

McLennan Community College

POLICIES AND PROCEDURES

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Subject:	General Conduct Policy		
Source:	Board of Trustees		
Approval Authority:	Board of Trustees	Approval Date:	07/28/2020
History:			
Remarks:	Replaced previous policy dated 08/28/2019		

The Board of Trustees of McLennan Community College (MCC), the legally constituted authority for the governance of the College, hereby adopts the following general conduct policy for the purpose of maintaining order and otherwise promoting the general interest, welfare, and purposes of the College.

Grievances or allegations related to discrimination claims shall be administered using the *Discrimination Resolution Process (Policy F-V-s)*.

I: Definitions

- A. The term "student" includes all persons taking courses at MCC, both full-time and part-time, pursuing credit and non-credit courses.
- B. The term "faculty member" means any person hired by MCC to conduct classroom activities.
- C. The term "MCC official" includes any person employed by MCC performing assigned administrative, professional, or staff responsibilities.
- D. The term "member of the MCC community" includes any person who is a student, faculty member, staff member, or MCC official. A person's status in particular situations shall be determined by the President.
- E. The term "MCC premises" includes all land, buildings, facilities, and other property in the possession of, owned, used, or controlled by MCC.
- F. The term "organization" means any number of persons who have complied with the formal requirements for MCC recognition.
- G. The term "Compliance Specialist" means the MCC administrator authorized by the Vice President, Student Success to determine whether a student has violated the *General Conduct Policy* and to recommend imposition of sanctions.
- H. The Term "Title IX Coordinator" means the MCC official responsible for monitoring

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the College's implementation of Title IX, coordinating compliance, and investigating complaints of sex discrimination.

- I. The term "Chief Compliance Officer" means the MCC official responsible for all compliance related policy concerns.
- J. The term "MCC Board of Trustees" means the legally constituted authority for the governance and orderly operation of MCC.
- K. The term "shall" is used in the imperative sense.
- L. The term "may" is used in the permissive sense.
- M. The term "policy" is defined as the written regulations of MCC as found in, but not limited to, the *Highlander Guide* (MCC Student Handbook), and the *MCC General Catalog*.
- N. The term "service animal" pertains to dogs (or miniature horses) that have been individually trained to do work or perform tasks for the benefit of an individual with a disability.
- O. The term "preponderance of evidence" is used to determine responsibility based on the evidence that the actions are "more likely than not" to have taken place.

II – Jurisdiction & Applicability

The policies herein set forth shall govern the conduct of all persons, including but not limited to, students, employees, visitors, and independent contractors, on the MCC campus or other property or facilities owned or used by the College (hereafter, "premises") for any purpose, wherever situated, or while in attendance at or engaging in college-sponsored activities, wherever occurring. McLennan Community College retains the right to adjudicate alleged violations that occur prior to students leaving the College for any reason (such as withdrawal, transfer and/or graduation).

Persons violating any of these policies are subject to immediate removal and/or exclusion from MCC premises or activities. Such removal or exclusion shall be in addition to and not in lieu of further disciplinary action as set forth herein.

III - Assemblies or Other Group Activities

Any assembly or other group activity to be held on college premises must be conducted in accordance with the principles and policies set forth herein.

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Any assembly or group activity, other than the regularly scheduled meetings of recognized student organizations, initiated, arranged, or promoted by students of the College must be approved in writing by the Vice President, Student Success in advance of its occurrence. A request to hold such assembly or group activity must be submitted in writing at least two (2) weeks prior to the proposed date of occurrence. Such a request shall provide any reasonable information required by the College. Any such assembly or group activity which is part of the organized program of instruction of the College shall require advanced approval by the Vice President, Instruction. Any other assembly or group activity initiated, arranged, or promoted by an employee, group of employees, or person(s) not employed by the College, shall require advanced approval by the Vice President, Student Success.

Formal approval of any assembly or group activity does not relieve its organizers or participants of any responsibilities regarding general conduct stated herein.

IV - Visitors and Guests

Any person who is not a student or employee of the College, while on the premises of the College is considered a visitor, and shall conduct herself/himself in a manner consistent with the principles and policies stated herein. Violators are subject to removal from the premises and/or appropriate legal proceedings.

Visitors, including but not limited to the spouse or children of students, will generally not be admitted to classrooms or laboratories. Faculty members who desire an exception to this regulation should discuss the circumstances with the appropriate division chair. In any case, where the appropriate division chair has approved an exception, the faculty member may still, at any time, remove the visitor from a classroom in the interest of the learning environment.

Students or employees of the College who bring a visitor to the College may not leave the visitor unattended on campus if the visitor is a minor.

V - Rights and Responsibilities

A. General Statement

Students, employees, visitors, and independent contractors are expected to obey the regulations of the College and to conduct themselves in a socially acceptable manner.

B. Responsibilities for Administration of Conduct for Employees, Visitors, and Independent Contractors

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The President or designee shall ensure enforcement of college conduct regulations as they relate to visitors, employees, and independent contractors.

Employees shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to their status as college employees. Violations of any policies, regulations, and guidelines may result in disciplinary action, including termination of employment or suspension with or without pay.

The *Non-Faculty Investigation Procedures* (Policy F-V-c) shall be followed for non-faculty contractual personnel and the *Academic Freedom, Responsibility and Tenure* (Policy F-III-a) shall be followed for faculty contractual personnel.

Inquiries regarding discrimination should be directed to the Chief Compliance Officer or the Section 504/ADA Title II Coordinator. Grievances related to discrimination claims shall be administered using the *Discrimination Resolution Process* (Policy F-V-s).

C. Responsibilities for Administration of Student Conduct

1. The Vice President, Student Success, in conjunction with the Office of Student Engagement and Compliance Education, shall be responsible for student conduct. The Vice President, Student Success shall be responsible for the disposal and referral of individual cases as may properly come before him/her and recommending the formulation and revision of policies and procedures relating to student conduct.

D. Rights and Responsibilities of Students, Employees, Visitors, and Independent Contractors

1. These policies are based upon the principle that the College must safeguard, on college premises and in college affairs, the basic freedoms guaranteed by the Constitution of the United States of America. Equally important is the principle that the exercise of these freedoms requires respect for the rights and freedoms of others. Interference with the lawful and orderly use or enjoyment of college premises, facilities, and programs will not be permitted.
2. Students, Employees, Visitors, and Independent Contractors have the following responsibilities:
 - a. To be familiar with published regulations and comply with them.

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- b. To act according to standards of common decency and socially acceptable behavior.
- c. To respect the rights and property of others.

E. Family Educational Right and Privacy Act (FERPA)

FERPA protects the privacy of student education records, including personally identifiable information derived from student conduct records. Generally, schools must have written permission from a student in order to release any information from a student's education record. FERPA allows schools to disclose student records, without consent, in situations including, but not limited to school officials with legitimate educational interest, other schools to which a student is transferring, to comply with a judicial order or lawfully issued subpoena, to parents when there is a health or safety emergency involving the student, to parents when the student has committed a disciplinary violation with respect to use or possession of alcohol or a controlled substance and the student is under 21 years of age at the time of the disclosure, to the victim of an alleged perpetrator of a crime of violence or a nonforcible sex offense concerning the final results of a disciplinary Hearing.

VI - Proscribed Conduct

A. General Policy

Freedom of discussion, inquiry, and expression is fostered by an environment in which the privileges of citizenship are protected, and the obligations of citizenship are understood. Accordingly, the MCC community has developed standards of behavior pertaining to students and/or student organizations. Visitors, employees, students, and student organizations are subject to disciplinary action according to the provisions of the *General Conduct Policy* or the *Highlander Guide*. Conduct on or off college premises is subject to college conduct jurisdiction. MCC may enforce its own conduct policies and procedures when a person's conduct directly, seriously, or adversely impairs, interferes with, or disrupts the overall mission, programs, or other functions of the College. College conduct proceedings may be instituted against a person alleged to have violated the *General Conduct Policy* or the *Highlander Guide*. Proceedings under the *General Conduct Policy* may be carried out prior to, independent of, concurrent with or following civil or criminal proceedings. The proceedings are conducted in a manner which ensures that substantial justice is done and is not restricted by the rules of evidence governing criminal and civil proceedings. The standard of proof used in college conduct proceedings is the preponderance of evidence. College officials respect the rights and responsibilities of visitors, employees, and students and shall consider each violation of college policy and each violation of federal, state, and /or local law on a "case-by-case" basis and shall

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further attempt to initially use educational options and subsequent intervention and /or prevention options to assist visitors, employees, and students.

B. Misconduct

Any person found to have committed the following misconduct while defined as a visitor, employee, or student is subject to disciplinary sanction(s), condition(s), and /or restriction(s). Misconduct includes, but is not limited to:

1. Alcoholic Beverages *

- a. Use, possession, sale, delivery, manufacture, or distribution of alcoholic beverages, except as expressly permitted by college policy and federal, state, and/or local law.
- b. Being under the influence of alcohol and /or intoxication as defined by federal, state, and/or local law, including but not limited to:
 - i. Public intoxication;
 - ii. Driving under the influence of alcohol or impaired;
 - iii. Actual physical control of a vehicle while under the influence of alcohol;
 - iv. Providing alcohol to individuals under the age of 21;
 - v. Social Host: Providing a location for any individual under 21 year of age to possess or consume alcohol;
 - vi. Transporting an open container of alcohol;
 - vii. Incapacitation due to alcohol;
 - viii. Possession of a fake ID; and
 - ix. Underage possession of alcohol.
- c. Persons in violation of the College's alcohol policies may also face criminal sanctions provided by federal, state, and local law when applicable.

*Upon approval by the President, alcoholic beverages may be served at the Bosque River Stage, Conference Center, Northwood House, McLennan House and Gardens, Highlander Ranch, and other designated areas, and subject to all federal, state and local law and regulations regarding possession, use and sale of alcoholic beverages. This policy does not apply to leased facilities.

2. Narcotics or Drugs

- a. Use, possession, sale, delivery, manufacture, or distribution of any narcotic, drug, medicine prescribed to someone else, chemical compound, or other controlled substance, except as expressly permitted by federal, state, and/or

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local law.

- b. Possession of drug-related paraphernalia, except as expressly permitted by federal, state, and/or local law.
- c. Being under the influence of narcotics, drugs, medicine prescribed to someone else, chemical compound, or other controlled substance, except as expressly permitted by federal, state, and/or local law.
- d. Persons in violation of the College's narcotics and other drugs policy will also face criminal sanctions provided by federal, state, and local law when applicable.
- e. For further information regarding MCC's drug and alcohol policy please see the *Highlander Guide* at www.mclennan.edu/highlander-guide/.

3. Academic Dishonesty

"Academic dishonesty" includes, but is not limited to: cheating, plagiarism, collusion, falsifying academic records, misrepresenting facts, and any act designed to give an unfair academic advantage to the person.

- a. "Cheating" includes, but is not limited to:
 - i. Copying from another student's work during an examination, test, or while completing an assignment;
 - ii. Using unauthorized assistance, materials, or devices during a test or other assignment;
 - iii. Failing to comply with instructions given by the person administering the test;
 - iv. Possessing materials during a test that are not authorized by the person administering the test, such as class notes, textbooks, or other unauthorized aids;
 - v. Possessing, using, buying, stealing, transporting, selling, or soliciting in whole or in part items including, but not limited to: the contents of an un-administered test, test key, homework solution, or computer program/software. Possession, at any time, of current or previous test materials without the instructor's permission;
 - vi. Collaborating with, seeking aid, or receiving assistance from another student or individual during a test or in conjunction with other assignments without the instructor's permission;
 - vii. Discussing the contents of an examination with another student who has taken or will take an examination without the instructor's permission;
 - viii. Substituting for another person, or permitting another person to substitute for oneself in order to take a course, a test, or complete any course-related assignment, including but not limited to, signing in/registering attendance for another student without the instructor's

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- ix. permission;
 - ix. Paying or offering to pay money, other valuables, obtaining by any means, or coercing another person to obtain items including, but not limited to: an un-administered test, test key, homework solution, or computer program/software; or information about an un-administered test, test key, homework solution or computer program/software;
 - x. Falsifying research data, laboratory reports, and/or other academic work offered for credit;
 - xi. Taking, keeping, misplacing, damaging, or altering the property of the College, or of another, if the student knows or reasonably should know that an unfair academic advantage would be gained by such conduct;
 - xii. Misrepresenting facts, including providing false grades or resumes, for the purpose of obtaining an academic or financial benefit or injuring another person academically or financially; and
 - xiii. Attempting to commit or assisting with the commission of any of the foregoing listed violations.
- b. "Plagiarism" includes, but not limited to:
- i. The appropriation of, buying, receiving as a gift, or obtaining by any means, material that is attributable, in whole or in part, to another source, including words, ideas, illustrations, structure, computer code, other expression and media, and presenting that material as one's own academic work being offered for credit; and
 - ii. The advertisement and/or promotion of services or materials intended for the purposes of plagiarism using on or off campus forums.
- c. "Collusion" includes, but is not limited to:
- i. The unauthorized collaboration with another person in preparing academic assignments offered for credit.
 - ii. Collaboration with another person to commit a violation of any section of the rules on academic dishonesty.
- d. "Falsifying academic records" includes, but is not limited to:
- i. Altering or assisting in the alteration of any official college record and/or submitting false information.
 - ii. Omitting requested information that is required for, or related to, any academic record of the College. Academic records include, but are not limited to: applications for admission, the awarding of a degree, grade reports, test papers, registration materials, grade change forms, and reporting forms used by the Office of Student Records.

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- iii. Former students found to have engaged in such conduct are subject to a bar against readmission, revocation of a degree, and withdrawal of a diploma.
- e. "Misrepresenting facts" to the College or an agent of the College includes, but is not limited to:
 - i. Providing false grades, resumes, or other academic information.
 - ii. Providing false or misleading information in an effort to receive a postponement or an extension on a test, quiz, or other assignment to obtain an academic or financial benefit for oneself or another individual.
 - iii. Providing false or misleading information in an effort to injure another student academically or financially.

NOTE: See Academic Integrity information at <http://www.McLennan.edu/academic-integrity/>

4. Weapons and Explosives

- a. Use or possession of any item used as a weapon, including, but not limited to: a handgun, a firearm, ammunition, fireworks, a pellet gun, an airsoft or paintball gun, a BB gun, a knife, or explosive or noxious materials on college premises except as expressly permitted by federal, state, and/or local law.
- b. A Licensed holder may carry a concealed handgun on or about the licensed holder's person while the licensed holder is on the campus of an institution of higher education or private or independent institution of higher education in this state.
- c. The following link provides information on designated areas where the possession of a concealed handgun is prohibited:
www.mclennan.edu/employees/policy-manual/.
- d. All persons, including licensed holders are prohibited from openly carrying a handgun on the campus premises.

5. Flammable Materials/Arson

- a. Use or possession of flammable materials, including but not limited to: incendiary devices or other dangerous materials, or substances used to ignite, spread, or intensify flames for fire, except as expressly permitted by MCC officials.

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- b. Attempting to ignite and/or igniting MCC and/or personal property on fire either by intent or through reckless behavior which results, or could predictably result, in personal injury or property damage of MCC premises.

6. Theft, Damage, or Unauthorized Use

- a. Attempted or actual theft of property or services of the College, other college students, other members of the college community, or campus visitors.
- b. Possession of property known to be stolen or belonging to another person without the owner's permission.
- c. Attempted or actual damage to property owned or leased by the College, by other college students, other members of the college community, or campus visitors.
- d. Attempted or actual unauthorized use of a credit card, debit card, student identification card, cell phone, personal identification number, test number, WebAdvisor account information, personal check, or other unauthorized use of personal property or another's information.
- e. Alteration, forgery, or misrepresentation of any form of identification.
- f. Possession or use of any form of false identification.
- g. Disorderly behavior
- i. Students engaged in freedom of expression activities may be subjected to discipline under the *General Conduct Policy* for the following actions:
 - a) Activities which are illegal;
 - b) Activities that deny the rights of other students, faculty and staff of the College;
 - c) Activities that substantially obstruct or restrict the free movement of persons on any part of the College, including the free entry or exit from College Facilities;
 - d) Activities that deny the use of office or other facilities to the students, faculty, staff or guests of the College;
 - e) Activities that threaten or endanger the health or safety of any person

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on the College campus;

- f) Activities that include the use of obscenities, libelous statements or “fighting words”, as defined by the law;
- g) Activities that result in damage to or destruction of College property;
- h) Activities that attempt to prevent a College event or other lawful assembly by the threat or use of force or violence; and
- i) Signs, banners, posters and other displays used for freedom of expressions activities must be handheld and remain in the hands of individuals engaged in the expressive activities at all times.

7. Actions Against Members of the College Community and Others

- a. Conduct, intentional or reckless, which threatens or endangers the health or safety of oneself or others, including, but not limited to acts such as physical assault, physical abuse, verbal abuse, threats, intimidation, harassment, and/or coercion.
- b. Conduct, intentional or reckless, which detracts from another’s ability to realize the intended benefits of the College’s resources and opportunities.
- c. Substantial disruption of MCC operations including obstruction of teaching, research, administration, other college activities, and/or other authorized non-MCC activities.
- d. Recording without knowledge. Using electronic or other means to make a video, audio, or photographic record of any person in a location where there is a reasonable expectation of privacy without the person’s prior knowledge, when such a recording is likely to cause injury, distress or damage to reputation. This includes, but is not limited to, taking video, audio, or photographic records in shower/locker rooms, residence hall rooms, and restrooms. The storing, sharing, and/or distributing of such unauthorized records by any means is also prohibited.

NOTE: Students are permitted to record classroom instructions and activities.

- e. Title IX of the Education Amendments of 1972 is a Federal civil rights law that prohibits discrimination on the basis of sex in educational programs and activities that receive Federal funds. Examples of discrimination prohibited under Title IX include discrimination on the basis of sex including, gender

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discrimination, pregnant and parenting discrimination, sexual harassment or sexual violence such as rape, dating violence, domestic violence, stalking, sexual assault, sexual battery, and sexual coercion. Individuals aware of incidents involving sexual misconduct are encouraged to report the offense immediately to the Title IX Coordinator.

Title IX Coordinator & Chief Compliance Officer

Concerns dealing with Title IX and other non-specified Civil Rights Issues contact:

Dr. Drew Canham
Vice President, Student Success & Title IX Coordinator
McLennan Community College
Administration Building, Room 408
1400 College Drive
Waco, TX 76708
254-299-8645
Fax: 254-299-8654
titleix@mclennan.edu

Definitions

Reference to the U.S. Code and Texas Penal Code are made where necessary to meet the requirements for Federal Title IX Regulations (34 C.F.R 106) and S.B. 212.

- a) Actual Knowledge
Defined as: notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College.
- b) Complainant
Defined as: an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- c) Consent
Defined as: knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in

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words or actions that the other individual consented to that specific sexual conduct. Consent can be withdrawn once given, if the withdrawal is clearly communicated.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

i. Force

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent (“Have sex with me or I’ll hit you.” “Okay, don’t hit me, I’ll do what you want.”).

ii. Coercion

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is non-consensual, but non-consensual sexual activity is not by definition forced.

iii. Incapacitation

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).

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A person cannot consent if unable to understand what is happening or disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the respondent was intoxicated and, therefore, did not realize the incapacity of the complainant.

This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

In Texas, a minor (meaning a person under the age of 17 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 17 years old may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act (Texas Penal Code Chapter 21, Section 21.11).

d) Formal Complaint

Defined as: a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment.

e) Notice

Defined as: a report of sexual harassment to the Title IX Coordinator as described in 34 C.F.R. § 106.8(a).

f) Respondent

Defined as: an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

g) Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-consensual Sexual Intercourse or Non-consensual Sexual Contact. (Texas

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Penal Code – PENAL § 21.15. Invasive Visual Recording, § 21.17.Voyeurism, § 21.18.Harrassment)

Examples of Sexual Exploitation include, but are not limited to:

- i. Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
 - ii. Invasion of sexual privacy.
 - iii. Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
 - iv. Prostitution.
 - v. Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI) without informing the other person of the infection.
 - vi. Administering alcohol or drugs (such as “date rape” drugs) to another person without his or her knowledge or consent (assuming the act is not completed).
 - vii. Exposing one's genitals in non-consensual circumstances.
 - viii. Sexually-based stalking and/or bullying may also be forms of sexual exploitation.
- h) Sexual Harassment
Defined as: conduct on the basis of sex that satisfies one or more of the following:

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- i. An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (also known as Quid Pro Quo).
 - ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to McLennan Community College's employment or education program or activity.
- i) Sexual Assault
Defined as: an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. (20 U.S.C. 1092(f)(6)(A)(v)). Sexual Assault is any sexual act directed against another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent. (34 C.F.R. Pt. 668, Subpt. D, App. A)
- i. Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.
 - ii. Fondling: The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - iii. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - iv. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.
- j) Sexual Misconduct
Texas State law defines various violent and/or non- consensual sexual acts as crimes. (Texas Penal Code – PENAL § 21.01 Definitions, 22.011 Sexual Assault)

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i. Non-Consensual Sexual Contact

Defined as: any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force.

Sexual touching includes: intentional contact with the breasts, groin, genitals or mouth or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any other bodily contact in a sexual manner.

ii. Non-Consensual Sexual Intercourse

Defined as: any sexual intercourse, however slight, with any object, by a person upon another person, which is without consent and/or by force.

Sexual intercourse includes: vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

iii. Dating Violence

Federal and State definitions related to dating violence differ. Both definitions are provided below, and will be used when appropriate to determine whether alleged dating violence incidents meet either the Federal or State definition.

(i) Federal Definition (34 U.S.C. 12291(a)(10)):

Defined as: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant and where the existence of such a relationship shall be determined based on consideration of the length of the relationship, type of relationship, and frequency of interaction between those involved in the relationship. (34 U.S.C. 12291(a)(10))

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

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- Dating violence does not include acts covered under the definition of domestic violence.

(ii) State Definition: (Texas Penal Code – PENAL § 71.0021) Defined as: an act, other than a defensive measure to protect oneself, by a respondent that is committed against a complainant for a protective order with whom the respondent has or has had a dating relationship or because of the respondent's marriage to or dating relationship with an individual with whom the respondent is or has been in a dating relationship or marriage and is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the complainant in fear of imminent physical harm, bodily injury, assault, or sexual assault.

iv. Domestic Violence*

Defined as: a felony or misdemeanor crime of violence committed—

- (i) By a current or former spouse or intimate partner of the complainant;
- (ii) By a person with whom the complainant shares a child in common;
- (iii) By a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner;
- (iv) By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the state;
- (v) By any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the state. (34 U.S.C. 12291(a)(8))

*To categorize an incident as Domestic Violence, the relationship between the respondent and the complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

v. Family Violence

Defined as: an act by a member of a family or household against another member that is intended to result in physical harm, bodily injury, assault, or a threat that reasonably places the member in fear of imminent physical harm. (*Texas Penal Code – PENAL § 71.003.Family, § 71.004.Family Violence, § 71.005.Household, § 71.006.Member of a Household*)

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k) Stalking

A course of conduct directed at a specific person that would cause a reasonable person to:

- i. Fear for his or her safety or the safety of others; or
- ii. Suffer substantial emotional distress.

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interfere with a person's property.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling. (34 U.S.C. 12291(a)(30))

8. Gambling, Wagering, Gaming, and Bookmaking

Gambling, wagering, gaming and/or bookmaking as defined by federal, state, and/or local laws are prohibited on MCC premises or by using college equipment or services.

9. Hazing

Hazing is any intentional, knowing, or reckless act, directed against a student by one person acting alone, or by more than one person, occurring on or off college premises that endangers the mental or physical health or safety of a student for the purpose of pledging, associating with, being initiated into, affiliating with, holding office in, seeking and/or maintaining membership in any organization whose membership consists of students. Consent and/or acquiescence by a student or students subjected to hazing is not a reasonable defense in a disciplinary proceeding. Hazing includes, but is not limited to:

- a. Any type of physical brutality, such as whipping, beating, use of a harmful substance on the body or similar activity.

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- b. Any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of a student.
- c. Any activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects a student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of a student.
- d. Any activity that intimidates or threatens a student with ostracism; that subjects a student to extreme mental stress, shame or humiliation; adversely affects the mental health or dignity of a student; or discourages a student from entering or remaining enrolled at the College, or may reasonably be expected to cause a student to leave the organization or the College rather than submit to the acts described above.
- e. Any activity in which a person engages in hazing; solicits, encourages, directs, aids or attempts to aid another in engaging in hazing; intentionally, knowingly, or recklessly permits hazing to occur or has firsthand knowledge of the planning of a specific hazing incident which has occurred and knowingly fails to report the incident in writing to the Student Engagement and Compliance Education Office.
- f. Any activity in which hazing is either condoned or encouraged, or any action by an officer or combination of members, pledges, associates, or alumni of the organization committing or assisting in the commission of hazing.

NOTE: See Texas Education Code, Sections 37.151-37.155 and Section 51.936 at <http://www.statutes.legis.state.tx.us/?link=ED>.

10. False Alarms or Terroristic Threats

Intentional sounding of a false fire alarm, falsely reporting an emergency or terroristic threat in any form, issuing a bomb threat, constructing mock explosive devices, destruction or activation of fire sprinklers, filing false police reports, improperly possessing, tampering with or destroying fire equipment or emergency signs on college premises.

11. Financial Irresponsibility

Failure to meet financial obligations owed to the College, or components owned or

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operated by the College, including, but not limited to the writing of checks from accounts with insufficient funds.

12. Unauthorized Entry, Possession, or Use

- a. Unauthorized entry into or use of college premises or equipment including another student's room.
- b. Unauthorized possession, use, duplication, production, or manufacture of any key or unlocking device, college identification card or access code for use in college premises or equipment.
- c. Unauthorized use of the MCC name, logo, registered marks or symbols; however, registered student organizations are permitted to use the word "MCC" as a part of their organizational names and to use the complete statement "a registered student organization at McLennan Community College."
- d. Unauthorized use of the College name to advertise or promote events or activities in a manner that suggests sponsorship and/or recognition by the College.

13. Failure to Comply

- a. Failure to comply with reasonable directives and/or requests of an MCC official acting in the performance of her/his duties.
- b. Failure to present identification on request or identify oneself to any MCC official acting in the performance of her/his duties.
- c. Disruptive Behavior
 - i. Classroom Disruption. Engaging in substantial or repeated behaviors that interfere with an instructor's ability to teach and a student's ability to benefit from instruction.
 - ii. Obstructing or restraining the passage of any person at an exit or entrance on the College campus or property.
 - iii. Infringement on the rights of other members of the College community that presents danger to herself/himself or others, cause physical harm to others, or damage to property.

14. Providing False Information or Misuse of Records

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Knowingly furnishing false information to MCC, to an MCC official in the performance of her/his duties, or to an affiliate of MCC, either verbally or through forgery, alteration, or misuse of any document, record, or instrument of identification.

15. Abuse, Misuse or Theft of College Information Resources

Unauthorized use of MCC information resources is prohibited, and may be subject to criminal prosecution in addition to disciplinary sanctions, conditions and/or restrictions pursuant to the *General Conduct Policy*. "Information resources" means procedures, equipment and software, regardless of location, that are employed, designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit college information, and associated personnel, including consultants and contractors, regardless of whether the personnel are employed by the College or retained as independent contractors. Usage of MCC information resources may be subject to security testing and monitoring, and users have no expectation of privacy except as otherwise provided by applicable privacy laws.

Abuse, misuse, or theft of college information resources includes, but is not limited to the following:

- a. Unauthorized use of MCC information resources including, but not limited to: private information and passwords, the unauthorized sharing of private information or passwords with individuals who otherwise have no authority to access MCC information resources.
- b. Use of MCC information resources for unauthorized or nonacademic purposes including, but not limited to: illegal access, attempted or actual unauthorized accessing, copying, transporting or installing programs, records, data, or software belonging to the College, another user, or another entity, and/or illegal activity (e.g., sharing copyrighted materials or media).
- c. Purposely engaging in activity that may harass, intimidate, threaten, endanger, or abuse others, or acts in a manner that impedes, interferes with, or disrupts any MCC authorized activity including but not limiting to: furnishing false information and/or withholding information, misuse of authority by virtue of one's leadership position, or falsely identifying oneself as a representative of MCC on social networking sites or other public forums.
- d. Attempted or actual breach of the security of another user's account and/or computing system, depriving another user of access to college computing and/or networking resources, compromising the privacy of another user or disrupting the intended use of computing or network resources.

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- e. Attempted or actual use of MCC's computing and/or networking resources for personal, political, or commercial purposes.
- f. Access, creation, storage, or transmission of material deemed offensive, indecent, or obscene (as defined by Chapter 43 of the State of Texas Penal Code on Public Indecency). Exceptions may be made for academic research where the aspect of the research has been explicitly approved by MCC official processes for dealing with academic ethical issues. Discovery of explicit material, including pornography, on any college-owned information resource or networks must be reported to the Campus Police immediately.
- g. Attempted or actual destruction, disruption, or modification of programs, records or data belonging to or subscribed to by the College or another user or destruction of the integrity of computer based information.
- h. Attempted or actual use of computing and/or networking facilities that interferes with the normal operation of MCC's computing and/or networking systems; or through such actions, causing a waste of such resources (e.g., people, capacity, computer).
- i. Intentional "spamming" of students, faculty, or staff (defined as the sending of unsolicited and unwanted emails to parties with whom one has no existing business, professional, or personal acquaintance).
- j. Use of computing and/or network resources to engage in an activity that may harass, threaten, or abuse others.
- k. Allowing another person, either through one's personal computer account, or by other means, to accomplish any of the above. Users who share their access with another individual shall be responsible and held liable for all usage of their account.
- l) Per Texas Government Code, MCC information resources are strategic assets of the State of Texas that must be managed as valuable state resources. As such, use of MCC information resources is subject to college operating policies and other applicable laws. Unauthorized use is prohibited, usage may be subject to security testing and monitoring, misuse is subject to criminal prosecution, and users have no expectation of privacy except as otherwise provided by applicable privacy laws.
- m) Engaging in acts that contravene the mission and goals of the College or acts that expose the College to liability.

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16. Vehicles, Skateboards, Rollerblades, Scooters, Bicycles or Similar Devices

- a. Use of skateboards, rollerblades, scooters, bicycles, or other similar devices in the College's buildings or on college premises in such a manner as to constitute a safety hazard or cause damage to the College or personal property.
- b. Traffic obstruction. Obstruction of the free flow of pedestrian or vehicular traffic on College premises or at College sponsored or supervised activities.
- c. Reckless driving. Driving in a manner that recklessly endangers the health and/or safety of oneself or others. Driving includes, but is not limited to, vehicles, bicycles, skateboards, scooters, and other mobile devices.

17. Tobacco

Use of tobacco products in all buildings, within 30 feet of all building entrances and in all college owned vehicles as detailed in the College's *Tobacco Products (Policy-E-XXIII)*. The term "tobacco products" includes all ignition based forms of tobacco, smokeless tobacco, electronic vapor devices (i.e. e-cigarette's), or any other practice that mimics the usage of tobacco products.

18. Violation of Published College Policies, Rules or Regulations

Violation of any published college policies, rules or regulations that govern students, student organizations, employees, visitors, and contractors.

19. Violation of Federal, State and/or Local Law

Misconduct which constitutes a violation of any provisions of federal, state and/or local laws.

20. Abuse of the Discipline System

- a. Failure of a visitor, employee or student to respond to a notification to appear before the Compliance Specialist, or any other official involved in the conduct process, during any stage of a disciplinary proceeding. Failure to comply with or respond to a notice issued as part of a disciplinary procedure and/or failure to appear will not prevent the conduct process from proceeding, to include possible disciplinary action.
- b. Falsification, distortion, or misrepresentation of information in disciplinary proceedings.

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- c. Disruption or interference with the orderly conduct of a disciplinary proceeding.
- d. Filing an allegation known to be without merit or cause.
- e. Discouraging or attempting to discourage an individual's proper participation in or use of the disciplinary system.
- f. Influencing or attempting to influence the impartiality of a member of a disciplinary committee prior to and/or during a disciplinary proceeding.
- g. Harm, threat of harm, or verbal, physical or written intimidation, of any person prior to, during and/or after disciplinary proceedings.
- h. Influencing or attempting to influence another person to commit an abuse of the discipline system.
- i. Retaliation against any person or group who files grievances or provides evidence, testimony, or allegations in accordance with the *General Conduct Policy* or the *Highlander Guide*.
- j. Failure to comply with the sanction(s), condition(s), and/or restriction(s) imposed under the *General Conduct Policy* or the *Highlander Guide* by a College official.
- k. Complicity. Attempting, aiding, abetting, conspiring, hiring, or being an accessory to any act prohibited by this code shall be considered to the same extent as completed violations.

21. Animals

- a. Care: Failing to properly leash and control an animal or properly dispose of its organic waste.
- b. Cruelty: Intentionally, knowingly, or recklessly torturing or in a cruel manner killing or causing serious bodily injury to an animal, failing to provide necessary food, water or care for an animal in the person's custody, abandoning unreasonably an animal in the person's custody, transporting or confining an animal in a cruel manner, causing bodily injury to any animal without the owner's consent, causing one animal to fight with another animal, or seriously overworking an animal. Intentionally, knowingly, or recklessly attacking, injuring

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or killing an assistance animal or inciting another to attack, injure or kill an assistance animal.

This policy is not intended to prohibit:

- i. Killing or injuring an animal within the scope of a person's employment or furthering the goals of legitimate educational curriculum as designed and approved by the College.
 - ii. Killing or injuring an animal when the actor had a reasonable fear of bodily injury to self or other person by that animal.
- c. Damage: Allowing a personal animal to damage College property.
- d. Unauthorized Location: Taking or keeping an animal in college facilities without authorization. The only exception is service animals as outlined by American with Disabilities Act.

22. Failure to comply with the *Service/Assistance Animal Policy*.

Please refer to the *Service/Assistance Animal* (Policy E-XXXV) for guidance on how to benefit from the use of service animals. See <http://mclennan.edu/employees/policy-manual/docs/E-XXXV.pdf>.

23. Bullying/Cyberbullying

Misconduct, on- or off-campus, which is defined by hostile or repeated behaviors that would be considered intimidating and that would cause distress to another person, where the behaviors are not protected by First Amendment guarantees.

- a. Bullying. Defined as the use of repeated or severe verbal and/or non-verbal means in order to coerce or force a person to do something or to degrade a person, including, but not limited to, the use of taunting, teasing, or coercive language, pushing, punching, or creating threatening notes/letters/signs.
- b. Cyberbullying. Defined as an act of bullying that takes place using different kinds of technology and social media. Using various types of electronic devices to inflict emotional and/or mental pain, and to degrade another person.

VII- Conduct Policies and Procedures

A. Disciplinary Procedures*

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The following process is to be used in the event of an allegation involving a student violating the campus' *General Conduct Policy*. To report an alleged *General Conduct Policy* violation, individuals may complete an incident report form, which can be found at the following website: <http://www.McLennan.edu/insight>. The Compliance Specialist who coordinates student conduct will review the report received via insight as well as reports received from the MCC Police Department. To report allegations against employees and visitors, please refer to Article V of this policy.

*NOTE: In situations where allegations may not warrant formal allegations, but clarification and prevention efforts are wise, "policy clarification" letters may be sent to advise a person about policy expectations at McLennan Community College.

*NOTE: Grievances or allegations related to discrimination claims shall be administered using the *Discrimination Resolution Process* (Policy F-V-s).

1. *General Procedure*

The Compliance Specialist will inquire, gather, and review information about the reported student misconduct and will evaluate the accuracy, credibility, and sufficiency of this information.

If it is determined that the information does not warrant an allegation, a policy clarification letter may be issued to inform parties about the policy in question.

If the allegation is found to be substantive, the Compliance Specialist will ensure that due process requirements are fulfilled in accordance with the following procedures:

- a. When a written allegation is filed, the student named in the allegation will be notified in writing and asked to appear before the Compliance Specialist. The letter will be in accordance with the written notification policy found in Article VII, Section E. Through this written notification, the Compliance Specialist will assign a specified date and time (outside the student's academic schedule) for a pre-hearing discussion in order to advise the student of the allegation(s) and to review the student's rights and responsibilities in conduct proceedings, unless another date and time is requested by the student. The request to meet shall specify a place and a time for the meeting at least two (2) college business days after the date of the request. The request to meet will be sent by e-mail. If a student fails to appear without good cause, as determined by the Compliance Specialist, the Compliance Specialist will adjudicate the case in the student's absence.
- b. During the pre-hearing discussion, the Compliance Specialist will discuss the

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student's rights and responsibilities, including the right:

- i. To receive notification of the alleged violation(s).
- ii. To know the source of the allegation(s).
- iii. To know the specific alleged violation(s).
- iv. To know the sanctions, conditions and/or restrictions that may be imposed because of the alleged violation(s).
- v. To be accompanied by an advisor at any student conduct proceeding (for advisory purposes only, not for representation).

NOTE: *Advisors*. Students involved in student conduct proceedings may be assisted by advisors they choose, at their own expense. The reporting party and/or the student accused of alleged misconduct is responsible for presenting his/her own information.

Advisors (including attorneys) are not permitted to speak or to participate directly in any hearing unless authorized by the Compliance Specialist. Students should select an advisor whose schedule allows attendance at the scheduled date and time for the hearing, as delays will not be allowed due to the scheduling conflicts of an advisor, except at the discretion of the Compliance Specialist upon written request five (5) college working days in advance of the scheduled hearing date. In the event that a student chooses an attorney for their advisor, MCC reserves the right to have its own attorney present.

- vi. To have the opportunity to respond to the allegation(s) and/or present information.
 - vii. To refrain from making any statement relevant to the allegation(s).
 - viii. To know that any statements made by the student can be used during the proceeding.
- c. After proper notice has been given to the student, the College may proceed to conduct an official conduct hearing and deliver a decision or recommendation respectively. The conduct hearing may be held and a decision or recommendation made, regardless of whether the student responds, fails to respond, attends the hearing or fails to attend the hearing. Should an absence of the student occur, the Compliance Specialist or Conduct Hearing Committee may consider the information and render an administrative decision.

2. Case Adjudication Methods

a. Administrative Hearing

- i. The Administrative Hearing process will be completed in a timely manner based upon the specific circumstances of each case. The

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Administrative Hearing is conducted by the Compliance Specialist (or designee as assigned by the Vice President, Student Success).

- ii. The purpose of the Administrative Hearing is to ascertain whether alleged behavior occurred. During this time, the Compliance Specialist will share information she/he has received about the incident. The student is encouraged to present information relevant to the case in an attempt to explain their perspective. The Compliance Specialist may ask questions regarding the case and enter into an exploratory dialogue with the student. A student may admit complete or partial responsibility for the alleged behavior. The student may decline to provide any information, effectively not participating in the Administrative Hearing, leaving the decision to the discretion of the Compliance Specialist.
- iii. If the Compliance Specialist determines that the student is responsible for an alleged violation (or the student admits responsibility), she/he will assign appropriate sanctions, conditions and or restrictions.
- iv. After the final determination is made, the Compliance Specialist will deliver written notification to the student of the decision and the sanction(s), condition(s), and/or restriction(s) assigned, if any. Notice is deemed to have been properly provided when written notification is sent via MCC student email no more than seven (7) college working days following the decision.
- v. The student may utilize the disciplinary appeal procedure outlined in Article VII, Section C of the *General Conduct Policy*.
- vi. In addition to other possible sanction(s), condition(s) and/or restriction(s), and/or in the event that a student fails to respond to written notification, a disciplinary hold may be placed on the student's records to prevent further registration and transcript receipt. The disciplinary hold will remain until such time as the Compliance Specialist receives an appropriate response.
- vii. All records concerning a student or student organization related to the disciplinary process will remain on file in the Student Engagement and Compliance Education Office for a minimum of seven (7) years from the date the case is completed through an Administrative Hearing pertaining to registered student organizations will remain on file indefinitely.
 - (i) Some student conduct records may be expunged for good cause by the Vice President for Student Success and/or designee upon

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receipt of a written request by the student. Expulsions and suspensions will not be eligible to be expunged. Factors to be considered in the review of such petitions shall include, but are not limited to:

- The present demeanor of the student;
- The conduct of the student subsequent to the violation; and
- The nature of the violation and the severity of any damage, injury or harm resulting from it.

b. Conduct Hearing Committee

At the discretion of the Vice President, Student Success—(or designee), the adjudication of the case may be conducted by a Conduct Hearing Committee as an alternative to the Compliance Specialist acting alone. The committee shall be assembled by the Vice President, Student Success (or designee) and take the availability of school officials into account in order to operate within a timely manner. The committee is to number no less than five and no more than ten and contain students, faculty, and staff.

- i. The Compliance Specialist shall train committee members prior to the hearing.
- ii. The Compliance Specialist shall conduct pre-hearing meetings with the accused student during which the student will be informed of the college's decision to use the committee hearing option and the process entailed.
- iii. At this time, the student(s) will have the opportunity to give the names of witnesses she/he feels are relevant to the case so that they may be scheduled to appear before the Conduct Hearing Committee. In addition, students will be provided with an opportunity to view the members of the Conduct Hearing Committee and provide reasons for the exclusion of certain members that the Vice President, Student Success may consider.
- iv. The Compliance Specialist will serve as the chair of the committee and is responsible for the scheduling and administration of the Conduct Hearing Committee.

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- v. The purpose of the Conduct Hearing Committee is to ascertain whether the alleged behaviors occurred. During this time, the student is allowed to present information relevant to the case in an attempt to explain their perspective. In addition, the Conduct Hearing Committee may ask questions regarding the case and enter into an exploratory dialogue with the student and potential witnesses. A student may admit complete or partial responsibility for the alleged behavior. In addition, the student may decline to provide any information, effectively not participating in the conduct hearing, leaving the decision to the discretion of the committee.
- vi. Following the hearing, the Conduct Hearing Committee will deliberate and will render a decision in regard to the alleged misconduct as well as decide any sanctions, conditions and/or restrictions if applicable. Deliberation of the case will in private session.
- vii. If the Conduct Hearing Committee recommends that the student is responsible for the alleged violation(s), it will assign appropriate sanctions, conditions and or restrictions.
- viii. After the final determination is made, the Compliance Specialist, acting as chair of the committee, will deliver written notification to the student of the decision and the sanction(s), condition(s), and/or restriction(s) to be imposed, if any. All committee decisions are to be reached via majority vote. Notice is deemed to have been properly provided when written notification is sent via MCC student email no more than seven (7) college working days following the decision.
- ix. The student may utilize the disciplinary appeal procedure outlined in Article VII, Section C of the *General Conduct Policy*. At the discretion of the Director, Student Engagement and Compliance Education, in the event that an appeal is granted to a student, a new Conduct Hearing Committee may be assembled for the purpose of the appeal according to the guidelines outlined Article VII Section A-2-b above.
- x. In addition to other possible sanction(s), condition(s) and/or restriction(s), and in the event that a student fails to respond to written notification, a disciplinary hold may be placed on the student's records to prevent further registration and transcript receipt. The disciplinary hold will remain until such time as the compliance Specialist receives an appropriate response.
- xi. All records concerning a student or student organization related to the

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disciplinary process will remain on file in the Student Engagement and Compliance Education Office for a minimum of seven (7) years from the date the case is completed through a conduct hearing and/or disciplinary appeal procedures. Records pertaining to registered student organizations will remain on file indefinitely.

(i) Some student conduct records may be expunged for good cause by the Vice President of Student Success and/or designee upon receipt of a written request by the student. Expulsions and suspensions will not be eligible to be expunged. Factors to be considered in the review of such petitions shall include, but are not limited to:

- The present demeanor of the student;
- The conduct of the student subsequent to the violation; and
- The nature of the violation and the severity of any damage, injury or harm resulting from it.

3. Immediate Temporary Suspension

A student may be temporarily suspended pending completion of disciplinary procedures if, in the judgment of the Vice President, Student Success, or on recommendation of the Director of Student Engagement and Compliance Education, the Compliance Specialist, or designee, the physical or emotional well-being of a student or member of the college community could be endangered or if the presence of the student would seriously disrupt the normal operations of the College. The Vice President, Student Success or designee will notify the Compliance Specialist to initiate appropriate disciplinary procedures within five (5) college working days from the date of immediate temporary suspension. During the invocation of immediate temporary suspension, the student may no longer attend classes, use MCC services and/or resources, and may not be on campus until the disciplinary proceedings have been resolved. Any instances whereby the student should need to return to campus must be coordinated in advance through the Vice President, Student Success (or designee) and the MCC Police Department.

B. Disciplinary Sanctions, Conditions and/or Restrictions

The Compliance Specialist, or the Conduct Hearing Committee in applicable cases, may impose sanction(s), condition(s) and/or restriction(s) when a student is found responsible for misconduct; potential sanctions, conditions and/or restrictions are not limited to those listed below in Article VII Section B, 1-4; items below serve to demonstrate typical student

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outcomes. Implementation of the disciplinary sanction(s), condition(s) and/or restriction(s) will not begin until either the time for a disciplinary appeal has expired or until the disciplinary appeal process is exhausted. Exceptions are made only in cases for which, in the judgment of the Vice President, Student Success, the physical or emotional well-being of the student, other students or other members of the college community may be endangered. In the case of a student organization, a copy of the notification may be sent to the organization's advisor(s) and international or national organization headquarters.

1. Disciplinary Sanctions are defined as the primary outcome of the alleged violation. If found responsible, the range of sanctions include the following outcomes:
 - a. Disciplinary Reprimand;
 - b. Disciplinary Probation;
 - c. Deferred Disciplinary Suspension;
 - d. Disciplinary Suspension;
 - e. Disciplinary Expulsion;
 - f. Withholding grades, official transcript, or degree;
 - g. Revocation of degree, denial of degree and/or withdrawal of diploma; and
 - h. Other sanction(s) as deemed appropriate under the circumstances.

Explanation of Disciplinary Sanctions

- a. Disciplinary Reprimand: The disciplinary reprimand is an official written notification using the notification procedure outlined in Article VII Section E., to the student that the action in question was misconduct.
- b. Disciplinary Probation: Disciplinary probation is a period of time during which a student's conduct will be observed and reviewed. The student must demonstrate the ability to comply with college policies, rules, and/or standards and any other requirement stipulated for the probationary period. Further instances of misconduct under the *General Conduct Policy* or the *Highlander Guide* during this period may result in additional sanctions, conditions and/or restrictions.
- c. Deferred Disciplinary Suspension: Deferred disciplinary Suspension is a period

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of time where a disciplinary suspension may be deferred for a period of observation and review, but in no case will the deferred suspension be less than the remainder of the semester. Further instances of misconduct under the *General Conduct Policy* or the *Highlander Guide* during this period may result in additional sanctions, conditions and/or restrictions.

- d. **Disciplinary Suspension:** Disciplinary suspension is a specific period of time in which a student may not participate in classes or college-related activities. Notification of disciplinary suspension will indicate the date suspension begins and the earliest date the application for student readmission will be considered. A registration hold will be placed on the student's account in order to prevent returning to classes during this period. The Director of Student Engagement and Compliance Education may deny a student's readmission, if the student's misconduct during the suspension would have warranted additional disciplinary action. If the student has failed to satisfy any sanctions, conditions and/or restrictions that have been imposed prior to application for readmission, the Director of Student Engagement and Compliance Education may deny readmission to the student. On denial of a student's readmission, the Director of Student Engagement and Compliance Education will set a date when another application for readmission may again be made. A student may appeal denial of readmission or reregistration in accordance with the disciplinary appeal process (See Article VII, Section D. of the *General Conduct Policy*).

NOTE: Student organizations may also be subject to suspension of their organization's registration. Disciplinary suspension is a specific period of time in which a student organization's registration and privileges of the organization are suspended. Upon written request by the registered student organization's representative to the Director of Student Engagement and Compliance Education, the notation of disciplinary suspension may be removed from the registration record of the student organization upon completion of the disciplinary suspension period. Notification of disciplinary suspension of an organization will indicate when the suspension begins and the earliest date the application for re-registration will be considered. The Director of Student Engagement and Compliance Education may deny an organization's request for re-registration if the organization's misconduct during a period of suspension would have warranted additional disciplinary action. If the organization has failed to satisfy any sanction(s), condition(s), and/or restriction(s) that have been imposed prior to application for re-registration, the Director of Student Engagement and Compliance Education may deny re-registration to the organization. On denial of an organization's application for re-registration, the Director of Student Engagement and Compliance Education may set a date when another application for re-registration may be made. An

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organization may appeal denial of re-registration in accordance with the disciplinary appeal process (See Article VII, Section C).

- e. **Disciplinary Expulsion:** Disciplinary expulsion and a bar against readmission occurs when the student is permanently withdrawn and separated from MCC. The status of expulsion will be permanently shown on the student's academic record, including the transcript and/or student organization's registration. An administrative hold will be placed on the student's record by the Compliance Specialist to prevent future registration.
2. A condition is defined as a secondary component of a disciplinary sanction. A condition is usually an educational or personal element assigned in conjunction with sanctions. Examples of conditions include, but are not limited to:
 - a. Personal and/or academic counseling.
 - b. Discretionary educational conditions and/or programs of educational service to the College and/or community.
 - c. Restitution or compensation for loss, damage, or injury that may take the form of appropriate service and/or monetary or material replacement.
 - d. Monetary assessment owed to MCC.
 - e. Completion of an alcohol or drug education program.
 3. A restriction is defined as a secondary component of a disciplinary sanction. A restriction usually occurs in conjunction with sanctions and will usually be time specific. Some examples of restrictions include, but are not limited to:
 - a. Revocation of parking privileges.
 - b. Denial of eligibility for holding office in registered student organizations.
 - c. Denial of participation in extracurricular activities.
 - d. Prohibited access to MCC facilities and/or prohibited direct or indirect contact with members of the College community.
 - e. Loss of privileges on a temporary or permanent basis.
 - f. Withdrawal of college funding (Student Government Association, departmental, Student Services Fees, etc.).

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4. Violations involving the use of alcohol, narcotics or other drugs may result in notification of the parents/guardians of dependent students under the age of 21.

C. Disciplinary Appeal Procedures

1. Any student who has been found responsible for violating the *General Conduct Policy* may request an appeal of the disciplinary decision made by the Compliance Specialist or the Conduct Hearing Committee. Students may also request an appeal of a decision denying readmission to the College (see Article VII, Section D) or reregistration of a student organization.

2. Grounds for Appeal

a. Appeals must be based on:

1. Procedural error, which fundamentally affected the decision.
2. Substantive error (*i.e.*, the outcome(s) is not consistent with the gravity of the misconduct).
3. Newly discovered, relevant information not available at the hearing and sufficient to change the decision.

b. The specific questions to be addressed on appeal are:

1. Were General Conduct procedures followed?
2. If a procedural error was committed, were the rights of the student or student organization materially violated so as to effectively deny a fair hearing?
3. If a substantive appeal, were the sanctions, conditions and/or restrictions reasonable as compared to what the student was found responsible for and the circumstances surrounding the case?
4. If relevant, would the newly discovered information presented at the hearing be sufficient to change the decision?

3. Notification of Appeal

Appeals must be made in writing and in sufficient detail within seven (7) college working days from date of the decision letter to inform the Director of Student Engagement and Compliance Education of the grounds for appeal. The appeal is not

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intended to afford a rehearing of the case. This process serves to review the written content and validity of the appeal submitted by the student, the record of the case, decision-making procedures, and consideration of newly discovered information, if any.

4. Appeal Hearing Procedures

The Director of Student Engagement and Compliance Education will review materials relevant to the case in the written appeal and may choose to do one or more of the following:

- a. Find that the written appeal submitted is not sufficient to establish grounds for appeal, and affirm the decision.
- b. Find that no substantive and/or procedural error has occurred, and affirm the decision.
- c. Refer the matter for a new hearing for which a new hearing officer may be appointed.
- d. Amend the decision.

5. Appeal Decision

After reviewing the appeal, the Director of Student Engagement and Compliance Education will determine the appellate decision and provide the student written notification of the decision, using the written notification procedure as outlined in Article VII, Section E., within seven (7) college working days.

6. Final Appeal

Following the decision made by the Director of Student Engagement and Compliance Education, a student may request a second appeal with the Vice President, Student Success. Appeals must be made in writing and in sufficient detail within seven (7) college working days from the date of the Director of Student Engagement and Compliance Education's decision letter to inform the Vice President, Student Success of the grounds for appeal. The appeal is not intended to afford a rehearing of the case. This process serves to review the written content and validity of the appeal submitted by the student, the record of the case, decision-making procedures, and consideration of newly discovered information, if any. The appeal will follow the same guidelines outlined in section Article VII, Section C. above. The decision of the Vice President, Student Success shall remain final.

D. Readmission Procedures and Appeals

1. A student who has had a disciplinary hold placed on her/his records under this section must request readmission from the Compliance Specialist at least three (3)

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weeks prior to any MCC Office of Admissions application deadlines for the semester or summer session in which the student wishes to re-enroll. The student may be required by the Compliance Specialist to submit evidence in writing supportive of her/his present ability to function properly and effectively in the college community. The Compliance Specialist will evaluate the student's request and supporting documentation with primary consideration given to satisfying all conditions specified at the time of suspension or withdrawal and give a recommendation to the Director of Student Engagement and Compliance Education. If approval is granted by the Director of Student Engagement and Compliance Education for the removal of the administrative hold, the student must be promptly notified in writing and then is expected to complete the regular readmission procedures.

2. If approval for readmission is denied by the Director of Student Engagement and Compliance Education, the student may appeal the decision to the Vice President, Student Success. The appeal must be made, in writing, within five (5) college working days from the date the student is notified in writing by the Director of Student Engagement and Compliance Education that the student's request has been denied.
3. The Vice President, Student Success, upon receiving an appeal request, shall review the denial decision made by the Director of Student Engagement and Compliance Education. The review should be held within five (5) college working days from the date the appeal request is received. The review will be conducted by the Vice President, Student Success or designee. Following the review, the Vice President, Student Success will either uphold the decision made by the Director of Student Engagement and Compliance Education or reverse the decision and allow the student to seek reenrollment at the College. The Vice President, Student Success or designee will notify all parties of this decision in writing within five (5) college working days of the review. The decision of the Vice President, Student Success shall remain final.

E. Written Notification for Conduct Proceedings

1. Notice is deemed to have been properly provided when written notification is sent via MCC student email no less than the number of days required by the *General Conduct Policy* for the particular situation. Failure of a student to receive notice does not delay or prevent the conduct process from occurring.

NOTE: Students are advised to keep their most current local address, permanent address, email address, and local telephone number updated in WebAdvisor.

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VIII -- *General Conduct Policy* Review Committee

A. Committee Composition

The General Conduct Policy Review Committee will conduct an annual review of the *General Conduct Policy* to begin each February and make recommendations to the Director of Student Engagement and Compliance Education regarding omissions, clarifications, constructive changes, and other matters relevant to the proper interpretation and operation of the *General Conduct Policy*.

B. Committee Appointment

1. The Compliance Specialist will serve as the committee chair.
2. The *General Conduct Policy* Review Committee will consist of at least one full-time faculty member, one full-time staff member, and one student to be appointed by the Director of Student Engagement and Compliance Education. These appointments are in addition to the Compliance Specialist, Student Engagement and Compliance Education.

C. Committee Removals

The Director of Student Engagement and Compliance Education may remove a member from this committee when, in her/his judgment, the member has failed or refused to serve and perform the duties and functions of this committee.

D. Committee Meetings

The Compliance Specialist will establish meeting dates and times during which the *General Conduct Policy* will be reviewed and will provide for scheduling special meetings as needed.

E. Committee Quorum

A quorum for the committee requires three members to be present at any meeting.

F. Additional Committee Members

The Director of Student Engagement and Compliance Education may appoint additional members of the *General Conduct Policy* Review Committee to expedite the review process of the code. The additional members of the *General Conduct Policy* Review Committee will have the same composition of membership, the same duties and the same authority as the original *General Conduct Policy* Review Committee.