

## **Emporia State University Student Code of Conduct**

As a member of the Emporia State University community, each person has the right and ability to make personal decisions about his or her own conduct. Each person has the responsibility to strive to uphold the tenets of Emporia State University's Affirmation of Values. When decisions are made that are counter-productive to the values and environment of this institution, students are encouraged to transform their behavior to meet the needs of the university community. Choosing to abide by the Affirmation of Values enables each person to determine who he or she is with respect to the rest of society. By enrolling at Emporia State University, students accept responsibility for compliance with the Student Code of Conduct, all university and Regents policies, and contracts. The accused shall have the right of due process and appeal as prescribed in this document and other relevant University policies, rules or regulations. Disciplinary action may be taken for violation(s) occurring on University premises and at University sponsored events. The University reserves the right to take action for off-campus violations of law and/or serious violations of University policy that adversely affect some distinct and clear interest of the University and its constituents. Students may be subject to civil and/or criminal penalties in addition to campus sanctions. Campus resolution may/can proceed before, during or after civil and/or criminal actions are concluded and is not subject to challenge based on the action or inaction of civil authorities.

### **Student Code Authority and Disciplinary Responsibility**

The responsibility for the campus conduct system is delegated from the State of Kansas, to the Board of Regents, to the President of Emporia State University, who further delegates the responsibility to the Vice President for Student Affairs. The Vice President for Student Affairs may further delegate conduct authority to his or her designees, including but not limited to, the Assistant Vice President for Student Affairs and the Conduct Coordinator.

1. The Conduct Coordinator shall determine the hearing bodies, in accordance with the Code.
2. The Conduct Coordinator shall develop and recommend policies for the administration of the Code and consistent procedural rules for conducting hearings and appeals.
3. Decisions made by a hearing body, the Vice President for Student Affairs, or in an informal conference shall be final, except for a proper appeal or pursuant to the direction of the Code provisions.
4. For conduct proceedings involving Residential Life, the Conduct Coordinator may facilitate appeals for Residential Life using the Code's appeals procedure and in accordance with Residential Life conduct policies.

### **Definitions:**

1. The term "university" means Emporia State University.
2. The term "student" means any person who is currently registered or enrolled in one or more classes at the university or in any university sponsored program or who is registered for a future term, including faculty or staff so registered or enrolled.
3. The term "faculty member" means any person hired by the university in a teaching appointment and those individuals holding academic administrative positions.
4. The term "staff member" means any person hired by the university in a non-academic unclassified or classified position.
5. The term "member of the university community" includes any person who is a student, faculty or staff member. The Vice President for Student Affairs shall determine a person's status as a member of the university community for individuals not easily defined in one of the three general categories.
6. The term "university premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the university and/or ESU Foundation (including adjacent streets and sidewalks). Note, the University reserves the right to take action for off-campus

violations of law and/or serious violations of University policy that adversely affect some distinct and clear interest of the University and its constituents.

7. The term “university sponsored activity” means any activity on university premises or at an off campus location, which is directly initiated or supervised, hosted or authorized by the university.
8. The term “group” means a number of persons who are associated with each other, but who have not complied with university requirements for registration as an organization.
9. The term “organization” means any number of persons who have complied with the formal requirements for university recognition.
10. The term “extra-curricular activity” means any activity sponsored by the University including intercollegiate athletics.
11. The term “adviser” means any person selected by a complainant or an accused to accompany them to the informal conference and/or formal hearings.
12. The term “day” means calendar day the university is officially open for business.
13. The term “FERPA” refers to the Family Educational Rights and Privacy Act of 1974 that defines student educational records, who may access those records, and under what circumstances. (20 U.S.C. 1232g (2002), 34 C.F.R. Part 99(2001))
14. The term “shall” is used in the imperative sense.
15. The term “may” is used in the permissive sense.
16. The term "official university policies, rules or regulations" is defined as those policies, rules, or regulations that have been approved by the Kansas Board of Regents and/or the President of Emporia State University as found in, but not limited to, the Student Code of Conduct, the Employee Policy Manual, Residence Life Handbook, and University catalogs. These sources of information will be made available from the Office of the Vice President for Student Affairs.
17. The term “Complainant” refers to any person who submits a charge alleging that a student, group or organization violated the Code.
18. The term “Accused Student” refers to any student accused of violating the Code.
19. The term “Witness” refers to any student or member of the university who is called by the Conduct Coordinator or hearing body to provide information about an alleged complaint or to provide information regarding an accused student or complainant.

### **Prohibited Conduct:**

The following list describes actions which detract from the effectiveness of the University community and for which students, groups or organizations maybe subject to disciplinary action. The list is not all-inclusive but contains examples of prohibited behavior.

1. Physical abuse, assault, verbal abuse, threats, intimidation, harassment, coercion, including physically restraining or transporting someone against his or her will, which threatens or endangers the health or safety of any person.  
  
\*\*Students who believe they have been sexually harassed or otherwise discriminated against by faculty, staff or another student of the University are instructed to report such grievances to the University Affirmative Action Officer in Human Resources, 341-5379.\*\*
2. Theft of or damage to, the property of the University /ESU Foundation other publicly owned property, or the property of a member of the university community on or off university premises or at a University sponsored activity.
3. Unauthorized access to, possession, control or use of, or entry into University or publicly controlled or owned property or the property of another member of the University community, including but not limited to, real property, buildings, electronic or physical files, telephones, identification, or computer resources.

4. Hazing of another person which constitutes any action or activity on or off campus that causes or intends to cause physical or mental discomfort or distress, which may demean, degrade, or disgrace any person, regardless of location, intent or consent of participants, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. Apathy or acquiescence in the presence of hazing is a violation of this rule.
5. Failure to comply with proper request or direction of a University employee, official or law enforcement officer acting in the scope of their employment and/or failure to identify oneself to such a person when requested to do so.
6. Providing false written or verbal representations to the University or a university official.
7. Forgery, falsification, or alteration, of University, or a member of the university community, documents or records, which include but are not limited to, any physical or electronic documents or records maintained by the University, and those available on university owned or managed websites or other electronic storage medium, including but not limited to those of financial aid, admissions, and registration.
8. Violation of University Information Technology policies, including but not limited to, the electronic mail policy, the appropriate computer use policy, and the network security policy.
9. Violations of University Weapons Policy, including possessing or using weapons (concealed or otherwise), including but not limited to, explosives, hazardous objects or chemicals, handguns, pistols, or revolvers, on University property (including but not limited to the Johnson County Metro Learning Center) and at University sponsored events regardless of location. Law enforcement officers are exempted from this policy as are weapons secured at the University Office of Police and Safety. Also exempted are items or materials used in University laboratories and/or in connection with approved University research projects.
10. Violation of University Drug, Tobacco and Alcohol Policies, including but not limited to the illegal use, possession, sale, distribution, cultivation or manufacture of any state or federally controlled drug, substance or paraphernalia, policies on the consumption and possession of low point beer and alcoholic beverages, and the use of tobacco in any form in restricted areas.
11. Interfering with the discipline process, its outcome, or abuse of the conduct system as well as failure to participate in the formal hearing process.
12. Disruption or obstruction of teaching, research, administration, or disciplinary proceedings of the University or University sponsored activities, including but not limited to violations of the university policies on dissent, protest and disorderly conduct.
13. Aiding abetting, procuring, attempts and complicity, or encouraging others to commit acts prohibited by this code.
14. Violation of any official University policies, rules or regulations.
15. Violation of federal, state law, and/or local ordinances.
16. Violations of conduct associated with academic dishonesty will be reviewed and outcomes determined through the academic conduct policies as outlined in the Emporia State University Policy Manual.

## **Conduct Process:**

### **Complaints:**

1. Any member of the University community may file a complaint alleging that a violation of the Code has occurred. The Office of the Vice President for Student Affairs, acting on behalf of the University, may initiate a complaint.
2. Such complaint shall be filed with the Conduct Coordinator or in the Coordinator's absence with the A.V.P. for Student Affairs as soon as possible, but preferably not later than ten (10) days after the alleged violation. The time may be extended at the discretion of the Office of the Vice President for Student Affairs.
3. The complaint must be submitted in writing and signed by the complainant(s). Included must be the date, time, place, name(s) of person(s) involved and sufficient detail to make a determination of whether disciplinary action may be warranted. All names of witnesses should be included in the complainant.

### **Information Standards:**

The Conduct Coordinator will be responsible for compiling sufficient information to determine if the charge(s) are or are not substantiated. The information must support a determination that it is "more likely than not" that a violation of the Code occurred for cases in which the potential sanction is less than expulsion. If suspension or expulsion is a possible sanction, the information must support a "clear and convincing" standard. Hearsay information and personal testimony may be considered in all conduct processes and will be weighed accordingly. Unduly repetitious evidence may be excluded.

**Confidentiality** - All disciplinary records are confidential and may not be disclosed in whole or in part except as provided by law, including but not limited to, the proper written consent of the student and under legal compulsion. Disciplinary records are maintained separate from the student's academic record but are part of the student's educational record.

### **Rights in Conduct Proceedings**

#### **Accused students, groups or organizations have the right to:**

1. A fair and impartial hearing;
2. A presumption of innocence for alleged violations until outcome is determined;
3. Be notified in writing within three (3) days of the report of an alleged violation of the complainants' allegations, the specific rule or policy allegedly violated and the time, date, and location of a student conduct conference or hearing;
4. Be accompanied by an adviser of their choice;
5. Be present during the entire hearing (except deliberations) and to know all evidence used in the Hearing, unless an exception exists related to the health, safety, or freedom of the accused;
6. Have questions asked of all witnesses who testify at a hearing;
7. Present witnesses to testify in his or her behalf;
8. Waive his, her or their right to a formal hearing and have the matter resolved informally;
9. Receive written notification within three (3) days of the conference or hearing of the outcome of the conference or hearing;
10. An avenue for one appeal from a formal hearing; and
11. The rights of privacy and confidentiality as specified by FERPA.

## **Complainant Rights**

1. A fair and impartial hearing;
2. An advisor of his, her or their choice;
3. Relate his, her or their account of the incident;
4. Have questions asked of all witnesses who testify at the hearing;
5. Present witnesses to testify as to the facts of the case;
6. Be present during the entire hearing (except deliberation), unless an exception exists related to the health and/or safety of the complainant;
7. Be informed of the outcome of the case orally and within 3 days; and
8. The rights to privacy and confidentiality as specified by FERPA.

## **Advisers**

A student, group or organization is entitled to have an adviser of their choice present during an Informal Conduct Conference or Formal Hearing. The adviser may only advise the student whom they are advising and may not present the case, question relevant individuals, or make statements during the proceedings.

The student, group, or organization must notify the Conduct Coordinator forty-eight (48) hours in advance of a formal hearing if they plan to be accompanied by an attorney. In such case, the University may have an attorney in attendance to advise the Vice President for Student Affairs or his or her designee. Neither counsel may speak for the university or student.

## **Informal Conduct Conference:**

Alleged violations of the Code may be resolved through an informal conduct conference process with the Conduct Coordinator. If the Conduct Coordinator believes suspension or expulsion from the University is a possibility, the Conduct Coordinator will consult with the Assistant Vice President for Student Affairs to fully conclude whether an informal process is appropriate. If it is determined that an informal process is inappropriate, or if the accused student, group, or organization desires a formal hearing the Conduct Coordinator will meet with the student to explain the formal hearing process and afford the accused the opportunity to proceed with a formal hearing or waive their rights to a formal hearing.

## **Informal Specific Procedures**

1. Upon determining an alleged violation of the Code may have occurred, the Conduct Coordinator will notify the accused within three (3) days in writing of the alleged charges against them. The written notice will be hand delivered to the accused or mailed to the accused local address as on-file in the Registrar's Office.
2. At the informal conduct conference the accused will be provided with the following:
  - a. An explanation of the alleged violation(s) which has been made;
  - b. A summary of the facts and information which substantiate the charges;
  - c. The opportunity to reflect upon and give his, her or their account of the incident or circumstances involved with the allegation(s);
  - d. The options for resolution of the complaint;
    1. The alleged violation(s) may be dismissed as unfounded;
    2. The accused may admit to the allegation(s), will be found responsible, and a sanction will be imposed;

3. The accused may decline to contest the allegations without admitting guilt, and the conduct coordinator will explain the consequences of such action;
  4. The accused or the conduct coordinator may request a formal hearing.
3. Informal resolution of the complaint by the agreement of the accused student, group, or organization and the conduct coordinator will result in a written agreement which shall include a statement of allegations, the determination, the sanction imposed, if any, information about the result of failure to complete sanctions, and the appeal process.
  4. Possible sanctions arising from an informal hearing are outlined in the Implementation of Sanction section of this document.

Failure to attend the informal conference will necessitate a formal hearing being scheduled. Failure complete sanctions which result from the informal conference will result in a hold being placed on the student's record and a formal hearing will be scheduled.

### **Formal Hearing Process**

A formal hearing will be provided when alleged violations cannot be resolved informally. A formal hearing before a conduct hearing body provides an extensive review and hearing of the information. Formal hearings may not be held during dead week, final examinations, breaks or other periods when a timely hearing by a conduct hearing body is not possible. In the event a complaint is filed during these periods, the University reserves the right to place a hold on the student's record until the complaint is resolved.

### **Composition of the Hearing Pool and Body**

1. The appointed Hearing Pool will consist of fourteen (14) members of the university community, six (6) students, six (6) full time teaching faculty and two (2) full time staff members (1 classified staff member and 1 unclassified staff member).
2. In the event of a hearing, a hearing body of five (5) members is selected from the pool by the Conduct Coordinator. Hearing body members shall notify the Conduct Coordinator if they believe a conflict of interest exists. Alternate hearing body members may be called in case of conflicts. The final make-up of a hearing body will include two (2) faculty, (2) students, and (1) full time staff member.
3. The Conduct Coordinator will be present as a non-voting member, and serve as recorder and adviser to the hearing body should procedural questions arise. In the event the University files a complaint, the Assistant Vice President for Student Affairs or his or her designee will present the case to the hearing body.
4. In the event a hearing member is unable to continue during a hearing, the Assistant Vice President for Student Affairs or his or her designee will assume the member's responsibilities.

### **Pre-Hearing Procedures**

1. Hearing body members will be assigned by the Conduct Coordinator based on their availability and non-conflict of interest.
2. The Conduct Coordinator will prepare and send a written notice to the accused student, group, or organization at least five (5) days prior to the hearing. The notice will include:
  - a. A statement of the date, time, place and nature of the hearing;

- b. Reference to the sections of the Code of Conduct involved;
  - c. A brief explanation of the alleged violation(s) including the approximate date, time, and place where the alleged violation(s) occurred;
  - d. Names of witnesses, if known; and at the discretion of the conduct officer;
  - e. Acts or actions alleged to constitute a violation;
  - f. The right to be accompanied by an adviser.
3. The Conduct Coordinator will be available to meet with the accused student, group or organization to explain the hearing procedures and answer questions.
  4. No less than three (3) days prior to a hearing, the accused may have access to information to be presented at the hearing.
  5. No less than three (3) days prior to a hearing, the accused will provide to the Conduct Coordinator copies of information to be presented at the hearing including the names of all witnesses. The Conduct Coordinator will notify potential witnesses of the date, time, and location of the hearing.
  6. Students notified to appear as witnesses for either the complainant or the accused are required to comply. Students who are unable to attend must contact the Conduct Coordinator no less than two (2) days prior to a hearing. Exceptions to appear will be at the discretion of the Conduct Coordinator and those students will be required to provide a written statement as testimony. Failure to comply may result in disciplinary sanctions.
  7. Upon identification of the hearing pool, a Chair is elected to preside over the proceedings.

### **Formal Hearing Procedures**

The purpose of the hearing is to provide an environment where all the information can be presented, where questions can be asked of all parties, and where the hearing body can deliberate and decide if a violation of the Code did or did not occur. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in Conduct proceedings. Deviations from prescribed procedures will not necessarily invalidate a decision or proceeding unless significant prejudice to the student or the University may result.

1. To protect the privacy of all parties, and in accordance with FERPA, hearings will be closed. At the written proper request of the accused student, group or organization and subject to the discretion of the Assistant Vice President for Student Affairs, the hearing may be open.
2. Admission of any individual or evidence into the hearing shall be at the discretion of the Chair.
3. Failure of the accused to appear after proper notification is deemed a waiver of appearance. The hearing shall be conducted in absence of the accused. Evidence will be presented and considered by the hearing body.
4. Failure of the complainant to appear is deemed an abandonment of the complaint, unless the complainant can demonstrate that extraordinary circumstances prevented appearance. If extraordinary circumstances are confirmed, the hearing will proceed in absence of complainant.
5. Advisers cannot appear in lieu of the accused or complainant and may only confer with the individual they are advising, and may only address the hearing body if specifically requested by the Chair.

6. Both sides have the right to present witnesses who will be subject to questioning by the hearing body. The Hearing Body reserves the right to limit the number of witnesses. All questions from the complainant and the accused will be directed to the chair of the hearing body.
7. The complainant will present their case first, to be followed by the accused. Both parties will have an opportunity to make brief closing statements in the same order.
8. The hearing (excluding the deliberations) will be audio tape recorded. The tape recordings are the property of the University. Others will not be allowed to make a recording of any type. The University is not responsible for equipment malfunctions. All tape and records related to the discipline proceedings are housed with the Conduct Coordinator and are subject to all applicable rules and regulations, including but not limited to FERPA..
9. Witnesses will remain outside the hearing forum, held in an area that provides for lack of communication between individuals, until they are called to give their testimony. Witnesses will be excused upon completion of their testimony and questioning, however, a witness may be asked to remain available for recall. The complainant and accused student remain throughout the hearing.
10. When the questioning of the complaint, accused, and any witnesses concludes, all parties will be dismissed except for the hearing body so members may deliberate and reach a decision regarding responsibility.
11. A student's past disciplinary record will be revealed to the Hearing body only if the student is found responsible for the violation of the Code under consideration. If a party raises the issue of past behavior during the hearing, the issue is then open to discussion.
12. The Hearing body shall deliberate and decide the matter in closed session.
13. After deliberation, the Hearing Body shall find by majority vote if a violation(s) of the Code has more likely than not occurred based on the information presented.
  - a. The hearing body may find the information was not sufficient to establish a violation of the Code and may dismiss the case.
  - b. The hearing body may find the information submitted was sufficient and recommend to the Vice President for Student Affairs or his or her designee a sanction commensurate with the offense.
  - c. The Vice President for Student Affairs or his or her designee will review and accept the sanction or modify the sanction when deemed necessary.
14. The hearing outcome will be communicated in writing to the accused as soon as possible, not to exceed three (3) days. The notification letter will include findings of fact, sanction(s) imposed and the rationale for the decision. The complainant will be notified of the decision of responsibility. Other individuals will only be provided information about the hearing to the extent allowed by applicable law, including but not limited to FERPA.

### **Appeal Procedure**

The Conduct Appellate Board is comprised of three members: a current or former faculty member representative of the Conduct hearing pool; a designee of the Vice President for Student Affairs; and the President of Associated Student Government or his or her designee. The faculty representative serves as the

chair. In instances involving Residential Life, the Student Affairs representative will be the Director or Associate Director of Residential Life.

An appeal is not a new hearing, but is a review of the original hearing record. It serves as a procedural safeguard for the accused. The burden of proof is on the appellant. The accused individual submitting the appeal must show that one or more of the listed grounds for appeal has merit. The accused submitting the appeal will not appear before the appellate board unless specifically requested to do so.

Conduct decisions made by a hearing body or discipline decisions reached by Residential Life judicial boards may be appealed to the Conduct Appellate Board. Accused who choose to have an appeal heard through the Conduct Appellate Board may not submit appeals consecutively or in addition to Residential Life processes appellate board.

1. An accused found responsible for violation(s) of the Code of Conduct may file one (1) appeal in writing with the Student Conduct Coordinator within five (5) days of the effective date of the original decision. Failure to file a timely appeal constitutes a waiver of any right to an appeal.
2. An accused may not appeal a decision based on dissatisfaction with the outcome of a hearing. An appeal must cite at least one of the following criteria as the reason for appeal and supporting argument(s). All documentation and information for consideration of an appeal must be included with the request for appeal.
  - a. To determine whether the original hearing was conducted fairly in light of the complaint and information presented, and in conformity with prescribed procedures.
  - b. To determine whether the sanction(s) imposed were appropriate for the violation of the Code that the accused was found to have committed. In instances where the appellate board is considering an appeal pertaining to Residential Life, the respective policies will be used.
  - c. To consider new information, sufficient to alter a decision; or other relevant facts not brought out in the original hearing, because such information and/or facts were not know to the person appealing at the time of the original hearing.
3. For cases resolved with an Informal Process, the Assistant Vice President for Student Affairs or his or her designee will determine if the request for an appeal shall be granted.
4. The Appellate board will review the record of the original hearing, and make a written recommendation to the Vice President for Student Affairs, based on the criteria cited as the reason for appeal, within five (5) days.
  - a. If the Appellate board is presented with new information which is believed to substantially affect the outcome or finds that procedural error did occur, the recommendation to the Vice President for Student Affairs may be remand for either a rehearing of the entire matter or reconsideration of specific issues. If a rehearing is recommended, it will be remanded back to the original hearing board for consideration or, at the request of the accused, may be remanded to a new hearing body within five (5) days.
  - b. If the sanction is considered too severe, the Appellate board may recommend to the Vice President for Student Affairs the sanction be modified and provide reasons for that recommendation.
5. The Vice President for Student Affairs shall make a determination based on the recommendation of the Appellate board. The final decision will be communicated in writing by the Conduct Coordinator to the appealing student, group, or organization, with a copy sent to the appropriate department (Residential Life), if applicable. The decision will be communicated within ten (10) days of receiving the written recommendation, but may take longer during University recesses or in a complex case.

6. The decision of the Vice President for Student Affairs shall be final.

## **Implementation of Sanctions**

### **Interim Suspension:**

Interim Suspension is an immediate suspension from the University upon notice from the Vice President for Student Affairs or his or her designee. Interim suspension occurs prior to an informal or formal hearing, pending further disciplinary proceedings. The Vice President for Student Affairs may impose interim suspension only if the allegation of misconduct is reasonably reliable and 1) to insure the physical or emotional safety and well-being of members of the university community or preservation of university property; 2) to ensure the student's own physical or emotional safety or well being; or 3) if the student poses a definite threat of disruption of or interference with the normal operations of the university or a university sponsored activity. Interim suspension usually includes physical exclusion from the campus.

The student shall be notified of the interim suspension in writing, by personal delivery, which is effective upon receipt. The written notice shall set forth the alleged violation(s), the responsibility to appear, the right to a hearing, and the process. A student suspended on an interim basis will be given a prompt opportunity to appear before the Vice President for Student Affairs or his or her designee within three (3) days following the interim suspension. In cases involving incarceration, the student may appear when available.

The interim suspension will remain in effect until a final decision has been made on the pending complaint either through an informal conference, formal hearing process, or until the Vice President for Student Affairs determines that the reason for imposing the interim suspension no longer exists.

In consultation with the student, the Conduct Coordinator shall provide written notification to affected faculty members requesting class absences occurring as a result of the interim suspension be excused if the hearing body determines the student is not responsible for the alleged violation of the Code. Should time constraints prevent the accused from making up the missed class material; the accused will be withdrawn from the course work with no academic penalty. Financial refunds associated with this action will be based on published University refund policies.

## **Sanctions**

Sanctions shall not be implemented until either the time for appeal has expired, until the entire appeal process is completed, or the student, group, or organization voluntarily waives the right to appeal in writing. Exceptions to delaying the implementation of sanctions until the process is complete include:

- 1) When interim suspension has been invoked by the Vice President for Student Affairs, or;
- 2) To protect the safety of others on the campus.

Severity of the violation and previous findings of responsibility for violations of the Code may be considered when determining appropriate sanction(s). University reserves the right to apply sanctions that are progressive in severity for repeated or numerous offenses. Students found responsible for three substantive offenses in conformity with the Code may be subject to suspension as a result of progressive disciplinary sanctions.

Although not intended to be all-inclusive, the following are possible sanctions that may be imposed, either singularly or in combination.

1. Warning may be oral or written, warning that further violations of the Code could result in additional disciplinary action. A record of oral or written warnings will be placed in the conduct file of the accused.
2. Restrictions upon a student's privileges for a period of time, which may include but are not limited to, denial of use of facilities or access to parts of campus, denial of participation in extra-curricular activities.
3. Voluntary Project, community service or education class or project beneficial to the individual, campus or community may be prescribed.
4. Restitution for loss, damage, or injury to University or Foundation property or other owners, or injured parties. Restitution shall be limited to the actual cost of repair or replacement and/or damage to property or person, such as medical bills.
5. Deactivation is a group or organization's loss of all privileges, including Emporia State University recognition, for a specified period of no less than one complete semester.
6. Record Hold is a "hold" on enrollment privileges. This hold can prevent the adding or dropping of classes and enrolling for subsequent terms.
7. Cancellation of Enrollment can be implemented where a previous hold has been cleared with the condition that the enrollment will be cancelled for failure to meet the conditions of the clearance. If cancelled, the refund of tuition or fees will be subject to the University's withdrawal policies.
8. Residence Hall Suspension is the separation of a student from the residence halls for a specified period of time, after which the student is eligible to return. Conditions for readmission may be specified.
10. Residence Hall Expulsion is the permanent separation of a student from the residence halls.
11. Probation is a specified period of time during which the student is warned in writing that he or she is not in good standing with the University, the conditions of probation, and that further violations of University rules may subject him or her to suspension or expulsion from the University.
12. Suspension is written notification of the termination of a student's status with the University for a specified period of time and includes a student's total separation from the University. Students who are suspended from Emporia State University are not permitted on campus or university sponsored events at any time for any reason during the period of suspension, unless otherwise directed by the Vice President for Student Affairs or his or her designee. Conditions for re-admission shall be stated in the written notification. A hold will be placed on the student's account for the duration of suspension. All academic and fiscal policies will be followed in relationship to the student's academic and fiscal relationship with Emporia State University.
13. Expulsion is written notification of permanent separation of the student from the University. Expulsion will be recorded on the front of the academic transcript and is a permanent part of the disciplinary record.

### **Disciplinary Records**

1. Case referrals will result in the development of a disciplinary file in the name of the accused student, group, or organization. If the student is found not responsible for the charges, the file will be marked no action, no record, shall not constitute a disciplinary record, and will be destroyed after one year.

2. The files of students found responsible for charges against them, with sanctions less than suspension or expulsion, will generally be maintained in the Student Conduct Office for five (5) years from the calendar year graduation, after which they are destroyed.
3. Records of cases in which suspension are kept for ten (10) years and cases resulting in expulsion from the University are maintained permanently.
4. Records will be kept indefinitely if the student is involved in litigation with the University.
5. Disciplinary records may be retained for longer periods, or permanently, if determined by the sanction determination or at the discretion of the Vice President for Student Affairs.
6. Confidentiality - All disciplinary records are confidential and may not be disclosed in whole or in part except as provided by law, including but not limited to, the proper written consent of the student and under legal compulsion. Disciplinary records are maintained separate from the student's academic record but are part of the student's educational record.
7. Re-release of hearing records and or disciplinary records - Unless otherwise excepted, individuals participating in disciplinary proceedings are bound by law to not disclose information that is protected by FERPA and any other applicable law. When disciplinary records are permitted to be disclosed to an individual only, that information should not be re-disclosed, except as allowed by law.

#### **Interpretation and Review**

1. Questions of interpretation regarding the Code shall be determined at the discretion of the President or his or her designee, which is final.
2. Review of the Code shall be begin every four (4) years under the direction of the Vice President of Student Affairs.

*“Navigating Past the Spirit of Insubordination”: A twenty-First Century Model Student Conduct Code with a Model Hearing Script*, by Edward Stoner and John Lowery, *Journal of College and University Law* Vol. 31, No. 1 (2004).

*Approved by Associated Student Government October 4, 2007; Enacted November 8, 2007*