigned as an Advisor an approved member of the management staff to assist the respondent in matters involving alleged violations of this Code. The respondent may elect to reject the assigned Advisor and select a different (non-trained) member of the College community to serve as an Advisor. Respondents will be asked to acknowledge that they received the name of a trained Advisor and the importance of utilizing a trained Advisor. However, no respondent will be required to select or consult such Advisor. An Advisor may accompany and consult with the respondent; however, the Advisor may not address the Hearing Board, or take part in the hearing process.
  - i. The following list of College professionals are excluded from acting as an Advisor: the President and President's Staff, the Provost, and Deans and Vice Presidents of the College. In addition, Hearing Officers and individuals serving on Hearing Boards or Appeals Boards may not serve as Advisors.

- f. **Attorneys.** A respondent may be accompanied by an attorney before a Hearing Board; however, the attorney may not address the Hearing Board or take part in the hearing process. The respondent must provide written notification to the Conduct Officer of the intent to have an attorney present at least 24 hours prior to the hearing. Except when criminal charges are pending against the respondent, the College reserves the right to refuse to grant permission for the appearance of an attorney on behalf of the respondent at the hearing.
- g. **Accommodation of Disabilities.** If you need, or might need, accommodations during the disciplinary process, you may request them by contacting the Office of Disability Services, Lower Level, Seegers Union, [484-664-3825](tel:484-664-3825). For additional information, please visit: <http://muhlenberg.edu/main/aboutus/disabilities/>
- h. **Challenge of Hearing Officers and members of Hearing Boards and Appeals Boards.** Prior to a scheduled Disciplinary Conference, hearing before a Hearing Board or proceeding before an Appeals Board, the respondent shall be advised of the names of the Hearing Officer or members of the applicable Hearing Board or Appeals Board. The respondent shall have the right to challenge the presence of a Hearing Officer or a member(s) of a Hearing Board or Appeals Board for reasons such as a personal bias towards a participant or a preformed judgment in the particular matter. In the case of a Hearing Board or an Appeals Board, the removal of a Hearing Board or Appeals Board member will be by majority vote of the remaining members. In cases involving Disciplinary Conferences, the decision shall be at the discretion of the Hearing Officer. Prior to the Disciplinary Conference, hearing before a Hearing Board or proceeding before an Appeals Board, the respondent shall not, directly or indirectly, contact the Hearing Officer or members of the applicable Hearing Board or Appeals Board regarding the disciplinary proceeding.
- i. **Refuse to answer any question or make a statement.** As noted above, individual respondents are not required to provide statements or answer questions in connection with any investigation of alleged violations of this Code or at any related disciplinary proceeding. However, all such investigations and disciplinary proceedings shall proceed notwithstanding the decision by an individual respondent to remain silent. Members of a respondent student group are required to provide statements and/or answer questions in connection with any investigation of alleged violations of this Code by the respondent student group and/or at any related disciplinary proceeding.

- j. **Past disciplinary record.** The past disciplinary record of a respondent (including any matters which may have been expunged pursuant to Article X below) will not be disclosed to a Hearing Board or Hearing Officer unless a determination of responsibility is made, except if introduced by the respondent or in cases in which the respondent is charged with failure to complete sanctions. In addition, the Dean of Students will have access to a respondent's disciplinary record (including any matters which may have been expunged pursuant to Article X below) if the Dean is required to impose sanctions in connection with a determination of responsibility by a Hearing Board.
- k. **Notification of outcomes.** At the conclusion of a disciplinary proceeding, the Conduct Officer shall send the respondent a written notification of the resolution of the disciplinary proceeding including a summary of the alleged violations of this Code and the findings of the Hearing Board or Conduct Officer. If the respondent is found to have violated this Code, notice shall also include the sanctions imposed in connection with such violation(s) and a statement regarding the right to request an appeal and the procedures for making such an appeal. In addition, the Conduct Officer may elect to notify the complainant of the resolution of the disciplinary proceeding including a summary of the alleged violations of this Code and the findings of the Hearing Board or Conduct Officer.
- l. **Right of appeal.** See Article IX of this Code.
- m. **Admission of relevant evidence.** Evidence is admissible when, in the opinion of the Hearing Officer or the majority of the Hearing Board, it is shown to be relevant to the matter. Evidence obtained by a search of a student's person or property shall be admissible if that search was conducted by municipal law enforcement officers or College officials while acting in accordance with their duties. Lie detector/polygraph evidence shall not be admissible or considered by any Hearing Officer or Hearing Board.
- n. **Closed hearings.** All disciplinary proceedings shall be closed to the public provided that in disciplinary proceedings not involving student groups, up to two immediate family members and one non-related support person (provided that such person is not a Muhlenberg Student), as requested by the respondent student and approved by the Conduct Officer, may attend. In addition, the Dean of Students reserves the right in exceptional circumstances to permit up to two immediate family members of any witness to attend a disciplinary proceeding while such witness is testifying. Support persons and family members may not address the Hearing Officer or the Hearing Board, confer with the respondent, any during the disciplinary proceeding or otherwise take part in the disciplinary proceeding.

- o. **Confidentiality.** The evidence, testimony, outcome or other content of any disciplinary proceeding is and shall be considered confidential and may not be released or disclosed by any participant in such disciplinary proceeding except in accordance with the requirements of this Code. As noted in Article II above, at the discretion of the Dean of Students and in compliance with the Family Educational Rights and Privacy Act, if a student group is alleged to have violated this Code, the College may communicate to the College community the allegations, findings of fact, violations and/or sanctions imposed in connection with violations, if any.

## **ARTICLE VI – SANCTIONS AND REMEDIES**

Muhlenberg College's student conduct system is meant to be educational, restorative, and corrective. Students or student groups who are found responsible for violations of this Code will be assigned at least one primary sanction and other secondary sanctions as necessary to meet these goals. The imposition of any of the below sanctions shall be subject to mitigating factors such as the present demeanor and past disciplinary record of the respondent, as well as the nature of the offense and the severity of any damage, injury, or harm resulting from the offense.

### **1. Primary Sanctions for Individual Students**

- a. **Disciplinary Warning.** Disciplinary warning is a written notice given to a student responsible for a violation of this Code to draw attention to the fact that the student's behavior was not in accordance with College policy and that should a breach of College policy occur again or if the student is found responsible for any future offenses, the student may expect to receive more severe disciplinary action.
- b. **Disciplinary Probation.** Disciplinary probation is a notification that a student's behavior violated College policy in a serious way and that the student must make material modifications to their behavior moving forward. Students who are on probation may face exclusion from participation in privileged or extracurricular institutional activities including, but not limited to, on-campus housing, for a specified period of time. Additional restrictions or conditions may also be imposed including, but not limited to, the privilege of participating in College programs, activities, and student groups (i.e. study abroad, off-campus living, officer of a student group, etc.). Violations of the terms of disciplinary probation, or any other violation of this Code during the period of disciplinary probation, may result in suspension or expulsion from the College.
- c. **Suspension.** Suspension is a temporary removal of a student from the campus community. A student is removed from the College community for a specified period of time which can be, in

extraordinary circumstances, for up to 7 semesters. Suspension may be for the remainder of a semester and/or for the following semester(s). A suspension shall be noted on or with a student's transcript for a period of time equal to the length of the suspension. A student who is suspended from the College may not be present on any College property or participate in any College or student group sponsored programs or services during suspension. In order to be eligible for return, the student must be in compliance with all aspects of the student's suspension and must have fulfilled any other sanctions imposed for violations of this Code. In addition, students who have been suspended may be required to schedule a pre-return meeting with the Conduct Officer or other administrative staff members before receiving permission to return.

- d. **Expulsion.** Expulsion is the permanent removal of a student from the College and all College property without an opportunity for readmission. An expulsion shall be noted on a student's transcript. A student who is expelled from the College may never be present on any College property or participate in any College or student group sponsored programs or services.
- e. **Delay of Degree.** A student who is found responsible for a violation of this Code may have the awarding of his/her degree delayed for up to 4 semesters.
- f. **Revocation.** Revocation of a student's admission to the College.

## 2. **Secondary Sanctions for Individual Students**

- a. **Educational Session.** The student may be required to participate in educational experiences such as a program, workshop, online tutorial, or individual meeting.
- b. **Fines.** Fines will be billed to a student's College account as appropriate.
- c. **Housing Probation.** The student may be placed on housing probation for a specified period of time and their involvement in any future incidents will be grounds for more severe sanctions including removal from College housing.
- d. **Housing Relocation.** The student may be relocated to a new location. If the student does not move by the noted date, their account will be billed up to \$100 and their old room location will be re-keyed.
- e. **Housing Removal.** The student housing contract will be terminated. If the student does not perform a proper checkout, the student will incur a \$100 improper checkout fee charged directly to their account.
- f. **Loss of Housing Lottery.** The student will not be provided a number to participate during the housing lottery processes and such student

may not be pulled into a space with another student's number and they will not be able to hold a space for the student. The student will be housed at the completion of the entire housing lottery process. This includes general housing lottery, MILE lottery, group interest lottery, and the off-campus process as well.

- g. **Loss of Privileges.** The student may be denied access to privileges afforded to them as a member of the College community as appropriate. Privileges include, but are not limited to, internet access, parking privileges, cross-visitation, and involvement in College programs or activities.
- h. **Other Sanctions.** Other sanctions may be imposed as appropriate to achieve the goals of sanctioning mentioned above and to respect the individuality of each case and each student. These may include, but are not limited to, reflection papers, research papers, service projects, work service hours, fire safety fines, referral, program attendance, meetings, and program creation.
- i. **Parent(s) and/or Guardian(s) Conference.** The parent(s) and/or guardian(s) will be asked to have a conference (in person or over the phone) with the student and an appropriate College administrative manager to discuss the incident.
- j. **Parent(s) and/or Guardian(s) Notification.** If permitted under the federal Family Educational Rights and Privacy Act, a copy of the outcome letter will be sent to the address on file for the student's parent(s) and/or guardian(s).
- k. **Restitution.** Restitution may be billed by the College for damages incurred by the College and resulting from a student's behavior in violation of this Code. Restitution is not available for damages incurred by an individual or a student group.
- l. **Restorative Practices.** If all of the involved parties are in agreement, the Conduct Officer may utilize restorative measures such as restorative circles or conversations as a form of educational sanction.
- m. **Substance Use Assessment.** The student may be required to complete a substance use assessment with an agency identified or approved by the College. The student will be required to furnish proof of completion of any required assessment.

### 3. Primary Sanctions for Student Groups

- a. **Disciplinary Warning.** Disciplinary warning is a written notice given to a student group responsible for a violation of this Code to draw attention to the fact that the student group's behavior was not in accordance with College policy and that should a breach of College policy occur again or if the student group is found responsible for any future offenses, the student group may expect to receive more severe disciplinary action.

- b. **Disciplinary Probation.** Disciplinary probation is a notification that a student group's behavior violated College policy in a serious way. Student groups may be placed on probation for a specified period of time not to exceed four semesters and this status implies that any further violation of this Code may result in dissolution, termination, or other authorized sanctions. Additional restrictions or conditions may also be imposed, including, but not limited to, limitations on social activities, and additional requirements may be imposed as conditions for reinstatement of recognition in good standing.
- c. **Disciplinary Dissolution.** Disciplinary dissolution is the loss of College recognition for a period of time not to exceed five years. Dissolution is the loss of privilege to use the College's name or represent it in any capacity. In addition, the student group will lose all privileges to use College equipment or facilities. At the end of the dissolution period, the student group shall contact the Dean of Students Office and be required to follow any recognition processes in place at the time and such recognition is not guaranteed. Dissolution shall be imposed for time periods of years, not semesters.
- d. **Disciplinary Termination.** Disciplinary termination is the permanent loss of College recognition. Termination includes the loss of privilege to use the College's name, to represent it in any capacity, to be present on or utilize any College property, equipment or facilities and to participate in any College or student group sponsored programs or services.

#### 4. **Secondary Sanctions for Student Groups**

- a. **Social Probation.** Social probation is the loss of the student group's privileges to host social events (alcohol free and/or with alcohol). Student groups may also be prohibited from hosting any events (alcohol free and/or with alcohol) on or off campus.
- b. **Alcohol-Free Housing.** The student group loses the right to have any alcohol present in the student group's facility including in individual bedrooms/living areas.
- c. **Loss of College Housing.** The student group loses the right to group housing. A student group that has lost its right to College housing must follow any processes in place to reacquire group living rights.
- d. **Removal of Specific Members or Officers.**
- e. **Other Sanctions.** Other possible secondary sanctions include, but are not limited to, the following:
  - i. Restitution or replacement of lost, damaged, or stolen College property. Restitution is not available for damages incurred by an individual or a student group.
  - ii. Suspension of privileges to participate in any activity sponsored by the College and/or to use or occupy certain College

facilities. Sanctions that suspend group privileges shall have a set time of duration indicating when and under what conditions students may regain the privilege.

- iii. Suspension of any right to represent the College.
- iv. Requirement to hold educational programs for members.
- v. Such other sanctions as appropriate to achieve the goals of sanctioning mentioned above and to respect the individuality of each case and each student group. These may include, but are not limited to, service projects, work service hours, fire safety fines, program attendance, meetings, and program creation.

## **ARTICLE VII – ROLE OF THE CONDUCT OFFICER**

Muhlenberg College will appoint a staff member to serve as the Conduct Officer. This person has the primary responsibility for maintaining the student conduct system in a fundamentally fair manner. Specific responsibilities include:

- a. The development of procedures and policies related to student conduct.
- b. The receipt and review of alleged violations of this Code.
- c. The coordination of investigations of violations of this Code.
- d. The determination of the proper forum to consider alleged violations of this Code.
- e. Serving as a Hearing Officer for Disciplinary Conferences.
- f. Notifying students of charges, disciplinary proceedings, outcomes, and other conduct matters.
- g. The presentation of a matter in the selected forum.
- h. The performance of other duties as required for managing and maintaining the College's student conduct system.

## **ARTICLE VIII – PROCESS AND PROCEDURE**

### **1. General Information**

- a. Alleged violations of this Code may be reported by any person or group inside or outside the College community. The Dean of Students Office acting on behalf of the College community can file complaints as well. The complaint must be submitted in writing to the Conduct Officer or to Campus Safety.
- b. When a complaint or report is received, the Conduct Officer will coordinate an investigation to determine whether there is sufficient evidence to support an alleged violation of this Code.
- c. The Conduct Officer, or his or her designee, will contact the student or student group alleged to have violated this Code for an initial meeting. That initial notification will include the allegations and an outline of the disciplinary process.

- d. The Conduct Officer will be responsible for determining the appropriate forum for resolving conduct matters (College Hearing Board, Disciplinary Conference or Restorative Process).
- e. In cases where multiple allegations and/or multiple respondents arise out of the same event or series of related events, the Conduct Officer shall have the discretion to direct that a single Hearing Board or Disciplinary Conference be conducted with respect to the multiple allegations/respondents.
- f. The Conduct Officer will, consistent with this Code, develop the specific processes used for all types of disciplinary proceedings. These processes will be available for respondents to review prior to resolution.

## **2. College Hearing Board**

- a. A College Hearing Board is a committee made up of faculty, administrative managers and students and is responsible for adjudicating conduct matters referred to it by the Conduct Officer.
- b. Each Hearing Board shall consist of five members: three students, one faculty member (who shall serve as the Hearing Board Chair) and one administrative manager. A quorum shall consist of four members provided one is a faculty member and one is an administrative manager.
  - i. An ad hoc Hearing Board may be established by the Dean of Students or the Dean's designee whenever a regular Hearing Board is not constituted, is unable to obtain a quorum, or is otherwise unable to hear a case. An ad hoc Hearing Board shall be composed of three members, one faculty member, one student, and one administrative staff member.
- c. The Hearing Board shall be responsible for making findings of fact and rendering decisions regarding alleged violations of this Code. In the event that a violation(s) of this Code is/are found, the Hearing Board shall also make recommendations to the Dean of Students regarding appropriate sanctions. The Dean of Students shall then be responsible for rendering decisions regarding appropriate sanctions. The Dean of Students shall consult with the President of the College prior to imposing a sanction of expulsion of a student or disciplinary termination of a student group.
- d. Any respondent or respondent student group who fails to appear before a Hearing Board after proper notice will be deemed to have pled "not in violation" to the charges. The Hearing Board may, at its discretion, elect to conduct the hearing in the respondent's absence.
- e. At least three days prior to the hearing before a Hearing Board, a respondent must provide the Conduct Officer with a list of witnesses

the respondent intends to present at the hearing, along with information supporting the relevance of each witness. If the respondent fails to provide proper notification that the respondent is bringing witnesses, the admission of such witnesses' testimony will be at the discretion of the Hearing Board and no appeal shall be granted for denying the admission of such testimony.

- f. A respondent shall have the right to hear all testimony, present relevant information, call witnesses on their own behalf and ask questions of any witnesses. Testimony (written or oral) concerning the character of a respondent student or respondent student group is not admissible and will not be presented to or considered by a Hearing Board.
- g. The Hearing Board Chair shall exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the hearing. Any person, including the respondent, who disrupts a hearing, may be removed from the hearing by the Hearing Board Chair.
- h. The Hearing Board shall make tape recordings, written transcripts and/or video tapes of all hearings, unless the respondent requests in writing a more technical procedure such as a professional videotaping, and deposits with the Conduct Officer an amount sufficient to pay all costs for same. All such tape recordings, written transcripts and/or video tapes shall remain the property of the College.
- i. If the Hearing Board determines that a supplemental hearing is required to obtain additional evidence, such supplemental hearing shall be held by the Hearing Board within a reasonably prompt period of time.

### **3. Disciplinary Conferences**

- a. A Disciplinary Conference is a hearing resolved by a Hearing Officer instead of a panel. No sanction above probation for students or student groups may be imposed at a Disciplinary Conference.
- b. The Hearing Officer shall be responsible for making findings of fact and rendering decisions regarding alleged violations of this Code. In the event that a violation(s) of this Code is/are found, the Hearing Officer shall also be responsible for rendering decisions regarding appropriate sanctions.
- c. Any respondent or respondent student group who fails to appear after proper notice will be deemed to have pled "not in violation" to the charges. The Hearing Officer may, at his/her discretion, elect to conduct the Disciplinary Conference in the respondent's or respondent student group's absence.

- d. A respondent shall have the right to review all information and documents compiled by the Conduct Officer in connection with any allegations brought against the respondent and present a response and other relevant information. Testimony (written or oral) concerning the character of a respondent student or respondent student group is not admissible and will not be presented to or considered by a Hearing Officer.
  - e. The Hearing Officer shall exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the Disciplinary Conference.
4. **Restorative Practices.** In some cases, one of three different Restorative Practice techniques can be utilized in place of a formal Disciplinary Conference or Hearing Board. However, Restorative Practice techniques are more often designated as an assigned sanction or as a voluntary opportunity to repair harm after a formal conduct process has concluded. In cases in which Restorative Practice techniques are used in place of a formal conduct process, it will occur before a student is issued formal conduct charges. The Student Conduct Officer always reserves the option to refer the matter back to a formal process if deemed necessary at any time. In all cases, these techniques will only be used when both the complainant and respondent voluntarily agree. In addition, these Restorative Practices will be led by staff at the College who are formally trained in Restorative Practices work. The three types of Restorative Practices used will be:
- a. **Restorative Dialogues.** Used to discuss an incident or harm that occurred between two individuals and that does not involve any people who were secondarily affected.
  - b. **Restorative Circles.** Used in situations in which multiple people may have been harmed by the actions of one or more people or a group of people. This process involves both parties having a designated support person in the room. It also includes members of any group of people who may have been harmed by the incident. In these scenarios, all members of the group participate in the conversation and have the opportunity to express how they may have been impacted by the situation. Participants will also share suggestions for what actions would assist in repairing any harm done and enable those harmed to move forward from the experience positively.
  - c. **Restorative Conferences.** This technique is an extension of either a Restorative Dialogue or Circle. However, at the end of a Restorative Conference, agreed upon outcomes will be drafted by the facilitator into a formal agreement between the parties involved. The parties will sign the agreement and that agreement will be considered a

binding contract to which the parties shall adhere in order to avoid further judicial action.

## **ARTICLE IX – APPEALS**

1. **The Right to Appeal.** The Hearing Board's and Dean of Students' decisions shall be final and non-appealable unless a sanction of suspension, expulsion, dissolution or termination is imposed by the Dean of Students. Appeals in matters involving alleged violations of the Equal Opportunity and Nondiscrimination Policy (attached as Appendix G to this Code) shall use the processes outlined in the Student Equal Opportunity Complaint and Resolution Procedures (attached as Appendix H to this Code).
2. **Grounds for Appeal.** The following are the only acceptable grounds for an appeal:
  - (a) that a material procedural error occurred that had the reasonable potential of affecting the decisions;
  - (b) that material new evidence exists that was not available prior to or at the time of the hearing and had the reasonable potential of affecting the decisions; and/or
  - (c) that the sanction(s) imposed are unduly harsh.Appeals filed on other grounds will be dismissed without review.
3. **Appeals Board.** All appeals shall be submitted to a College Appeals Board. Each Appeals Board shall consist of three members: one student, one faculty member (who shall serve as the Appeals Board Chair) and one administrative manager each of whom have been selected and trained by the Dean of Students Office. All three members must be present for a quorum. All decisions of the Appeals Board shall be final and non-appealable.
4. **Sanctions.** All sanctions imposed by the Dean of Students shall be in effect during the pendency of any appeal provided that the respondent may request special consideration from the Dean of Students in exigent circumstances. Graduation, study abroad, internships/externships, etc. do not in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal. In cases where an appeal results in reinstatement to the College or of privileges, all reasonable attempts will be made to restore the student to their prior status, recognizing that some opportunities lost may be irretrievable in the short term.
5. **Process.**

- a. **Appeal Submission.** The appeal must be submitted by the respondent to the Office of the Dean of Students in writing within five days after the student or student group receives written notification of the Hearing Board's and the Dean of Students' decisions. The written appeal must contain only the specific ground(s) upon which the appeal is based and set forth the reasons why the appeal should be granted. The Dean of Students reserves the right to redact or direct the Appeals Board to disregard any portion of an appeal that is beyond the permissible grounds for appeal. In addition, it is expected that all appeals will be the work product of the student or student group rather than the student's or student group's counsel (although consultation with counsel is permitted). The Dean of Students or the Dean's designee, in their sole discretion, may grant additional time to file an appeal for good cause.
- b. **Response to Appeal.** The Conduct Officer shall present a copy of the appeal to the chairperson of the Hearing Board and/or the Dean of Students depending on the grounds for appeal. Each recipient of the appeal shall submit a written response to the appeal to the Conduct Officer in a timely manner. In appeals that allege a violation of the conduct procedures, the Conduct Officer and the chairperson of the Hearing Board shall write a response. In appeals alleging new evidence, the chairperson of the Hearing Board shall write a response. In appeals asserting that sanctions are unduly harsh, the Dean of Students shall write a response. The Conduct Officer is permitted to assist in the preparation of all responses.
- c. **Appeals Hearing.** Promptly after receipt of the appeal and the response(s), the Appeals Board will meet to review the appeal. Such review will be limited to the grounds for appeal properly asserted by the respondent student or student group. The Appeals Board may review the written appeal, the written response(s), evidence and testimony presented at the hearing, the Hearing Board's findings of fact, decision regarding alleged violations of the Code and recommendation(s) regarding sanctions, the Dean of Students' decision regarding sanctions, the student's or student group's judicial history, a summary of prior matters involving similar charges and the sanctions imposed in connection therewith, and relevant correspondence from the Dean of Students and the Conduct Officer to the student or student group.
  - i. Possible actions: After a review of the appeals information, the Appeals Board shall deliberate the merits of the appeal and shall be responsible for rendering final decisions regarding appeals. In this regard, the Appeals Board may (i) confirm, modify or reverse the decisions of the Hearing Board and/or Dean of Students, in whole or in part, regarding findings of fact,

determination of responsibility and/or sanctions; or (ii) remand the matter back to the original or a new Hearing Board for further action including, but not limited to, the taking of additional testimony, reviewing evidence previously excluded and correcting procedural errors; or (iii) take such additional action as may be determined appropriate by the Appeals Board.

- ii. Decision of the Appeals Board shall be determined by a majority vote of the Appeals Board and shall be communicated to the Dean of Students. The Dean of Student shall then provide notice of the Appeals Board's decision to the respondent and may elect to provide notice of the Appeals Board's decision to the complainant.
- iii. All decisions of the Appeals Board shall be final and non-appealable.

## **ARTICLE X – MISCELLANEOUS**

1. **Notices.** All notices to students under this Code shall be sent via a secure electronic system to the student's official Muhlenberg College email address, via campus mail or U.S. mail (to the last known address of the student maintained by the College) or personally delivered to student.
2. **Transcript Notations and Encumbrances.** The College shall place a temporary disciplinary hold on student transcripts in pending disciplinary cases under this Code which shall have the effect of preventing any student who is the subject of a disciplinary proceeding from obtaining or authorizing the release of the student's transcript, withdrawing from the College, being granted a leave of absence or graduating and receiving a diploma until such time as the disciplinary proceeding is concluded. Students found to have violated this Code and who are expelled from the College shall have the notice of "Expulsion" and the effective date of the expulsion placed upon their academic transcript. Students found to have violated this Code and who are suspended from the College shall have the notice of "Suspension" placed upon or appended to their academic transcript for a period of time equal to the length of the suspension. In addition, to the extent permitted by the Family Educational Rights and Privacy Act and other applicable law, the College reserves the right to have additional sanctions and the effective date of such sanctions placed upon or appended to a student's academic transcript.
3. **Disciplinary Files and Records.** Sanctions imposed for all violations of this Code shall be noted in a student's Personnel File. Personnel Files are maintained in the Dean of Students Office. These records are destroyed

seven years after graduation, provided that cases involving suspension, expulsion or significant legal implications may be kept on file indefinitely. All recorded transcripts, tapes, and other evidence relating to matters heard in accordance with these rules and procedures shall be the property of the College and shall be maintained in the Dean of Students office for two years after all internal appeal procedures have been exhausted and the decision is final, after which period they may be destroyed by the College.

4. **Expungement.** Provided that a student has completed all sanctions, at any time after (a) the beginning of the student's final semester before the student's expected graduation date, or (b) one year after the student's enrollment at the College has terminated, a student may submit a written petition to the Dean of Students requesting that the student's disciplinary records maintained in the Dean of Students Office (but not transcript notations) be voided by the Dean of Students for good cause. Factors to be considered in review of such petitions shall include: (i) the present demeanor of the student; (ii) the conduct of the student subsequent to the violation; and (iii) the nature of the violation and the severity of any damage, injury, or harm resulting from it.
  
5. **Additional Procedures.** The Dean of Students, with the concurrence of the President, shall have the authority to promulgate, from time to time, such additional or revised procedures as may be necessary for the efficient functioning of this Code and all disciplinary proceedings hereunder.
  
6. **Amendments to the Code.** The College may amend the provisions of this Code from time to time and students shall be bound by any such amended provisions upon adoption by the College.

Appendix A	Muhlenberg College Visitor Policy
Appendix B	Muhlenberg College Anti-Hazing Policy
Appendix C	Muhlenberg College Firearms and Other Weapons Policy
Appendix D	Muhlenberg College Electronic Communications and Information Technology Access Policy
Appendix E	Muhlenberg College Student Alcohol Policy
Appendix F	Muhlenberg College Drug Use and Controlled Substance Policy
Appendix G	Muhlenberg College Equal Opportunity and Nondiscrimination Policy
Appendix H	Muhlenberg College Student Equal Opportunity Complaint and Resolution Procedures