

# MIDWESTERN STATE UNIVERSITY STUDENT HANDBOOK 2022-23

## **GENERAL MAILING ADDRESS**

3410 Taft Boulevard

Wichita Falls, TX 76308-2909

Internet Address: <https://www.msutexas.edu>

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# Foreword

The Midwestern State University Student Handbook is a source of valuable information regarding student responsibilities, obligations, and privileges while attending the university. Deriving the ultimate advantages from your enrollment will depend not only on your scholastic effort but also upon wise participation in co-curricular activities and utilization of campus services and resources.

This handbook is available online from the Student Affairs website at <https://msutexas.edu/student-life/> and within the myMSUTexas portal. Copies are available at the Clark Student Center Information Desk and Residence Hall offices. Failure to read this handbook does not excuse students from the requirements and regulations described herein.

As the programs, policies, and statements contained herein are subject to continuous review and evaluation, MSU reserves the right to make changes at any time without notice. This publication is for information only.

No person shall be excluded from participation in, denied the benefit of, or be subject to discrimination under any program or activity sponsored or conducted by Midwestern State University on any basis prohibited by applicable law including, but not limited to sex (including pregnancy), race, color, national origin, religion, age, disability, protected veteran status, genetic information, sexual orientation, gender identity, gender expression, or other protected categories, classes, or characteristics.

## University Mission

Midwestern State University is a leading public liberal arts university committed to providing students with rigorous undergraduate and graduate education in the liberal arts and the professions. Through an emphasis upon teaching, augmented by the opportunity for students to engage in research and creative activities alongside faculty and to participate in co-curricular and service programs, Midwestern State prepares its graduates to embark upon their careers or pursue advanced study. The university's undergraduate education is based upon a comprehensive arts and sciences core curriculum. The understanding that students gain of themselves, others, and the social and natural world prepares them to contribute constructively to society through their work and through their private lives.

## Core Values

- People-Centered
  - Community
  - Integrity
  - Visionary
- Connections

## **Alma Mater**

Hail to Midwestern,  
hail maroon and gold.  
We praise Alma Mater,  
as days of old.  
Here's to the Mustangs,  
long may we stand.  
Onward to victory,  
on hand in hand.

## **Fight Song**

Here's to Maroon and the Gold,  
long may they wave.  
True spirits out of the west,  
leading the Mustangs brave.  
Rah, Rah, Rah!  
Fight on victorious again,  
spirit always bold.  
Here's to Midwestern Mustangs,  
hurrah for Maroon and the Gold.

## **Emergency Contacts**

MSU Campus Police	940-397-4239
Wichita Falls Police/Ambulance/First Responder	911
First Step (sexual assault crisis center) 24-hour hotline	1-800-658-2683
United Regional Health Care System (1600 11th Street)	940-764-7000
MSU Counseling Center	940-397-4618
MSU Dean of Students	940-397-7400
MSU Residence Life and Housing	940-397-4217
MSU Vinson Health Center	940-397-4231

Midwestern State University takes great pride in that it treats all students with the dignity and respect they deserve. The aspect of community is paramount and is reflected throughout the entire university community.

## **Student Rights and Responsibilities**

Midwestern State University is an academic community in which all persons share responsibility for its growth and continued well-being. As members of the university community, students can reasonably expect the following:

- A. In all instances of general discipline, the student has the right to due process. Due process, as applied to student-university relationships and the disciplinary process, is equated with fundamental and procedural fairness.

- B. Students have the right to freedom from discrimination on the basis of sex (including pregnancy), race, color, national origin, religion, age, disability, protected veteran status, genetic information, sexual orientation, gender identity, gender expression, or other protected categories, classes, or characteristics.
- C. MSU considers freedom of inquiry and discussion essential to a student's intellectual development. Thus, the university recognizes the right of all students to engage in discussion, to exchange thought and opinion, and to speak, write, or print freely on any subject in accordance with the guarantees of federal and state laws and university policies.
- D. The university affirms the right of students as citizens to exercise their freedoms without fear of university interference for such activity.
- E. Students have the opportunity to participate in the formulation of policy directly affecting them through membership on appropriate committees as determined by the President of the University, the Student Government Association, and other registered organizations within the university.
- F. Students shall have ready access to established university policies and procedures.
- G. It is imperative that students learn to recognize, understand, and celebrate human differences. Universities can, and indeed must, help students become open to the differences that surround them. Navigating differences such as race, religion, age, gender, gender identity, culture, physical ability, nationality, and lifestyle are learned best in collegiate settings that are rich with diversity, and must be learned if the ideals of human worth and dignity are to be advanced.
- H. Students, as members of the university community, have the responsibility to participate in any of the disciplinary proceedings and to testify as witnesses when reasonably notified. Self-incrimination is not intended or construed.
- I. Students are responsible for their own lives and learn responsibility when they bear the consequences of their actions and inactions in an environment marked by caring and support.
- J. Students are free to engage in peaceful and orderly protest, demonstration, and picketing which do not disrupt functions of the university.
- K. Students are protected from unreasonable searches and seizures.

### **Student Honor Creed**

***"As an MSU Student, I pledge not to lie, cheat, steal, or help anyone else do so."***

As students at MSU, we recognize that any great society must be composed of empowered, responsible citizens. We also recognize universities play an important role in helping mold these responsible citizens. We believe students themselves play an important part in developing responsible citizenship by maintaining a community where integrity and honorable character are the norm, not the exception.

Thus, We, the Students of Midwestern State University, resolve to uphold the honor of the university by affirming our commitment to complete academic honesty. We resolve not only to be honest but also to hold our peers accountable for complete honesty in all university matters.

We consider it dishonest to ask for, give, or receive help in examinations or quizzes, to use any unauthorized material in examinations, or to present, as one's own, work or ideas which are not

entirely one's own. We recognize that any instructor has the right to expect that all student work is honest, original work. We accept and acknowledge that responsibility for lying, cheating, stealing, plagiarism, and other forms of academic dishonesty fundamentally rests within each individual student.

We expect of ourselves academic integrity, personal professionalism, and ethical character. We appreciate steps taken by university officials to protect the honor of the university against any who would disgrace the MSU student body by violating the spirit of this creed.

*Written and adopted by the 2002-2003 MSU Student Senate.*

## **Traditions & Landmarks**

Traditions are customs that have their roots in the past and are handed down from one generation to the next. University traditions are formed in much the same way. Customs begun by earlier generations of MSU students are still followed on campus today. Some of our most cherished traditions are:

- **COLORS:** Maroon and Gold
- **MASCOT:** Mustangs
- **THE MSU TOWER:** The tower is the landmark of MSU. The Redwine Carillon is housed in the tower and is comprised of 37 bells. The bells play the Westminster chime every quarter-hour and strike the hour on the hour.
- **BOLIN FOUNTAIN AND QUADRANGLE:** The Bolin Fountain, centered in the Quadrangle, just west of the Hardin Administration Building, is a central hub of the university and popular gathering place for the student body. Mr. and Mrs. D. Phil Bolin believed that the beautification of the campus to be of the utmost importance, and funded the construction of the fountain in 1992. Students helped lay the brick walkways to and from the fountain.
- **CYCLING STATUE:** In 1999, the Hotter 'N Hell Hundred (HHH), an annual bike race in Wichita Falls, was celebrating its 18th year and the turn of the millennia. The HHH commissioned Jack Stevens, sculptor of the Sunwatcher statue and the Believers, to create a work of art to celebrate the rich history of cycling in our community. In 2000, a mutual agreement was made between MSU and the HHH to have the statue placed at its current location, southwest of the Hardin Administration Building.
- **DILLARD MUSTANGS:** The mustangs sculpture located on the south side of D.L. Ligon Coliseum, created by Jack Stevens, pays tribute to MSU's mascot, "Mustangs." A stone near the mustangs bears the following inscription: *The Believers – Wisdom, Strength, and Courage.*
- **GATES OF HERCULES:** These three limestone pillars, by artist Sandi Stein, are located on the south lawn of Bolin Hall. They were designed and commissioned by Doug Burns, in

honor of his mother, father and wife. They were donated to MSU during the 75th anniversary celebration in 1997.

- **LIBERTY BELL:** An exact replica of the Liberty Bell cast by the Paccard Fonderie des Cloches of Annecy, France, is located in front of the Hardin Administration Building. The markings and inscriptions replicate the Liberty Bell down to the nail that was placed in the crack. The bell is 44 1/2" in diameter, 42 3/16" high (including the yoke and stand), and weighs 2,050 pounds.
- **SIKES HOUSE:** Sikes House, located at 2405 Midwestern Parkway, is the official residence of the university's president. The home was built between July 1939 and November 1940 by Mr. Louis Sikes, an oilman and rancher, and his wife Glenna. The university purchased the property from Mr. and Mrs. Sikes in 1970. In November of 1991, the university officially named the home Sikes House.
- **SPIRIT OF THE MUSTANGS:** This mustangs sculpture by Vic Payne, located in front of Centennial Hall, represents the educational journey. The water feature itself represents the educational process, fluid and changing but a path of lifelong learning. Each horse represents a class rank, beginning with the freshman horse about to take the first step, then the sophomore horse, junior horse, and finally the senior horse leaping out of the water. There are traditions associated with the freshman and senior horses. All of the time in-between, all class ranks are encouraged to come to this place to reflect and be reassured. Legend has it that petting one of these beautiful horses may just bring a bit of luck for a test or important life event.
- **SUNWATCHER:** This statue of a South Plains Indian by Jack Stevens exemplifies the progressive spirit of the university. It was presented to MSU by the Alumni Association and financed through donations and brick paver sales during the 75th anniversary celebration in October of 1997.
- **FRESHMAN WALK:** At the end of Mustangs Roundup week, the President and Provost, along with faculty and staff, bring all freshmen students to the Spirit of the Mustangs plaza. They will hear the story of the Spirit of the Mustangs, then touch the tail of the freshman horse to signify sending them forward and beginning their educational journey at MSU Texas.
- **WELCOME (STAMPEDE) WEEK:** This event takes place during the first week of class each fall and spring semester, and features a range of diverse activities from outdoor movies, special entertainers, crafts, novelties, tours and scavenger hunts, day trips, cookouts, and much more for students to make new friends, connect with the campus, and enjoy themselves.
- **FAMILY WEEKEND:** Family Weekend is a tradition when parents, family members, and friends join their MSU student, or students, for a relaxing weekend of fun. Every year, thousands of MSU's extended family come to celebrate and display their MSU pride by cheering on our Mustangs! Festivities include a variety of games, free food, novelties,



home football game, and entertainment for the entire family to enjoy. Attendance at all Family Weekend events is free for family members and guests of current MSU students.

- **HOME COMING:** This traditional event provides for a gathering on the campus of alumni, parents, and friends who join with the faculty and student body to renew old friendships, make new acquaintances, and generally have a good time. The week is filled with many student activities- bonfire, all-school picnic, lip sync competition, boat race, football game, and the crowning of the homecoming king and queen.
- **MSU-BURNS FANTASY OF LIGHTS:** This dazzling holiday display includes 38 brightly lit scenes and 20,000 lights outlining five major buildings on campus. Its purpose is to provide a festive atmosphere on the Midwestern State University campus, to serve as an outreach to the community, and to be a focal point for holiday activities in North Texas. The MSU-Burns Fantasy of Lights is filled with individual displays that showcase themes or characters from well-known children's stories, fairy tales, and holiday icons.
- **FINALS FRENZY:** Occurring the Thursday before final exams during the fall and spring semesters, Finals Frenzy has evolved into one of the most popular and anticipated events at Midwestern State University. Traditionally held in the Clark Student Center, Finals Frenzy features a large range of activities, entertainment, and free food. The event is a great opportunity to relax, de-stress, and have fun prior to the onset of final exams.
- **GREEK WEEK:** Each year Greek social organizations are recognized at a series of Greek Week activities. During Greek Week, MSU Greeks compete among themselves in various physical and service activities and host social events for the entire campus.
- **HONORS RECOGNITION BANQUET:** This function is an annual affair in which outstanding students from the freshman, sophomore, junior, senior and graduate classes are recognized. In addition to the naming of MSU's Man and Woman of the Year and Hardin and Clark Scholar, the university recognizes the scholastic and leadership achievements of students.
- **SENIOR CAMPUS WALK:** This "farewell" walk for graduating seniors gives faculty and staff the opportunity to celebrate the successful completion of their degrees with the graduates. At each academic building, the parade will pause and the graduates of that College will be acknowledged. Faculty and staff stand outside their respective building and cheer for the graduates, then join them on their walk. With each stop, the faculty and staff add to the parade. At the conclusion of the walk, graduates participate in a reception.
- **OFFICIAL MSU RING:** The ring represents the tradition and history of our school. Each icon has special significance in the lives of our graduates. The date 1922 represents when the school was first established as Wichita Falls Junior College. The Hardin Building is a campus landmark and represents the beauty of our campus and remains a symbol of strength and pride. The Sunwatcher statue represents our history with the Kiowa Tribe.

# PART I: Code of Student Conduct

Midwestern State University students are responsible for knowing the information, policies and procedures outlined in this handbook. The university reserves the right to make changes to this code as necessary and once those changes are posted online, they are in effect. Students are encouraged to check online for the most current versions of all university policies and procedures.

The *Midwestern State University Code of Student Conduct* is based upon the Model Code of the National Center for Higher Education Risk Management (NCHERM) authored by Brett A. Sokolow, Esq. Rights of use has been granted by NCHERM to Midwestern State University. No other use is permitted without the expressed permission of NCHERM.

## Section 1: Introduction

### Philosophy

The Midwestern State University community is committed to fostering a campus environment that is conducive to academic inquiry, a productive campus life and thoughtful study. The student conduct program within the Office of Student Rights and Responsibilities is committed to an educational and developmental process that balances the needs of individual students with the needs of the Midwestern State University community.

A community exists on the basis of shared values and principles. At Midwestern State University, student members of the community are expected to uphold and abide by certain standards of conduct that form the basis of the *Code of Student Conduct*. These standards are embodied within a set of principles that include integrity, community, social justice, respect, and responsibility. When members of the community fail to exemplify these values, campus conduct proceedings are used to assert and uphold the *Code of Student Conduct*. Midwestern State University takes great pride in that it treats all students with the dignity and respect they deserve. The aspect of community is paramount and is reflected throughout the entire university community.

Ultimately, each member of the Midwestern State University community is expected to assume responsibility for his/her conduct and to assume reasonable responsibility for the behavior of others. On occasion, this will involve kind and courteous admonition done when one member observes another in inappropriate conduct. At other times, it will involve cooperation when the authorities are investigating instances of alleged misconduct.

The student conduct process at Midwestern State University is not intended to punish students; rather, it exists to protect the interests of the community and to challenge those whose behavior is not in accordance with university policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help bring their behavior into accord with community expectations.

Students should be aware that the student conduct process is quite different from criminal and civil court proceedings. Procedures and rights in student conduct procedures are conducted

with fairness to all, but do not include the same protections afforded by the courts. Fair process, within these procedures, assures written notice and a hearing before an objective decision-maker. No student will be found in violation of university policy without information showing that it is more likely than not that a policy violation occurred and any sanctions will be proportionate to the severity of the violation and to the cumulative conduct history of the student.

## **Section 2: Jurisdiction over Student Conduct**

Students at Midwestern State University are annually given a copy of the *Code of Student Conduct* in the form of a link on the Midwestern State University website; the *Code of Student Conduct* is contained in the Student Handbook, hard copies are available from the Office of Student Rights and Responsibilities, at the Clark Student Center Information Desk, or in the residence hall offices. Students are charged with the responsibility of having read the provisions of the *Code of Student Conduct*. The *Code of Student Conduct* and the student conduct process apply to the conduct of individual students and registered student organizations. Because the *Code of Student Conduct* is based on shared values, it sets a range of expectations for Midwestern State University students no matter where or when their conduct may take place; therefore, the *Code of Student Conduct* applies to behaviors that take place on the campus, at university-sponsored events and may also apply off-campus when the administration determines in its discretion that the off-campus conduct affects a substantial university interest.

The *Code of Student Conduct* may be applied to conduct that takes place from the time a person is admitted as a student to Midwestern State University and continues until the student withdraws or graduates, including periods during semester breaks and between semesters. The *Code of Student Conduct* applies to guests of community members whose host(s) may be held accountable for the misconduct of their guests.

Visitors to and guests of Midwestern State University are also protected by the *Code of Student Conduct* and may initiate grievances for violations of the *Code of Student Conduct* committed against them by student members of the Midwestern State University community.

There is no time limit on reporting violations of the *Code of Student Conduct* as long as the offending student remains enrolled at Midwestern State University; however, the longer someone waits to report an offense, the harder it becomes for Midwestern State University officials to obtain information and witness statements and to make a determination regarding alleged violations. Though anonymous complaints are permitted, doing so limits the university's ability to investigate and respond to a complaint. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Office of Student Rights and Responsibilities and/or Campus Police.

Midwestern State University email is the university's primary means of communication with students. Students are responsible for all communication delivered to their Midwestern State University email address.

### **Section 3: Violations of the Law**

Alleged violations of federal, state and local laws are incorporated as offenses under the *Code of Student Conduct*. When a student is accused, arrested, charged, or indicted for any crime, the university may elect to take action for violation of the *Code of Student Conduct*.

When an offense occurs over which the university has jurisdiction, the university conduct process will usually go forward notwithstanding any criminal complaint that may arise from the same incident. The university may pursue investigation and resolution of campus conduct complaints, regardless of whether the student participates, and the university may impose sanctions that need to be satisfied for a student to be considered in good standing.

When it has reasonable cause to separate a student from the community, the university may suspend a student for a reasonable time pending the scheduling of a campus hearing for violation of the *Code of Student Conduct*. The university reserves the right to exercise its authority of interim suspension upon notification that a student is facing criminal investigation and/or complaint. The university will permit a student who receives an interim suspension to request a meeting with the Vice President for Student Affairs to show cause as to why an interim suspension is not merited. Regardless of the outcome of this meeting, the university may still proceed with the scheduling of a campus hearing.

When criminal charges are pending, the university may be delayed or prevented from conducting its own investigation and moving forward with a campus hearing. When this happens, the university will delay its hearing until such time as it can conduct an internal investigation or obtain sufficient information from law enforcement upon which to proceed.

### **Section 4: Special Provisions**

#### **A. Attempted Violations**

In most instances, Midwestern State University will treat attempts to commit any of the violations listed in the *Code of Student Conduct* as if those attempts had been completed.

#### **B. Misconduct Online**

Students are cautioned that behavior conducted online, such as harassment or bullying via email or social media, can subject them to university conduct action. Students must also be aware that entries on sites such as Google+, Facebook, LinkedIn, YouTube, Instagram, Snapchat, Twitter, Tik Tok and other similar online postings are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. The university does not regularly search for this information but may take action if and when such information is brought to the attention of university officials.

#### **C. University as the Reporting Party**

Midwestern State University reserves the right to initiate a complaint, to serve as the reporting party and to initiate conduct proceedings without a formal complaint by the victim of the alleged misconduct.

#### D. False Reports

Midwestern State University will not tolerate intentional false reporting of incidents. It is a violation of the *Code of Student Conduct* to make an intentionally false report of any policy violation and it may also violate state criminal statutes and civil defamation laws.

#### E. Group Violations

A student group or organization and its officers and membership may be held collectively and individually responsible when violations of this code by the organization or its members take place at organization-sponsored events, have received the consent or encouragement of the organization or of the organization's leaders or officers, or was known or reasonably should have been known to the membership or its officers. Hearings for student groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual.

#### F. Safe Harbor/Amnesty

The Midwestern State University community encourages the reporting of conduct code violations and crimes by victims. Sometimes, victims are hesitant to report to university officials because they fear that they themselves may be accused of policy violations, such as underage drinking, at the time of the incident. It is in the best interest of this community that as many victims as possible choose to report to university officials. To encourage reporting, Midwestern State University pursues a policy of offering victims of conduct code violations amnesty from minor policy violations related to the incident.

If any Midwestern State University student brings their own use, addiction or dependency to the attention of university officials outside the threat of drug tests or conduct sanctions and seeks assistance, a conduct complaint will not be pursued. A written action plan may be used to track cooperation with the Safe Harbor/Amnesty program by the student. Failure to follow the action plan can nullify the Safe Harbor / Amnesty protection and campus conduct processes can be initiated.

Per Texas Senate Bill 966, offenses involving the consumption or possession of alcohol by a student under the legal drinking age of 21 do not apply if the student reports a sexual assault of the minor or another person to university officials.

Per Texas Senate Bill 969, amnesty for a violation of the *MSU Code of Student Conduct* will be provided to students who in good faith report an incident of sexual misconduct. MSU will take no disciplinary action against an enrolled student who in good faith reports to the institution being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, domestic violence, or stalking for a violation by the student of the *MSU Code of Student Conduct* occurring at or near the time of the incident, regardless of the location at which the incident occurred, or the outcome of MSU's disciplinary process regarding the incident, if any. Amnesty does not apply to an enrolled student who reports the student's own commission or assistance in the commission of sexual harassment, sexual assault, dating violence, domestic violence or stalking.

#### G. Bystander Intervention

The welfare and safety of students in our community is of paramount importance. At times, students on and off-campus may need assistance. Midwestern State University encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others or intervene for fear that they may get themselves in trouble. For example, a student who has been drinking underage might hesitate to help take a sexual

misconduct victim to University Police. Northwestern State University pursues a policy of amnesty for minor violations when students offer help to others in need.

#### H. Parental Notification

Northwestern State University reserves the right to notify the parents/guardians of dependent students regarding alcohol and other drug violations. The university may also notify parents/guardians of non-dependent students who are under the age of 21 of alcohol and/or other drug violations. Northwestern State University will attempt to contact the parents/guardians of a student to inform them of situations in which there is a health and/or safety risk. Northwestern State University also reserves the right to designate which university employees have a legitimate need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA) and will share information accordingly.

#### I. Notification of Outcomes

The outcome of a campus hearing is part of the education record of the accused student/responding party and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. In accordance with FERPA, when a student is accused of a policy violation that would constitute a “crime of violence” or forcible or non-forcible sex offense, the university will inform the alleged victim/reporting party in writing of the final results of a hearing regardless of whether the university concludes that a violation was committed. Such release of information may only include the alleged student’s/responding party’s name, the violation committed and the sanctions assigned (if applicable). In cases of sex offenses, the rationale for the outcome will also be shared with the reporting party.

In cases where the university concludes that a student violated a policy that would constitute a “crime of violence” or non-forcible sex offense, the university may also release the above information publicly and/or to any third party. FERPA defines “crimes of violence” to include:

- a) Arson
- b) Assault offenses
- c) Burglary
- d) Criminal Homicide—manslaughter by negligence
- e) Criminal Homicide—murder and non-negligent manslaughter
- f) Destruction/damage/vandalism of property
- g) Kidnapping/abduction
- h) Robbery
- i) Forcible sex acts

Students who bring any Title IX-related complaints against any member of the campus community will be informed in writing of the outcome of the complaint and any sanctions or responsive actions implemented.

#### J. Defenses

It is increasingly common for individuals accused of policy violations to defend their actions with explanations such as, but not limited to, prescription drug interactions, self-defense, mental illness and/or disability. The university’s policy on defenses is that providing an explanation for a policy defense is equivalent to the admission of engaging in a policy violation. While explanations will not excuse an individual’s commission of a policy violation,

Midwestern State University will take the legitimacy of an individual's explanation into consideration in the determination of appropriate sanctioning.

## **Section 5: Code of Student Conduct: The Rules**

### **A. Definitions**

1. The term "the university" refers to Midwestern State University.
2. The term "student" includes all persons who have accepted admission to, enrolled at, are taking courses at, and/or have a continuing relationship with the university, including those who attend full- or part-time at the undergraduate, graduate, or non-matriculated level.
3. The term "faculty member" refers to any person employed by the university to conduct instructional activities.
4. The term "university official" includes any person employed by the university who is designated as an official or who holds administrative or professional supervisory responsibilities.
5. The term "member of the university community" refers to any person employed by, volunteering for or attending the university as a student, faculty member, administrator, staff member, intern, or volunteer.
6. The term "university property" includes all land, buildings, facilities, and other property in the possession of, owned or controlled, whether leased or rented, by the university.
7. The term "organization" refers to any number of persons who have complied with the formal requirements for university registration, or who are members of university sponsored groups or registered student organizations.
8. The terms "Student Conduct Committee" or "SCC" refers to a body responsible for assisting in the interpretation and implementation of the *Code of Student Conduct*. Members are responsible for hearing complaints and ensuring that students receive the procedural fairness rights granted them.
9. The term "Administrative Hearing Officer" refers to any persons authorized by the Director of Student Rights and Responsibilities or a delegated representative to determine whether a student has violated the *Code of Student Conduct* and to impose sanctions. The Student Conduct Committee constitutes an Administrative Hearing Officer.
10. The term "Appeals Panel" refers to any person or persons authorized by the Dean of Students to consider a review or appeal of the decisions of an Administrative Hearing Officer, the SCC, and the Director of Student Rights and Responsibilities.
11. The term "policy" is defined as the written rules of the university found in, but not limited to: the *Code of Student Conduct*, the Student Handbook, University Catalog, and Residence Life Handbook.
12. The term "working day" refers to a regular university business day. This does not include Saturday, Sunday or holidays established in the academic calendar. In the fall and spring semesters, this would be Monday through Friday and during the summer I and II terms, Monday through Thursday.

### **B. Principles and Behavioral Expectations**

The university considers the behavior described in the following sections as inappropriate for the Midwestern State University community and in opposition to the principles set forth in this

document. These expectations and rules apply to all students, whether undergraduate, graduate, or non-matriculated. The university encourages community members to report to university officials all incidents that involve the following actions. Any student found to have committed or to have attempted to commit the following misconduct is subject to the sanctions outlined in [Section 7: Conduct Procedures](#).

1. *Integrity*: Midwestern State students exemplify honesty, honor and a respect for the truth in all of their dealings. Behavior that violates this value includes, but is not limited to:
  - a. Knowingly furnishing false, falsified or forged information such as falsification or misuse of documents, accounts, records, identification or financial instruments;
  - b. Acts of academic dishonesty as outlined in the *Academic Dishonesty Policy* in *Appendix E*;
  - c. Unauthorized possession, duplication or use of means of access to any university building (i.e. keys, cards, etc.);
  - d. Action or inaction by someone in collusion with another or others to violate these rules;
  - e. Violations of positions of trust within the community; or
  - f. Tampering with the election of any registered student organization.
2. *Community*: Midwestern State students honor and value their community. Behavior that violates this value includes, but is not limited to:
  - a. Misuse of access privileges to university premises or unauthorized entry to or use of buildings, including trespassing;
  - b. Misuse or unauthorized use of university or organizational names, logos, or images;
  - c. Knowingly taking possession of stolen property;
  - d. Intentional and unauthorized taking of university property or the personal property of a member of the university community;
  - e. Intentional and unauthorized destruction of, or damage to, university property or to the personal property of a member of the university community;
  - f. Violating the Midwestern State University Computer and Network Services Policy, found in the Student Handbook. Examples of actions which violate these policies include, but are not limited to:
    - Use of computing facilities to send harassing or abusive messages;
    - Use of computing facilities to send anonymous or forged network news articles or email messages;
    - Use of computing facilities to interfere with the work of other community members;
    - Unauthorized access to a file or personal or group account;
    - Use of computing facilities to interfere with normal operation of the university computer system; or
    - Copying or transmitting copyrighted material when you are not legally authorized to do so.
  - g. Unauthorized transfer of a file;
  - h. Unauthorized use of another individual's identification and password;



- i. Gambling in any form by the use of cards, dominoes, billiards, dice, pool, table tennis, snooker, or any other means specifically defined by state law, shall be prohibited on university grounds or property and in approved student housing;
  - j. Possession, use, or distribution of explosives (including fireworks and ammunition), guns (including air, BB, paintball, and pellet guns), or other weapons or objects that could be construed as weapons such as arrows, axes, machetes, nun chucks, throwing stars, or knives with a blade of longer than five and one-half (5 ½) inches;
  - k. Use of alarmed doors for entry into or exit from a Midwestern State University building not during an emergency;
  - l. Failing to report a lost Midwestern State University identification card;
  - m. Violation of local, state, federal, or campus fire policies including, but not limited to:
    - Failure to evacuate a university-controlled building during a fire alarm;
    - Improper use of university fire safety equipment; or
    - Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on university property. Such action may result in a \$4,000 fine in addition to university sanctions;
    - Intentionally or recklessly causing a fire which damages university or personal property or which caused injury to any member of the community.
3. *Social Justice*: Midwestern State students exemplify just and equitable treatment of all members of the community in their dealings and interactions. Behavior that violates this value includes, but is not limited to:
- a. Substantial disruption of university operations including obstruction of teaching, research, administration, other university activities, or other authorized non-university activities which occur on campus;
  - b. Obstruction of freedom of movement by community members or visitors;
  - c. Abuse or interference of, or failure to comply in, university processes including *Code of Student Conduct* investigations and hearings; or
  - d. Abuse of the campus conduct system including but not limited to:
    - Failure to appropriately respond to a letter of notice, or summons letter;
    - Failure to attend meetings scheduled for *Code of Student Conduct* administration purposes;
    - Falsification, distortion, or misrepresentation of information;
    - Failure to provide, destroying, or hiding information during an investigation of an alleged policy violation;
    - Attempting to discourage an individual's proper participation in, or use of, the campus conduct system;
    - Harassment (verbal or physical) and/or intimidation of a member of a campus conduct body prior to, during, and/or following a campus conduct proceeding;
    - Failure to comply with the sanction(s) imposed by the campus conduct system; or
    - Influencing, or attempting to influence, another person to commit an abuse of the campus conduct system.
4. *Respect*: Midwestern State students show positive regard for each other, for property and for the community. Behavior that violates this value includes, but is not limited to:

- a. Threatening, or causing, physical harm, written or verbal abuse or other conduct that threatens or endangers the health or safety of any person;
- b. Discrimination, defined as any distinction, preference, advantage for or detriment to an individual compared to others that is based upon an individual's actual or perceived sex, gender expression, gender identity, race, color, age, national or ethnic origin, physical or mental disability, genetic information, veteran status, pregnancy status, religion or sexual orientation that is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the university's educational program or activities;
- c. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- d. Discriminatory Harassment, defined as detrimental action based on an individual's actual or perceived sex, gender expression, gender identity, race, color, age, , national or ethnic origin, physical or mental disability, genetic information, veteran status, pregnancy status, religion, sexual orientation, or other protected status that is unwelcome and unreasonably interferes with or limits a student's ability to participate in or benefit from the university's educational program or activities;
- e. Retaliatory Harassment, defined as any intentional, adverse action taken by an accused individual or allied third party, absent legitimate non-discriminatory purposes, that harms an individual as reprisal for filing or participating in a civil rights grievance proceeding;
- f. Bullying, or cyber bullying, defined as repeated and/or severe, pervasive, and objectionably offensive behavior likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally that includes, but is not limited to: creating web pages with a negative focus; posting insults or lewd photos on social networking sites; or spreading rumors with malicious intent;
- g. Violations of the University Hazing Policy (see [Section 10](#));
- h. Violence between those in a continuing relationship of an intimate or romantic nature with one another;
- i. Violence committed by a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabitating or had cohabitated with the victim as a spouse or intimate partner, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction;
- j. Stalking as defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress;
- k. Sexual misconduct including sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, or sexual exploitation (See [Section 11: Title IX Sexual Misconduct](#); and [Section 12: Non-Title IX Sexual Misconduct](#) for further information);
- l. Inappropriate conduct which is disorderly, disruptive, obscene, or indecent while on campus or at functions sponsored, or participated in, by the university;

- m. Failure to comply with the directives of university officials or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so;
  - n. Smoking or use of tobacco or tobacco-derived products in any area of campus;
  - o. Acts of bias, intolerance, prejudice, or hate on the basis of an individual's identity, ideology or protected class, as defined in Texas Tech University System Regulation 07.10 , when manifested in threatened or actual violent conduct against a person, harassment, or incitement to imminent violation(s) of law (see [Section 9: Bias Incident Policy](#)).
5. *Responsibility*: Midwestern State students are given, and accept, a high level of responsibility as role models. Behavior that violates this value includes, but is not limited to:
- a. Use, possession, or distribution of alcoholic beverages except as expressly permitted by law and the university's Alcohol Policy (See [Section 8](#) of this document for further information);
  - b. Use, possession, or distribution of narcotics or other controlled substances or drug paraphernalia, except as expressly permitted by law;
  - c. Abuse, misuse, sale, or distribution of prescription or over-the-counter medications;
  - d. Assisting in, inciting or condoning the violation of university policies or local, state, or federal laws;
  - e. Allegations of violation of local, state, or federal laws which affect the substantial interests of the university community whether the violation occurs on or off-campus;
  - f. Intentional failure of any organized group to exercise preventative measures relative to violations of the *Code of Student Conduct* by its members;
  - g. Knowingly condoning or remaining in the presence of a clear violation of these rules without:
    - Leaving the area where the violation was occurring; or
    - Intervening or confronting the violation in an effort to stop it; or
    - Contacting the appropriate staff members to address the violation;
  - h. Violation of other published university policies or rules, including all Housing policies

## **Section 6: Student Conduct Authority**

The Vice President for Student Affairs is vested with the authority of chief conduct officer. The chief conduct officer appoints a Director of Student Rights and Responsibilities to oversee and manage the student conduct process. The chief conduct officer, Dean of Students, and Director of Student Rights and Responsibilities may appoint administrative hearing and appeals officers as deemed necessary to efficiently and effectively supervise the student conduct process.

The Director of Student Rights and Responsibilities or designee will assume responsibility for the investigation of an allegation of misconduct to determine if the complaint has merit. No complaint will be forwarded for a hearing unless there is reasonable cause to believe a policy has been violated. Reasonable cause is defined as some credible information to support each

element of the offense, even if that information is merely a credible witness or a victim's statement. A complaint wholly unsupported by any information will not be forwarded for a hearing.

If a minor allegation can be addressed by mutual consent of the parties involved, on a basis acceptable to the parties involved and the Director of Student Rights and Responsibilities or designated administrative hearing officer, such disposition will be final and there will be no subsequent proceedings.

The Director of Student Rights and Responsibilities has discretion to refer a complaint for mediation. Any unsuccessful mediation can be forwarded for formal processing and hearing; however, at no time will complaints of physical sexual misconduct or violence be mediated as the sole institutional response. The Director of Student Rights and Responsibilities may also suggest that complaints that do not involve a violation of the *Code of Student Conduct* be referred for mediation.

If the complaint cannot be addressed in a manner mutually acceptable, or for incidents that are not minor, the Director of Student Rights and Responsibilities will refer the complaint to the Administrative Hearing Officer or the Student Conduct Committee (SCC). The decision of where to refer the complaint is at the sole discretion of the Director of Student Rights and Responsibilities, who may take into consideration the preferences of the parties to the complaint.

#### Assembly of the Student Conduct Committee (SCC)

The Director of Student Rights and Responsibilities will be responsible for assembling the SCC according to the following guidelines:

The membership of the Student Conduct Committee is comprised of a pool of students, faculty, and staff/administrative members appointed and trained annually by the Director of Student Rights and Responsibilities.

To serve in the SCC pool, students must:

Be in academic good standing at the university and have completed 15 hours of academic credit with a cumulative GPA of at least 2.0.

Be in conduct good standing throughout the term in which they serve. Conduct good standing is defined as having no record of misconduct during the semester(s) in which a student wishes to serve on the SCC. A history of misconduct could disqualify a student for service.

The Vice President for Student Affairs will have final authority to approve all those serving on the SCC.

The non-voting advisor to the SCC is the Director of Student Rights and Responsibilities with responsibility for training the SCC, conducting preliminary investigations, and ensuring a fair process for the reporting party and accused student/responding party.

In the event of a resignation from the SCC, the Director of Student Rights and Responsibilities will solicit a replacement from the group from which the representative came.

Decisions made, and sanctions imposed, by the SCC or an Administrative Hearing Officer will be final and implemented, pending the normal review appeal process. At the discretion of the

Director of Student Rights and Responsibilities, implementation of sanctions may be stayed pending review.

For each complaint directed to the SCC, the hearing panel will be chosen from the available pool, and is usually comprised of one student, one faculty member, and one staff member or administrator. Availability may determine a different composition for the hearing panel, and in complaints involving discrimination, sexual misconduct, crimes of violence or other sensitive issues, the Director of Student Rights and Responsibilities will usually use three (3) administrative/staff members or faculty for the hearing panel. One of the staff members or administrators trained as a civil rights investigator serves as the chair of the panel and assures university procedures are followed throughout the hearing.

#### Administrative Hearing Officers

Administrative Hearing Officers are a pool of annually trained administrators or staff members selected by the Director of Student Rights and Responsibilities and approved by the Dean of Students.

#### Appeals Panels

Three-member appeals panels are drawn from the SCC member pool, with the only requirement being that they did not serve on the hearing panel for the initial hearing. Appeals Panels only review appeals submitted by the Director of Student Rights and Responsibilities or Dean of Students.

#### Interpretation and Revision

The Director of Student Rights and Responsibilities will develop procedural rules for the administration of hearings that are consistent with provisions of the *Code of Student Conduct*. Material deviation from these rules will, generally, only be made as necessary and will include notice to the parties involved. The Director of Student Rights and Responsibilities may vary procedures with notice upon determining that changes to law or regulation require policy or procedural alterations not reflected in this *Code*.

The Director of Student Rights and Responsibilities may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party.

Any question of interpretation of the *Code of Student Conduct* will be referred to the Director of Student Rights and Responsibilities, whose interpretation is final.

The *Code of Student Conduct* will be reviewed and updated annually under the direction of the Dean of Students.

## **Section 7: Conduct Procedures**

Part of the education process is learning how to live in harmony with community members and within a system of standards established for and by the community. Students are accountable to students and others in the community for these standards through the procedures outlined below. This system is not a legal process but, rather, an administrative hearing system. Principles of fairness govern all such bodies. All students who violate these standards will be

held accountable for their behavior through a process that assures the rights of both the reporting party and the accused student/responding party.

Special conduct procedures for complaints or alleged violations related to sexual misconduct are detailed in [Section 11: Title IX Sexual Misconduct Policy](#) and [Section 12: Non-Title IX Sexual Misconduct Policy](#).

#### A. Complaints

Any member of the university community, visitor or guest may file a complaint against any student for misconduct through the Office of Student Rights and Responsibilities.

Complaints will be presented to the Director of Student Rights and Responsibilities (or designee), Dean of Students (or designee) and/or to the Title IX Coordinator, when appropriate. Additionally, these administrators may act on notice of a potential violation whether a formal complaint is made or not. All complaints can be submitted by a victim or a third party, and should be submitted as soon as possible after the offending event occurs. The university has the right to pursue a complaint or notice of misconduct on its own behalf and to serve as reporting party in the subsequent campus conduct process.

The Director of Student Rights and Responsibilities (or designee) and/or Title IX Coordinator, when appropriate, will assume responsibility for the investigation of the alleged violation as described below in the section on investigations.

#### B. Notice of Hearing

Once a determination is made that reasonable cause exists for the Director of Student Rights and Responsibilities (or designee) to refer a complaint for a hearing, notice will be given to the accused student/responding party. Notice will be in writing and may be delivered by one or more of the following methods: in person by the Director of Student Rights and Responsibilities (or designee); mailed to the local or permanent address of the student as indicated in official university records; or emailed to the student's university-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered. The letter of notice, or summons letter will:

- a. Include the alleged violation and notification of where to locate the *Code of Student Conduct* and university procedures for resolution of the complaint; and
- b. Direct the accused student/responding party to contact the Director of Student Rights and Responsibilities (or designated administrative hearing officer) within a specified period of time to respond to the complaint. This time period will, generally, be no less than two (2) business days from the date of delivery of the summons letter.

A meeting with the Director of Student Rights and Responsibilities (or designated administrative hearing officer) may be arranged to explain the nature of the complaint and the conduct process. At this meeting, the accused student/responding party may indicate, either verbally or in writing, to the Director of Student Rights and Responsibilities (or designated administrative hearing officer), whether s/he admits to or denies the allegations of the complaint.

#### C. Interim Suspension

Interim suspension, under the *Code of Student Conduct*, may be imposed by the Vice President for Student Affairs when necessary to protect the health and safety of a student or of the community; preserve university property; pursue an investigation and/or hearing; prevent disruption of, or interference with, the normal operations of the university. Interim

suspension will be used for short periods of time, pending a hearing for a *Code of Student Conduct* violation by either the Director of Student Rights and Responsibilities (or designee) or the Student Conduct Committee or completion of a related criminal investigation. During an interim suspension, a student will be denied access to university housing and/or the university campus/facilities/events. As determined appropriate by the Vice President for Student Affairs (or designee), this restriction includes classes and/or all other university activities or privileges for which the student might otherwise be eligible. At the discretion of the Vice President for Student Affairs (or designee) and with the approval of, and in collaboration with, the appropriate academic college Dean(s), alternative coursework options may be pursued to ensure as minimal an impact as possible on the accused student/responding party.

#### D. Hearing Options & Preparation

The following sections describe Midwestern State University's conduct hearing processes. Except in a complaint involving failure to comply with the summons of the Director of Student Rights and Responsibilities (or designee) or administrative hearing officer, no student may be found to have violated the *Code of Student Conduct* solely as a result of the student's failure to appear for a hearing. In all such instances, conduct hearings will proceed as scheduled and the information in support of the complaint will be presented to, and considered by, the Director of Student Rights and Responsibilities, administrative hearing officer, or Student Conduct Committee presiding over the hearing.

When the accused student/responding party admits to violating the *Code of Student Conduct*, the Director of Student Rights and Responsibilities or administrative hearing officer may invoke informal resolution procedures to conclude the matter and assign appropriate sanctions without a hearing. A student who accepts responsibility for a violation through informal resolution waives his/her right to appeal.

When the accused student/responding party does not resolve the matter through informal resolution, s/he must select either an informal hearing or formal hearing (if available) as the process through which the complaint will be resolved. An informal hearing is when a complaint will be heard and final determination made by the Director of Student Rights and Responsibilities or administrative hearing officer assigned to the complaint. An informal hearing includes the opportunity for the student to respond to the charges s/he is facing and present relevant evidence. Based on the totality of evidence and testimony, the hearing officer will make a determination of responsibility concerning the charges using a preponderance of the evidence standard and assign any appropriate sanctions. A student waives his/her right to appeal when the informal option is utilized.

When the accused student/responding party chooses not to utilize informal resolution or informal hearing procedures, a formal hearing will be conducted as befits the gravity of the alleged offense and serious nature of the consequences. The option of selecting a formal hearing is only available when a responding student faces a possible sanction of University suspension or expulsion if found responsible. The process of a formal hearing is known as a Student Conduct Committee (SCC) hearing. The findings and sanctions of a formal hearing are appealable (refer to section G. Final Review (Appeal Procedures) for more information). Students who deny violating the Code of Student Conduct and select or are assigned to a formal hearing will be given a minimum of seven (7) days to prepare for the formal hearing. Preparation for a formal hearing is summarized in the following guidelines:

- a. Notice of the time, date, and location of the hearing will be in writing and may be delivered by one or more of the following methods: in person by the Director of Student Rights and Responsibilities (or designee); mailed to the local or permanent address of the student as indicated in official university records; or emailed to the student's university-issued email account. Once mailed, emailed, and/or received in-person, such notice will be presumptively delivered.
- b. If there is an alleged victim of the conduct in question, the alleged victim may serve as the reporting party or may elect to have the university serve as the reporting party. Where there is no alleged victim, the university will serve as the reporting party.
- c. If an accused student/responding party fails to respond to notice from the Director of Student Rights and Responsibilities (or designated administrative hearing officer), the Director of Student Rights and Responsibilities (or designated administrative hearing officer) may initiate a complaint against the student for failure to comply with the directives of a university official and give notice of this additional offense. Unless the student responds to this notice within two (2) business days by answering the original notice, an additional informal or formal hearing may be scheduled and held on the student's behalf and the student may be administratively withdrawn from attending classes or a disciplinary hold placed on the student's university account, deeming them ineligible to register for courses until such time as the student responds to the initial complaint.
- d. At least three (3) business days before any scheduled formal hearing, the following will occur:
  1. The accused student/responding party will deliver to the Director of Student Rights and Responsibilities (or designee) a written response to the charge(s);
  2. The accused student/responding party and reporting party will deliver to the Director of Student Rights and Responsibilities (or designee) a written list of all witnesses he/she intends to call at the hearing;
  3. The accused student/responding party and reporting party will deliver to the Director of Student Rights and Responsibilities (or designee) all physical evidence he/she intends to use or needs to have present at the hearing and will indicate who has possession or custody of such evidence, if known;
  4. The reporting party and the accused student/responding party will notify the Director of Student Rights and Responsibilities (or designee) of the names of any advisors who may be accompanying the party at the hearing.
- e. The Director of Student Rights and Responsibilities (or designee) will ensure that the hearing information and any other available written documentation is shared with the reporting party and the accused student/responding party at least two (2) business days before any scheduled formal hearing. In addition, the parties will be given a list of the names of all the members of SCC or hearing officers for the complaint in advance. Should either party object to any SCC member, he/she must raise all objections, in writing, to the Director of Student Rights and Responsibilities (or designee) immediately. SCC members will only be unseated if the Director of Student Rights and Responsibilities (or designee) concludes their potential for bias precludes an impartial hearing of the complaint. Additionally, any SCC member who feels he/she cannot make an objective determination of responsibility must recuse him/herself from the proceedings.



## E. Formal Hearing Procedures

When a student faces potential suspension or expulsion from the university or at the discretion of the Director of Student Rights and Responsibilities, the process (i.e. the conducting of an SCC hearing) afforded is more rigorous and formal as befits the gravity of the alleged offense and the serious nature of the consequences.

The reporting party and the accused student/responding party have the right to be present at the hearing; however, they do not have the right to be present during deliberations. If a student cannot attend the hearing, it is that student's responsibility to notify the Director of Student Rights and Responsibilities or (designee) no later than three (3) business days prior to the scheduled hearing to arrange for another date, time, and location.

- a. Except in cases of grave or unforeseen circumstances, if the accused student/responding party fails to give the requisite minimum three(3) business days' notice, or if the accused student/responding party fails to appear, the hearing will proceed as scheduled. If the reporting party fails to appear, the complaint may be dropped unless the university chooses to pursue the allegation on its own behalf, as determined by the Director of Student Rights and Responsibilities (or designee).

The Student Conduct Committee will conduct SCC hearings according to the following guidelines:

- a. Hearings will be closed to the public.
- b. Admission to the hearing of persons other than the parties involved will be at the discretion of the Student Conduct Committee (SCC) Chair and Director of Student Rights and Responsibilities (or designee).
- c. In hearings involving more than one accused student/responding party, the standard procedure will be to hear the complaints jointly; however, the Director of Student Rights and Responsibilities may permit the hearing pertinent to each responding party to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding party.
- d. The reporting party and accused student/responding party each have the right to an advisor of his/her own choosing. Except in cases of sexual misconduct, sexual harassment, and other forms of discrimination, advisors may be chosen *only* from within the current Midwestern State University community, unless leave is granted in advance by the Director of Student Rights and Responsibilities (or designee) for an advisor from outside the community. In the rare instance where a student party to the complaint is also facing civil or criminal court proceedings, or at the discretion of the Director of Student Rights and Responsibilities (or designee), legal counsel may be permitted to serve as an advisor. An advisor may not make a presentation or represent the reporting party or responding party during the hearing.
- e. The reporting party, the accused student/responding party, the SCC, and the Director of Student Rights and Responsibilities (or designee) will have the privilege of presenting witnesses and questioning all parties (directly or through the SCC Chairperson, at the discretion of the SCC Chairperson). Unduly repetitive witnesses can be limited at the discretion of the SCC Chairperson.
- f. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the SCC. Formal rules of evidence are not observed. The SCC Chairperson and Director of Student Rights and Responsibilities (or designee) may

limit the number of character witnesses presented or may accept written affidavits of character instead.

- g. All procedural questions are subject to the final decision of the Director of Student Rights and Responsibilities (or designee).
- h. After an SCC hearing, the hearing panel will deliberate and determine, by majority vote, using a preponderance of the evidence standard (i.e. whether it is more likely than not) if the accused student/responding party has violated the Code of Student Conduct. Once a finding is determined, if the finding is that of a policy violation, the SCC will determine and assign any appropriate sanction(s). The Director of Student Rights and Responsibilities (or designee) is responsible for informing the SCC of applicable precedent and any previous conduct violations or other relevant pattern information about the accused student/responding party. Within 2-3 business days, the SCC Chairperson will prepare a written deliberation summary with the finding and rationale for the decision and deliver it to the Director of Student Rights and Responsibilities (or designee). This written deliberation summary should conclude with any assigned sanctions, if applicable. Notification of the outcome will be made to the student/responding party in writing and may be delivered by one or more of the following methods: in person by the Director of Student Rights and Responsibilities (or designee); mailed to the local or permanent address of the student as indicated in official university records; or emailed to the student's university-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.
- i. There will be a single verbatim record, such as an audio recording, for all SCC hearings. Deliberations will not be recorded. The record will be the property of the university and maintained according to the university's record retention policy.

#### F. Conduct Sanctions

One or more of the following sanctions may be imposed upon any student or student organization for any single violation of the *Code of Student Conduct*:

- a. *Warning*: A written notice will be sent to the student(s) who violated university policies and/or rules. It specifies that inappropriate and unacceptable actions have occurred and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the university.
- b. *Restitution*: Compensation for damage caused to the university or any person's property or injuries to a person as a result of the conduct. This is not a fine but, rather, a repayment for property destroyed, damaged, consumed, or stolen, or personal medical expenses.
- c. *Fines*: Reasonable fines may be imposed.
- d. *Community/University Service Requirements*: For a student to complete a specific supervised community or university service.
- e. *Loss of Privileges*: The student will be denied specified privileges for a designated period of time.
- f. *Confiscation of Prohibited Property*: Items whose presence is in violation of university policy will be confiscated and will become the property of the university. Prohibited items may be returned to the owner at the discretion of the Director of Student Rights and Responsibilities and/or University Police.

- g. *Behavioral Requirement*: This includes required activities such as, but not limited to, seeking personal counseling or substance abuse screening, writing a letter of apology, writing a research or reflection essay, etc.
- h. *Educational Program*: Requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- i. *Restriction of Visitation Privileges*: May be levied on residential or non-resident student. The parameters of the restriction will be specified.
- j. *University Housing Probation*: The student is put on official notice that, should further violations of housing or university policies occur during a specified probationary period, the student may immediately be removed from university housing.
- k. *University Housing Reassignment*: The student is reassigned to another university housing facility. Housing personnel will decide on the reassignment details.
- l. *University Housing Suspension*: The student is removed from university housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to university housing may be specified. Under this sanction, a student is required to vacate university housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life and Housing. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for university housing, the student must gain permission from the Director of Residence Life and Housing.
- m. *University Housing Expulsion*: The student's privilege to live in, or visit, any university housing facility is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary.
- n. *Eligibility Restriction*: The student is deemed "not in disciplinary good standing" with the university for a specified period of time. Specific limitations or exceptions may be granted by the Director of Student Rights and Responsibilities and terms of this conduct sanction may include, but are not limited to, the following:
  - i. Ineligibility to hold any office in any registered student organization or hold an elected or appointed office at the university; or
  - ii. Ineligibility to represent the university to anyone outside the university community in any way including: participating in the study abroad program, attending conferences, or representing the university at an official function, event or intercollegiate competition as a participant, player, manager or student coach, etc.
- o. *University Suspension*: The student is separated from the university for a specified period of time. Upon the satisfaction of any specific conditions, the student is eligible to return. The student is required to vacate university housing and/or campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life and Housing. This sanction may be enforced with a trespass action as necessary. This sanction may be noted as Conduct Suspension on the student's official academic transcript. Prior to reapplication for university housing, the student must gain permission from the Director of Residence Life and Housing. Prior to reapplication for university admission, the student must contact the Director of Student Rights and Responsibilities.

- p. *University Expulsion*: The student is permanently separated from the university. The student is barred from being on campus and the student's presence at any university-sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary. This sanction may be noted as Conduct Expulsion on the student's official academic transcript.
- q. *Probation*: The student is placed on an extended warning period, levied for a specified time of which the duration will be determined by the seriousness of the violation. Probation carries a warning such that any further violation of the *Code of Student Conduct* may result in more serious sanctioning should the student be found responsible for a violation occurring during the probationary period.
- r. *Other Sanctions*: Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Director of Student Rights and Responsibilities (or designee).

The following sanctions may be imposed upon groups or organizations found to have violated the *Code of Student Conduct*:

- a. One or more of the sanctions listed above, specifically a) through i) and o) through q); and/or
- b. Deactivation, de-recognition, loss of all privileges (including university registration), for a specified period of time.

#### G. Final Review (Appeal Procedures)

Accused students/responding parties may petition for a review of an SCC's written decision within three (3) business days of issuance of an Administrative Hearing Officer's or SCC's written decision. All requests for review must be in writing and delivered to the appropriate administrator as indicated in the written decision letter. For administrative hearings, petitions will generally be reviewed by the Director of Student Rights and Responsibilities. For SCC hearings, appeals will generally be reviewed by the Dean of Students. Any student who missed his/her SCC initial hearing may not request a review of the initial decision.

If the indicated administrator determines that an appeal may be reviewed, the opportunity will be taken, where possible, to return the appeal to the original administrative hearing officer or hearing panel for reconsideration; however, if this is not possible, the complaint will be reviewed by an Appeals Panel. The original SCC hearing panel or Appeals Panel, depending on where it is referred by the indicated administrator, may support or change a decision. An Appeals Panel will be deferential to the original decision-maker, making changes to the findings only where there is clear error. Appeals will only be considered for one or more of the following purposes:

- a. To consider new information which was unavailable at the time of the original hearing that could be outcome determinative;
- H. To assess whether a material deviation from written procedures resulted in an unfair outcome of the hearing;
- I. To decide if an assigned sanction(s) is substantially disproportionate to the offense committed;
- J. To determine if the finding does not accord with the information provided in the hearing; or
- K. To assess whether bias on the part of an SCC hearing panel member(s) deprived the process of impartiality.

Except as required to explain the basis of new information unavailable at the time of a hearing, the review of a SCC hearing will be limited to the verbatim record of the initial hearing and all supporting documents. Review of an administrative hearing will be limited to the written record of the hearing and all supporting documents. The Dean of Students will serve as the SCC or Appeals Panel's non-voting advisor.

L. Failure to Complete Conduct Sanctions

All students, as members of the university community, are expected to comply with conduct sanctions within the time frame specified by the Director of Student Rights and Responsibilities, SCC or Administrative Hearing Officer. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and/or suspension from the university. In such situations, resident students will be required to vacate university housing within 24 hours of notification by the Director of Student Rights and Responsibilities, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life and Housing. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. This determination will be made by the Director of Student Rights and Responsibilities.

M. Disciplinary Records

All conduct records are maintained by the university for seven (7) years from the time of their creation. Other than university suspension and expulsion, conduct sanctions will not be made a part of the student's permanent academic record, but will become a part of the student's private conduct record. Upon application to, and approval of the Director of Student Rights and Responsibilities, private conduct records may be expunged seven (7) years after final disposition of complaints for which sanctions imposed did not include university housing suspension, university housing expulsion, university suspension, and/or university expulsion.

N. Failure to Complete Conduct Sanctions

All students, as members of the university community, are expected to comply with conduct sanctions within the time frame specified by the Director of Student Rights and Responsibilities, SCC or Administrative Hearing Officer. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions and/or suspension from the university. In such situations, resident students will be required to vacate university housing within 24 hours of notification by the Director of Student Rights and Responsibilities, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life and Housing. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. This determination will be made by the Director of Student Rights and Responsibilities.

O. Disciplinary Records

All conduct records are maintained by the university for seven (7) years from the time of their creation. Other than university suspension and expulsion, conduct sanctions will not be made a part of the student's permanent academic record, but will become a part of the student's private conduct record. Upon application to, and approval of the Director of Student Rights and Responsibilities, private conduct records may be expunged seven (7) years after final disposition of complaints for which sanctions imposed did not include

university housing suspension, university housing expulsion, university suspension, and/or university expulsion.

## **Section 8: Alcohol and Drug Policy**

In compliance with the Drug Free Schools and Communities Act of 1989 and subsequent amendments, students and employees of Midwestern State are informed that strictly enforced policies are in place which prohibits the unlawful possession, use, or distribution of any illicit drugs, including alcohol, on university property or as part of any university-sponsored activity. Students and employees are also subject to all applicable legal sanctions under local, state, and federal law for any offenses involving illicit drugs on University property or at University-sponsored activities.

The university affirms that illegal drug use is unlawful and harmful. The use of illegal drugs and alcohol abuse by students and employees could result in cognitive deficits, loss of productivity, and other health risks. These risks include an increased risk of accidents which may result in death or permanent injury. Free, confidential counseling for alcohol and other drug abuse issues is available to students through the Midwestern State University Counseling Center and Vinson Health Center. Other referral resources may include assessment, individual counseling, educational programs, materials, and referral and case management through community agencies, all which might include a fee.

Students exhibiting signs of excessive alcohol consumption will, at a Midwestern State University Police Officer's discretion, be transported via Emergency Medical Services (EMS) at the student's expense for medical attention. Refusal to cooperate with University Police and/or EMS personnel may result in the student's emergency contact being notified and having to make alternative arrangements for temporary housing, arrest in order to ensure the student's health and safety are not endangered, and/or a conduct charge for failure to comply with the directives of university officers during the performance of their duties.

### **A. Policy on Parental Notification**

Midwestern State University is concerned about students who improperly use alcohol and other drugs and the effects such use may have on their health, academic success, interpersonal relationships and, ultimately, their future.

The Midwestern State University alcohol policy expressly forbids possession and/or consumption of alcohol by students, employees or guests who are under the minimum legal drinking age of 21 years. Possession of drug paraphernalia and the use, manufacture, sale, or distribution of illegal drugs, whether on or off campus, by any student is also prohibited. In accordance with the Family Educational Rights and Privacy Act (FERPA), the Director of Student Rights and Responsibilities (or designee) reserves the right to notify the parents/guardians of students under 21 years of age, and the parents/guardians of dependent students, regardless of age, of any incident in which the student is found responsible for violating the Midwestern State University alcohol and drug policy.

### **B. Alcohol Policy**

Alcoholic beverages are not allowed on campus except under the following conditions:

1. In private residences in Sunwatcher Village and Sundance Court. Consumption is limited to areas inside the residences. (Those residing in university housing should consult the current edition of the *Residence Life Handbook* for specific regulations regarding the use of alcoholic beverages in university housing.)
2. During social functions hosted by the President or the President's spouse.
3. During social functions registered and approved through the Clark Student Center office.

#### How to Register

Persons seeking permission to bring alcohol on campus must file an application in writing to the Clark Student Center office at least ten (10) days prior to the event.

- a. Criteria for Approval

Approval will be based upon the following criteria: organization planning, frequency of the event, groups served by the activity, activity focus, and the use and distribution of alcohol.

- b. Presence of Security or Police

Depending on the nature of the requested event, a condition for approval may be the presence of uniformed police or security personnel. This will be determined with the requesting persons by the Clark Student Center when reviewing the application.

#### *Guidelines for the Use of Alcohol*

1. State Law regarding the use of alcoholic beverages must be observed. Violations of State law include the following:
  - a. Consumption of alcohol by an underage drinker.
  - b. Distribution of alcoholic beverages free of charge at an event in which a cover charge has been assessed.
  - c. Public intoxication.
  - d. Consumption of alcoholic beverages in a public place on Sunday between the hours of 2:15 A.M. and 12:00 noon and Monday through Saturday between the hours of 2:15 A.M. and 7:00 A.M.
2. Beverages at approved student organization events must be distributed by a TABC licensed third party vendor. A copy of the vendor's current license must be on file with the Clark Student Center office prior to event approval.
3. All student organizations must observe an alcohol-free academic week. No alcohol will be permitted at registered functions taking place Sunday-Thursday.
4. Open containers of alcohol are not allowed in public areas of the campus, including the parking lots, walking paths, and all other open-air spaces on the campus.
5. Selling, distributing, possessing, or consuming alcohol or alcoholic beverages at Midwestern State University athletic events held on property owned or leased by Midwestern State University is prohibited, whether the events are sponsored by Midwestern State or another educational institution or an organization or association outside the university.
6. Inappropriate and imprudent behavior related to the use of alcohol will result in disciplinary action.

7. Officers and advisors/sponsors of university organizations shall be held responsible for (1) possessing full knowledge of university policies related to the use of alcohol on campus and (2) ensuring that university policies are followed.

### *Code of Conduct Guidelines*

Students who are 21 years of age or older are permitted to possess and consume alcohol in designated university housing rooms. Students who are of legal drinking age may not share or provide alcohol to any students, employees, or guests who are under 21 years of age. Those under the minimum legal drinking age of 21 years are not permitted to possess or consume alcohol anywhere on university property or at university-sponsored events. Drinking games, and simulated drinking games (e.g. water pong) are prohibited on campus.

### *Examples of Violations of the University Alcohol Policy*

- Purchasing alcohol by a person under the age of 21.
- Selling or providing alcohol to a person under the age of 21.
- Possessing either full or empty alcohol containers by a person under the age of 21.
- Consuming or appearing to have consumed alcohol by a person under the age of 21.
- Showing physical or mental impairment following or resulting from alcohol use.
- Possessing empty alcohol containers for decorative purposes.
- Using or possessing common sources of alcohol including, but not limited to kegs, party balls, wine boxes, etc.
- Participating in or being present during the occurrence of any drinking game.
- Possessing an open container of alcohol in a common area including, but not limited to bathrooms, hallways, lounges, elevators, lobbies or outdoor spaces.

Failure to comply with the directives of University officials or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so is considered unacceptable behavior for a Midwestern State student and a violation of the Midwestern State University *Code of Student Conduct*, which may result in conduct sanctions. An example of such inappropriate behavior includes refusing to submit to a breath test when requested by a police officer, whether on or off-campus.

### C. Illegal Drug Policy

The following information relates to MSU's policy regarding the sale, manufacture, distribution, possession and use of illegal drugs on or off university property or at university-sponsored events in accordance with federal, state, and local laws. Examples of violations include:

- Misusing over-the-counter drugs.
- Misusing or sharing prescription drugs.
- Possessing, using, being under the influence of, distributing, or manufacturing any form of illegal drug.
- Possessing paraphernalia (i.e., rolling papers, grinder pipes, bongs, etc.) for intended or implied use of any form of illegal drug.
- Possessing paraphernalia that contains or appears to contain illegal drug residue.



- Purchasing or passing illegal drugs from one person to another.
- Using mail services to purchase, pass, or distribute illegal drugs.

This policy provides flexibility for the university in addressing drug-related offenses which occur on or off-campus. Moreover, it permits the university to address its fundamental mission of holistic education and the development of human potential. While recognizing that there is a need to address violations related to the use or possession of controlled substances, the university must address the education and well-being of all its students and employees. In addition to university imposed sanctions, students and employees are subject to all legal sanctions under federal, state, and local law for any offenses involving illegal drugs on university property or at university activities

## **Section 9: Bias Incident Policy**

### **A. Policy Statement**

Midwestern State University (the “University”) is committed to an educational environment free from acts of bias, intolerance, prejudice, or hate based on an individual’s perceived identity or ideology. The University is also committed to the principles of free inquiry and expression and is dedicated to creating an environment where the expansion of knowledge and the freedom to exchange ideas is safeguarded. Members of the University community have the right to hold, vigorously defend, and express their ideas and opinions.

Midwestern State University unequivocally condemns and prohibits acts of bias, intolerance, prejudice, and hate when manifested in threatened or actual violent conduct against a person; harassment; or incitement to imminent violation(s) of law. In accordance with federal and state law, the University prohibits unlawful harassment on the basis of an individual’s protected class, as defined in Texas Tech University System Regulation 07.10.

### **B. Reason for Policy**

The principles of free inquiry and expression protect controversial ideas and opinions and differing viewpoints; however, these principles do not protect threatened or actual violent conduct against a person, harassment, or incitement to imminent violations of law.

### **C. Scope and Audience**

Consistent with the *Code of Student Conduct* and its jurisdiction, this policy applies to the behavior of all University students, from the time a student is admitted and continues until the student withdraws or graduates, including periods during semester breaks and between semesters. Such behavior can occur on campus, at university-sponsored events, including functions sponsored by registered student organizations, and off- campus when the University administration determines in its discretion that the off-campus behavior affects a substantial university interest, regardless of the location where the behavior occurs. Further, the policy applies to guests of students, whose host(s) may be held accountable for the misconduct of their guests.

### **D. Definitions (specific to this policy)**

- 1) **Actual Violent Conduct:** an act that causes bodily injury to or harmful, aggressive, or unwelcome physical contact with another person.
- 2) **Bias:** a pre-formed negative opinion or attitude toward a person or group based on their actual or perceived identity, ideology or protected class.

- 3) Complainant: the person reporting prohibited conduct under this policy, who can be either the subject of the prohibited conduct or a third party.
- 4) Harassment: Harassment based on a person's protected class under this policy is a form of discrimination. Harassment is unwelcome verbal or physical conduct directed toward an individual because of sex (including pregnancy), race, color, national origin, religion, age, disability, protected veteran status, genetic information, sexual orientation, gender identity, gender expression, or other protected categories, classes, or characteristics, when such conduct is sufficiently severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance or of creating a hostile academic or work environment. Examples of inappropriate behavior that may constitute unlawful Harassment include, but are not limited to, the following, if related to an individual's protected category, class, or characteristic:
  - a. Derogatory, disparaging, or disrespectful remarks, comments, slurs, or jokes about a particular person or protected category, class, or characteristic of persons based on, about, or because of a protected category, class, or characteristic;
  - b. Display of explicit or offensive posters, pictures, drawings, cartoons, calendars, correspondence, digital or broadcast content (including images, videos, or audio), or any other physical, digital, or multimedia materials in any form that reflect disparagingly upon a category, class, or characteristic of persons or a particular person in a protected category or class;
  - c. Loud or angry outbursts or obscenities in the workplace directed toward a member of the University Community;
  - d. Disparate treatment without a legitimate business reason; or v. other threats, discrimination, hazing, bullying, stalking, or violence.

The harassment this policy prohibits does not exhaust the category of speech that is unnecessary and inappropriate to vigorous debate in a diverse community of educated people. An essential part of higher education is to learn to separate substantive argument from personal offense, and to express even the deepest disagreements within standards of civility that reflect mutual respect, understanding, and sensitivity among the diverse population within the University and in the larger society. These are community norms, even though they cannot be enforced by disciplinary rules. To make an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea is not harassment, even if listeners are offended by the argument or idea.

- 5) Hate Crime: a criminal offense against a person or property motivated in whole or in part by an offender's bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity. All hate crimes are bias incidents, but not all bias incidents are hate crimes. Derogatory words or epithets directed against a member of a protected class, if not accompanied by a clear threat of harm with the ability to carry it out, is not a hate crime.
- 6) Incitement to Imminent Violation(s) of Law: conduct, including verbal remarks or the distribution or display of statements, directed against a person or group to incite and/or likely produce the immediate violation of law by others.
- 7) Intolerance: an unwillingness to recognize or accept the beliefs or behavior of someone different on the basis of their actual or perceived identity, ideology or protected class.

- 8) Prejudice: unsupported judgment(s) in favor of or against a person or group, as compared to another, on the basis of identity, ideology or protected class, usually in a way considered to be unfair.
- 9) Protected class: groups of people, designated by federal, state, or system regulation, for which discrimination and/or harassment are prohibited. Such classes include actual or perceived identities based on or related to sex (including pregnancy), race, color, national origin, religion, age, disability, protected veteran status, genetic information, sexual orientation, gender identity, gender expression, or other protected categories, classes, or characteristics. (See System Regulation 07.10.2.b)
- 10) Respondent: the student reported to have engaged in prohibited conduct under this policy.
- 11) Threatened Violent Conduct: an act that threatens another with imminent bodily injury or harmful, aggressive or unwelcome physical contact.

#### E. Contacts

Dean of Students  
Clark Student Center 108  
Phone: 940-397-7400  
Website: [msutexas.edu/student-life/dean](https://msutexas.edu/student-life/dean)

MOSAIC Cross Cultural Center  
Clark Student Center 194  
Phone: 940-397-4500  
Website: [msutexas.edu/student-life/mosaic](https://msutexas.edu/student-life/mosaic)

Student Rights and Responsibilities  
Clark Student Center 108  
Phone: 940-397-4525  
Website: [msutexas.edu/student-life/conduct](https://msutexas.edu/student-life/conduct)

Office of Equal Opportunity  
Texas Tech University System  
System Administration Building  
1508 Knoxville Ave. Ste. 309  
Box 41073  
Lubbock, TX 79409-1073  
Phone: 806.742.3627  
Webpage: <https://www.texastech.edu/offices/equal-employment/>

#### F. Procedures

A person who believes he or she has been the subject of a violation of this policy committed by a student should report the alleged violation to the MOSAIC Cross Cultural Center, Dean of Students Office, or Office of Student Rights and Responsibilities. Incidents may be reported by completing an online referral webform available through the websites of these contacts. A complainant who has not reported an alleged violation of this policy to the MOSAIC Cross Cultural Center, Dean of Students Office, or Office of Student Rights and

Responsibilities has not initiated proceedings for providing remedy to the complaint nor potential disciplinary action against the alleged respondent.

Individuals who would like to consult with a staff member prior to reporting an incident are encouraged to contact the MOSAIC Cross Cultural Center.

When the University receives a report of alleged threatened or actual violent conduct, harassment, and/or incitement to imminent violation(s) of law on the basis of an individual's identity, ideology or protected status, it will respond and investigate the allegation, as appropriate, in a fair, impartial, and timely manner.

Upon receiving a report, the Dean of Students and the Director of the MOSAIC Cross Cultural Center (or their designees) will:

- conduct an initial assessment of the available information;
- initiate additional intake, as needed, to collect information concerning the incident of conduct at issue;
- consider the complainant's immediate and ongoing safety and well-being, including any risk of harm to the parties, other individuals, or the broader campus community;
- Dean of Students will recommend any immediate interim disciplinary action to the Vice President for Student Affairs, as is appropriate to the circumstances, if the continuing presence of the respondent is a potential danger to persons or property or a potential threat of disrupting the academic processes or activities authorized by the University;
- initiate any interim measures or accommodations on behalf of the complainant, as necessary; and,
- initiate any required report to the University Police Department, if required under federal or state law.

At any stage, should a report be determined to be employment related or involve employees (faculty, staff or student employees), a referral will be made to the TTUS Office of Equal Opportunity, in accordance with System Regulation 07.10.

Upon initial assessment and any related intake by the Dean of Students and the Director of the MOSAIC Cross Cultural Center (or their designees), if a report does not support a possible violation of policy, the report will be closed with no further administrative or disciplinary action. The complainant will be notified when this occurs.

Mediation as an Option: in consideration of the interest of the complainant and the complainant's expressed preference for manner of resolution, a report may be addressed through mediation. Mediation is a process where an impartial individual assigned by the University facilitates communication and negotiation between the parties to the complaint and promotes voluntary decision making amongst the parties. The goals include providing the opportunity for the complainant and respondent to define and clarify issues, understand different perspectives, explore and assess possible solutions, and reach mutually satisfactory agreements, when desired.

Informal Resolution by Respondent's Acceptance of Responsibility: at the onset or during the initial assessment process, it is possible a respondent may accept responsibility for a violation of this policy. Should this occur, the Dean of Students and the Director of the MOSAIC Cross Cultural Center (or their designees) shall determine any appropriate sanction(s). The respondent's acceptance of responsibility shall be conveyed to the complainant in writing (e.g. email or mail).

If the report appears upon initial assessment and/or intake to be a likely violation of policy and is not otherwise resolved through mediation or informal resolution by respondent's

acceptance of responsibility, the case will be referred to the Director of Student Rights and Responsibilities (or designee) for investigation and resolution under the procedures set out in the *Code of Student Conduct*.

#### G. Campus Climate Incident Reporting

The University encourages individuals to report campus climate incidents or concerns which create a hostile educational environment or discriminate against members of the University community on the basis of identity, ideology or protected status. For example, individuals may report concerns such as a student organization hosting a party with a racist theme, derogatory graffiti or flyers displayed on campus regarding sexual orientation, malicious social media threats made by a student that intimidate other students because of their religion, or a concern someone has created a harassing classroom environment on the basis of gender identity or gender expression.

Campus climate incidents or concerns should be reported to the MOSAIC Cross Cultural Center or Dean of Students Office. Reports may be submitted using an online webform available through the websites of these contacts.

Upon receipt of a report, the Dean of Students and the Director of the MOSAIC Cross Cultural Center (or their designees) will review the report, collect additional information concerning the report, as needed, assess the available information, and initiate any interim measures or actions, as appropriate. Upon assessment, if the information received/collected suggests a violation of University policy has occurred, the matter will be referred for investigation and resolution under the procedures set out in the Student Handbook or Midwestern State University Operating Policies and Procedures Manual.

### **Section 10: Hazing Policy**

Hazing is defined as “any intentional, knowing, or reckless act occurring on or off the campus of an educational institution, by one person or acting with others, directed against a student, for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in an organization.” It is policy violation at MSU and criminal violation in Texas to conduct hazing, encourage hazing, permit hazing, or have knowledge of the planning of a hazing incident and fail to report the information to an appropriate university official.

Knowledge of hazing incidents, or planned incidents, should be promptly reported to the Dean of Students, Director of Student Rights and Responsibilities, or campus police.

In the State of Texas, failing to report hazing and hazing that does not result in serious bodily injury are Class B misdemeanors. Hazing that results in serious bodily injury is a Class A misdemeanor. Hazing resulting in a death is a state jail felony. It is not a defense to hazing charges or prosecution that the person against whom the hazing was directed consented or acquiesced in the hazing activity.

#### **Texas Hazing Law**

The following Hazing Law was enacted by the State of Texas regarding offenses related to hazing at or in connection with an educational institution.

1. "Educational institution" includes a public or private:
  - a. High school; or

- b. College, university, or other postsecondary educational establishment.
2. "Pledge" means any person who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in any organization.
3. "Pledging" means any action or activity related to becoming a member of an organization.
4. "Student" means any person who:
  - a. is registered in or in attendance at an educational institution;
  - b. has been accepted for admission at the educational institution where the hazing incident occurs; or
  - c. intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.
5. "Organization" means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, or student government, a band or musical group, or an academic, athletic, cheerleading or dance team, including any group or team that participates in National Collegiate Athletic Association competition, or service, social, or a similar group, whose members are primarily students at an educational institution.
6. "Hazing" means any intentional knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization whose members are students at an educational institution, if the act is:
  - a. any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;
  - b. involves sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other similar activity that subjects the student to an unreasonable risk or harm or that adversely affects the mental or physical health or safety of the student;
  - c. involves consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance, other than as described by paragraph e, that subjects the student to an unreasonable risk of harm or which adversely affects the mental or physical health or safety of the student;
  - d. is any activity that induces, causes, or requires the student to perform a duty or task which involves a violation of the Penal Code, Sec. 4.52; or
  - e. involves coercing, as defined by Section 1.07, Penal Code, the student to consume a drug or an alcoholic beverage or liquor in an amount that would lead a reasonable person to believe that the student is intoxicated, as defined by Section 49.01, Penal Code.

#### Personal Hazing Offense

1. A person commits an offense if the person:
  - a. engages in hazing;
  - b. solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing.
  - c. intentionally, knowingly, or recklessly permits hazing to occur; or
  - d. has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or firsthand knowledge that a specific hazing incident has occurred, and knowingly fails to report said knowledge in writing to the Dean of Students or other appropriate official of the institution.

2. The offense of failing to report is a misdemeanor punishable by a fine not to exceed \$1,000, confinement in county jail for not more than 180 days, or both such fine and confinement.
3. Any other offense under this section which does not cause serious bodily injury to another is a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000, confinement in county jail for not less than 90 days nor more than 180 days, or both such fine and confinement.
4. Any other offense under this section which causes serious bodily injury to another is a misdemeanor punishable by a fine of not less than \$1,000 nor more than \$5,000, confinement in county jail for not less than 180 days nor more than one year, or both such fine and confinement.
5. Any other offense under this section which causes the death of another is a misdemeanor punishable by a fine of not less than \$5,000 nor more than \$10,000, confinement in county jail for not less than one year nor more than two (2) years, or both such fine and confinement.
6. Except when an offense causes the death of a student, in sentencing a person convicted of an offense under this section, the court may require the person convicted to perform community service, subject to the same conditions imposed on community service probationers by Subdivision (1), Subsection (e), and subsections (c), (d), (g), (h) of section 10A. Article 42.12 of the Texas Code of Criminal Procedure, for an appropriate period of time in lieu of confinement in county jail or in lieu or a part of the time the person is sentenced to confinement in county jail.

#### Organization Hazing Offense

1. An organization commits an offense if the organization condones or encourages hazing or if an officer or any combination of members, pledges, or alumni of the organization commits or assists in the commission of hazing.
2. An offense under this section is a misdemeanor punishable by:
  - a. a fine of not less than \$5,000 nor more than \$10,000, or
  - b. if a court finds that the offense caused personal injury, property damage, or other loss, a fine of not less than \$5,000 nor more than double the amount loss or expenses incurred because of such injury, damage, or loss.

#### Immunity from Prosecution or Civil Liability Available

In a criminal or civil hazing, case, the court may grant immunity from prosecution for the offense to each person who is subpoenaed and testifies for the prosecution and does testify for the prosecution. Any person who voluntarily reports a specific hazing incident involving a student in an educational institution to the Dean of Students or other appropriate official of the institution is immune from liability, civil, or criminal charges that might otherwise be incurred or imposed as a result of the reported hazing incident. Eligibility for immunity requires the person report the incident before being contacted by the institution concerning the incident or otherwise being included in the institution's investigation of the incident, and cooperate in good faith throughout the institution's process regarding the incident. Immunity extends to participation in any judicial proceeding resulting from the report. A person is not immune if the person reports the person's own act of hazing or reports an incident of hazing in bad faith or with malice.

## Offenses in Addition to Other Penal Provisions

This subchapter does not affect or repeal any penal law of this state. Nothing in this subchapter shall limit or affect the right of an educational institution to enforce its own penalties against hazing.

## Reporting by Medical Authorities

Treatment of a student who may have been subjected to hazing activities may be reported to police or other law enforcement officials. The doctor or medical practitioner so reporting shall be immune from civil suit or other liability that might otherwise be imposed or incurred as a result of the report, unless the report is made in bad faith or with malice.

## **Section 11: Title IX Sexual Misconduct Policy and Procedures**

The University is committed to providing and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from Title IX Sexual Misconduct of any kind. Any student who is the victim of sexual misconduct should contact the Title IX Office or file an electronic report, which can be accessed on the MSU homepage or the MSU Safety app.

This section provides information regarding the University's prevention and education efforts related to Title IX Sexual Misconduct, as defined in Section 1.q, below. This policy, in conjunction with [MSU Operating Policy 16.02](#) and [Texas Tech University System Regulation 07.06.A](#), provides students and employees with their rights and options and also explains how the University will proceed once it has Actual Knowledge, as defined in Section 1.a, below, of allegations of prohibited Title IX Sexual Misconduct in keeping with the University's values and in order to meet the legal obligations of Title VII, Title IX, the Violence Against Women Act (VAWA), the Campus Sexual Violence Elimination Act (SaVE), the Texas Education Code, 34 CFR Part 106, and other applicable laws and regulations.

The University will take reasonable steps to respond to complaints of Title IX Sexual Misconduct and to restore or preserve equal access to the University's Education Programs or Activities, as appropriate. All investigations and procedures will be conducted in a reasonably prompt timeframe and in an equitable and impartial manner. Investigations conducted under this regulation are not criminal investigations. For all complaints under this regulation, the burden of proof shall be a preponderance of the evidence, which means more likely than not.

The University expects all members of the University Community to comply with applicable law and University policies. Members of the University Community who violate this regulation and related laws may be subject to disciplinary action or sanctions as provided in Section 6 of this regulation, up to and including termination of employment, expulsion from the University, or being barred from University premises and events. To the extent there is no conflict with controlling applicable federal or Texas law, termination of tenured faculty will be subject to the procedures outlined in the University's policies regarding revocation of tenure.

For complaints relating to any form of sexual misconduct other than Title IX Sexual Misconduct (as defined in Section 1.q, below), please see [Section 12: Non-Title IX Sexual Misconduct](#). For complaints relating to any form of discrimination not covered by this Section 11: Title IX Sexual Misconduct or Section 12: Non-Title IX Sexual Misconduct, or for acts of gender or sex



discrimination, that are not sexual in nature and do not constitute Title IX Sexual Misconduct as defined in this policy or Sexual Misconduct as defined in Section 12: Non-Title IX Sexual Misconduct, please see [Section 9: Bias Incident Policy](#). The University reserves sole discretion to consolidate complaints arising out of the same facts or circumstances, involving more than one Complainant or more than one Respondent, or that amount to counter-complaints by one party against the other. Additionally, if at any time during a Title IX Sexual Misconduct Grievance Process it is determined that the alleged conduct does not constitute Title IX Sexual Misconduct, the University may proceed under System Regulation 07.06.B or any other applicable policy and procedure.

## 1. Definitions

For purposes of this policy, the definitions below apply. However, some of these terms are also defined under state law. If an individual would like to file criminal charges for any alleged violations of criminal law, the definitions as set forth in state law may apply.

- a. **Actual Knowledge.** Notice of Title IX Sexual Misconduct or allegations thereof to the University's Title IX Coordinator or Deputy Coordinator.
- b. **Complainant.** An individual, who must be participating or attempting to participate in the University's Education Program or Activity, who is alleged to be the victim of conduct that could constitute Title IX Sexual Misconduct.
- c. **Consent.** Mutually understandable words or actions, actively communicated both knowingly and voluntarily, that clearly convey permission for a specific activity. Consent is not effective if it results from: (i) the use of physical force, (ii) a threat of physical force, (iii) intimidation, (iv) coercion, (v) incapacitation, or (vi) any other factor that would eliminate an individual's ability to exercise their own free will to choose whether or not to engage in sexual activity.
- d. **Education Program or Activity.** Includes locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the Title IX Sexual Misconduct allegedly occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- e. **Employee.** An individual who receives a W-2 or 1042-S from the University, including full- and part-time faculty, staff, and students. An Employee is working in the course and scope of their employment if the Employee is performing duties in the furtherance of the University's interest.
- f. **Formal Complaint.** Document filed by a Complainant or signed by the University's Title IX Coordinator alleging Title IX Sexual Misconduct against a Respondent and requesting that the University investigate the allegation(s) of Title IX Sexual Misconduct. Provided, however, where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under this policy.
- g. **Grievance Process.** The process of addressing Formal Complaints of Title IX Sexual Misconduct before the imposition of any disciplinary or other actions that are not Supportive Measures against a Respondent. The Grievance Process is described in Section 5 of this policy.
- h. **Hearing Panel.** A four-member panel that will be the decision-maker and render a determination regarding responsibility, in accordance with the procedures set forth in Attachment 2 to this policy.

- i. Incapacitation. A state of being that prevents an individual from having capacity to give Consent. For example, incapacitation could result from the use of drugs or alcohol, an individual being asleep or unconscious, or because of an intellectual or other disability.
  - j. Informal Resolution. An alternative to the Grievance Process that may be offered and facilitated by the University following the filing of a Formal Complaint and upon the voluntary, written consent of the parties. The Informal Resolution process is described in Section 5.k of this policy.
  - k. Investigative Report. A report that summarizes the relevant evidence based upon the completion of a prehearing investigation conducted under the Grievance Process.
  - l. Investigator. A trained University staff member whose role is to conduct a thorough, reliable, and equitable investigation and compile the information gathered into an Investigative Report.
  - m. Reporting Party. An individual or entity (in the case of the University), other than the Complainant, who reports an alleged violation of this policy.
  - n. Respondent. An individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Misconduct.
  - o. Responsible Employee. All Employees, except as provided in Section 7.e, below, are Responsible Employees who must report allegations of Title IX Sexual Misconduct, including all known information concerning the incident, to the Title IX Coordinator as provided in Section 7, below.
  - p. Supportive Measures. Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. See Section 4, below.
  - q. Title IX Sexual Misconduct. Conduct that allegedly occurred against a person in the United States, in University's Education Program or Activity, on the basis of sex, and that satisfies one or more of the following:
    - i. Quid Pro Quo. A University employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
    - ii. Severe, Pervasive, and Objectively Offensive Conduct. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's Education Program or Activity. Without limiting the foregoing, the following types of conduct are deemed to meet this severe, pervasive, and objectively offensive standard:
      - 1. "Sexual Assault" as defined in 20 U.S.C. § 1092(f)(6)(A)(v);
      - 2. "Dating Violence" as defined in 34 U.S.C. § 12291(a)(10);
      - 3. "Domestic Violence" as defined in 34 U.S.C. § 12291(a)(8); or
      - 4. "Stalking" as defined in 34 U.S.C. § 12291(a)(30).
  - r. University Community. All University faculty, staff, and students of and visitors to any University premises or University-affiliated activity.
2. Contact Information for University Title IX Coordinator
- University Title IX Coordinator (Students). Each University in the Texas Tech University System has a Title IX Coordinator who oversees the University's compliance with Title IX. Students seeking information regarding Title IX, to report sexual misconduct, or to file a

Formal Complaint of Title IX Sexual Misconduct, should contact the appropriate University Title IX Coordinator:

TITLE IX COORDINATOR EMAIL & PHONE	OFFICE ADDRESS	TITLE IX WEBSITE & REPORTING LINK
Laura Hetrick 940.397.4213 <a href="mailto:laura.hetrick@msutexas.edu">laura.hetrick@msutexas.edu</a>	Vinson Health Center Room H-136 3410 Taft Blvd. Wichita Falls, TX 76308	Title IX Website: <a href="https://msutexas.edu/titleix/">https://msutexas.edu/titleix/</a>  Reporting Link: <a href="https://cm.maxient.com/reportingform.php?MSUTexas&amp;layout_id=6">https://cm.maxient.com/reportingform.php?MSUTexas&amp;layout_id=6</a>

3. Reporting Title IX Sexual Misconduct

- a. Generally. Any individual may inquire or make a report or complaint of sexual misconduct of any kind. Contact information for these offices is set forth in Section 2, above. For inquiries, reports, or complaints regarding students, individuals are encouraged to contact the University’s Title IX Coordinator. For students making inquiries, reports, or complaints regarding Employees, individuals are encouraged to contact the System Office of Equal Opportunity and the Office of Title IX.
- b. How to Submit a Report. Any person may submit a report in person, by mail, by phone, by email, or by online form, using the contact information set forth above in Section 2, or by any other means that results in the University’s Title IX Coordinator or System Office of Equal Opportunity receiving the verbal or written report. Such a report may be made at any time (including during non-business hours) by using the phone number or email address, or by mail to the office address listed above. Persons other than Employees wishing to remain anonymous may do so by submitting a report in an anonymous manner; however, electing to remain anonymous may limit the ability to investigate an alleged incident, collect evidence, and/or take effective action against individuals accused of violating this policy.
- c. After Submitting a Report. After receiving an inquiry or report, the Title IX Coordinator or System Office of Equal Opportunity will respond or address the report of sexual misconduct. Supportive Measures will be provided as necessary, as described in Section 4 below, and the Complainant will have an opportunity to file a Formal Complaint.
- d. Employee Obligation to Report. University Employees (including student Employees) that, in the course and scope of their employment, witness or receive information regarding the occurrence of an incident that the Employee reasonably believes constitutes sexual misconduct must promptly report such incident and information to the University Title IX Coordinator or System Office of Equal Opportunity in accordance with Texas law. This mandatory reporting obligation is further described in Section 7, below.
- e. Reporting by Students and Third Parties Encouraged. Students and third parties are strongly encouraged to promptly report any incidents of sexual misconduct, including but not limited to Title IX Sexual Misconduct, to the University Title IX Coordinator or System Office of Equal Opportunity.
- f. Separate Reporting to Law Enforcement Agencies. All students, Employees, and third parties may also report incidents of sexual misconduct to law enforcement, including

University and local police. Complainants may choose to notify law enforcement and will be provided the assistance of a Title IX Coordinator or the System Office of Equal Opportunity in contacting these authorities if the individual wishes. Complainants may also decline to notify law enforcement of incidents of sexual misconduct.

- g. **Victims Encouraged to Seek Medical Care.** An individual who experiences sexual misconduct is encouraged to seek medical care for treatment and preservation of evidence, if applicable, as soon as practicable after the incident. Preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, a SANE may still collect evidence several days following a sexual assault. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation. To undergo a SAFE, go directly to the nearest emergency department that provides SAFE services.
- h. **Preservation of Evidence.** An individual who experiences any form of sexual misconduct should also preserve other evidence relevant to the complained of activity, such as items of clothing, photographs, phone records, text messages, computer records, and other documents.
- i. **Good Faith Actors.** The University may not discipline or otherwise discriminate against an student who in good faith: (i) makes a report as required under this policy or (ii) cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a report made by the individual as required under this policy. Further, if a student enrolled at the University makes a report or Formal Complaint of Title IX Sexual Misconduct in good faith, the University may not take disciplinary action against that student for violation(s) of the University's student conduct policy occurring at or near the time of the incident in accordance with the amnesty provisions set forth in the University's Student Handbook or similar policy. This subsection does not apply to an individual who perpetrates or assists in the perpetration of the incident reported under this policy.
- j. **Non-Disclosure of Private Information to Medical Providers.** Absent consent from the Complainant, disclosures to a healthcare provider, mental health care provider, or other medical provider acting in the course and scope of their employment with the University shall only state the type of incident reported and may not include any information that would violate an expectation of privacy. These Employees are encouraged to provide Complainants with information and guidance regarding University reporting options and available resources. This subsection does not affect the Employee's duty to report an incident under any other law or policy under which they maintain their licensure.
- k. **Request of Complainant Not to Investigate.** If the Complainant of an alleged incident of "Sexual Harassment," "Sexual Assault," "Dating Violence," or "Stalking," as such terms are defined in [Section 12: Non-Title IX Sexual Misconduct](#), reported to the University requests the University not to investigate the alleged incident, the University may investigate the alleged incident in the same manner that an anonymous complaint may be investigated. The University shall inform the Complainant whether the University will conduct an investigation. In determining whether to investigate the alleged incident, the University shall consider:
  - i. The seriousness of the alleged incident;

- ii. Whether the University has received other reports of “Sexual Harassment”, “Sexual Assault”, “Dating Violence”, or “Stalking”, as such terms are defined in [Section 12: Non-Title IX Sexual Misconduct](#), committed by the alleged perpetrator or perpetrators;
- iii. Whether the alleged incident poses a risk of harm to others;
- iv. Whether the allegations involved violence, use of weapons, or other similar factors; and
- v. Any other factors the University determines relevant.

If the University decides not to investigate an alleged incident described in this subsection based on the Complainant’s request not to investigate, the University shall take any steps it determines necessary to protect the health and safety of the University Community in relation to the alleged incident.

- I. **Deadline for Reporting.** There is no deadline for reporting incidents of sexual misconduct. However, to promote prompt and equitable review, the University encourages individuals with reports of sexual misconduct to come forward as soon as possible. Delays in reporting limit the ability to respond to sexual misconduct, collect evidence, and take effective action against persons accused of violating this policy.

#### 4. Supportive Measures

- a. **Provided by University.** The University will offer Supportive Measures to the parties in order to maintain an environment free from harassment, discrimination, or retaliation; protect the safety and well-being of the parties and the University Community; or restore or preserve equal access to the University’s Education Program or Activity. These Supportive Measures may be kept in place through or beyond the conclusion of any review, investigation, or appeal process and may be implemented regardless of whether Complainant files a Formal Complaint of Title IX Sexual Misconduct.
- b. **Available Measures.** The range of Supportive Measures available includes, but is not limited to: separation or modification of Complainant and Respondent’s academic or working situations; mutual restrictions on contact; one-way restrictions on contact, where justified by the specific facts and circumstances; permissive withdrawal from or retake of a class without penalty; counseling; extensions of deadlines or other course-related adjustments; campus escort services; leaves of absence; increased security and monitoring of certain areas of campus; or any other similar measures tailored to the individualized needs of the parties. Consistent with Texas law, a Complainant or Respondent who is the subject of an alleged incident of Title IX Sexual Misconduct will be allowed to drop a course in which they are both enrolled without any academic penalty.
- c. **Confidentiality.** The University will maintain the confidentiality of any Supportive Measures provided to the parties to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Supportive Measures.
- d. **Implementation.** The Title IX Coordinator or System Office of Equal Opportunity is responsible for coordinating the effective implementation of any remedies, including Supportive Measures, and must consider a Complainant’s wishes with respect to Supportive Measures.

#### 5. Grievance Process for Title IX Sexual Misconduct

- a. **Formal Complaint Required to Initiate Grievance Process.** The Grievance Process begins upon the filing of a written Formal Complaint.

- i. **How to File a Formal Complaint.** Individuals seeking to file a Formal Complaint should begin by reporting the alleged sexual misconduct (as described in Section 3.a and 3.b, above) or by contacting the University Title IX Coordinator or System Office of Equal Opportunity (as described in Section 2, above). Upon receiving such report, or when the University has Actual Knowledge of alleged Title IX Sexual Misconduct, the Title IX Coordinator or System Office of Equal Opportunity will promptly contact the Complainant to: (1) discuss the availability of Supportive Measures (as described in Section 4, above), which are available with or without the filing of a Formal Complaint, and (2) explain to the Complainant the process of filing a Formal Complaint.
- ii. **Requirement for Filing.** At the time of filing a Formal Complaint, the Complainant must be participating in or attempting to participate in the University's Education Program or Activity. The University Title IX Coordinator or System Office or Equal Opportunity will assess whether this requirement is satisfied and assist Complainant in determining whether this Title IX Sexual Misconduct policy, or another policy and complaint procedure applies to the alleged conduct.
- iii. **University Response to Receipt of Formal Complaint.** Upon receipt of a Formal Complaint, the University shall: (1) complete the actions required upon receiving notice, (2) evaluate jurisdiction and mandatory and discretionary dismissal as described below, (3) assess appropriate Supportive Measures for both parties, (4) evaluate the need for Emergency Removal, and (5) initiate the Grievance Process.
- iv. **Initial Review of Formal Complaint.**
  1. **Mandatory Dismissal.** The University shall dismiss a Formal Complaint in the following situations: (a) the allegation does not describe conduct that would constitute Title IX Sexual Misconduct, as defined, even if proven; (b) the Title IX Sexual Misconduct did not occur in the University's Education Program or Activity; or (c) the Title IX Sexual Misconduct did not occur against a person in the United States.
  2. **Permissive Dismissal.** The University may dismiss a Formal Complaint in the following situations: (a) the Complainant notifies the Title IX Coordinator or System Office of Equal Opportunity in writing that they wish to withdraw the Formal Complaint or some allegations in the Formal Complaint; (b) the Respondent is no longer enrolled in or employed by the University; or (c) circumstances exist that prevent the University from gathering sufficient evidence to reach a determination as to the Formal Complaint or allegations therein.
  3. **Application of Other Policies Upon Dismissal of Formal Complaint.** This policy applies exclusively to Title IX Sexual Misconduct, as defined in Section 1.q, above. Any other form of sexual misconduct is governed by [Section 12: Non-Title IX Sexual Misconduct](#). Dismissal of a Title IX Sexual Misconduct Formal Complaint does not preclude action pursuant to other applicable disciplinary policies, including but not limited to those in System Regulation 07.06B Non-Title IX Sexual Misconduct and the applicable Student Handbook or other faculty, staff, or employee policies.
  4. **Written Notice of Dismissal.** If the University dismisses a Formal Complaint, or allegations therein, it must promptly send written notice of the dismissal and the reason(s) for the dismissal simultaneously to all parties.

5. Appeal of Dismissal Decision. Any party can appeal the dismissal decision in the manner provided in Section 5.j, below.
- b. General Requirements of the Grievance Process.
- i. Equitable Treatment of Parties. The University shall treat Complainants and Respondents equitably by: (1) offering Supportive Measures, (2) providing remedies to a Complainant where a determination regarding responsibility for Title IX Sexual Misconduct has been made against the Respondent, (3) executing the Grievance Process in compliance with this Section before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against the Respondent; and (4) providing the parties with the same opportunities to have others present during any proceeding under the Grievance Process, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.
  - ii. No Conflicts of Interest. The Grievance Process requires the Title IX Coordinator, Investigator, Hearing Panel members, appeal officers, and facilitators of an Informal Resolution process be free of conflicts of interest or bias against a party.
  - iii. Presumption of Non-Responsibility; Standard of Evidence. There will be a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process. The standard of evidence under the Grievance Process shall be a preponderance of the evidence.
  - iv. Objectivity. Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness. The University shall require an objective evaluation of all relevant evidence, both inculpatory and exculpatory.
  - v. Privileged Information. The University, Complainant, Respondent, Title IX Coordinator, Investigator, Hearing Panel members, or facilitators of an Informal Resolution process cannot require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege and the University has obtained that party's voluntary, written consent to do so for the Grievance Process under this policy. Such privileged documents include, among other things, documents that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party.
- c. Timeframe. The process for addressing a Formal Complaint under the Grievance Process will be concluded within the reasonably prompt timeframe of 90 business days. Notwithstanding the foregoing, there may be certain circumstances that allow for limited extensions of this timeframe for good cause. For such extensions of time or delays, there must be written notice to both the Complainant and Respondent of the delay or extension and the reasons for the action. A Grievance Process that exceeds one hundred twenty (120) business days, shall be reviewed by the University, and justification for the extended or delayed investigation must be documented. Complainant, Respondent, and other persons deemed appropriate by the University will be provided an update on the progress of the Grievance Process after the review.

- d. Notices. University will provide notices as required, including but not limited to:
  - i. Initial Notice to Parties. The University shall provide written notice to Complainant and Respondent upon receipt of a Formal Complaint with sufficient details known at the time and with sufficient time to prepare a response before an initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX Sexual Misconduct, and the date and location of the alleged incident, if known. Such notice shall also include notice of the following: (1) this Grievance Process, including the University's Informal Resolution process; (2) that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process; (3) that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney; (4) that the parties may inspect and review evidence; and (5) any applicable provision in the University's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the Grievance Process.
  - ii. Supplemental Notice to Parties. If additional allegations are later included within the scope of the investigation under this Grievance Process, supplemental notice of such allegations shall be provided at that time.
  - iii. Notice to All Parties of Hearings, Interviews, or Meetings. The University shall provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
  - iv. Written Notice Via University Email. Any person entitled to written notice under this policy will receive such notice to their University email address. In the event a person is entitled to notice who does not have a University email address, written notice will instead be provided to an email address provided by such person.
- e. Emergency Removal.
  - i. The University shall conduct an individualized safety and risk analysis to determine if an individual poses an immediate threat to the physical health or safety of any individual arising from the allegations of Title IX Sexual Misconduct that justifies removal. Where the University finds that a Respondent poses an immediate threat to the physical health or safety of any individual, the University may remove the Respondent prior to the conclusion of the Grievance Process to protect the safety of the University Community where an immediate threat exists.
  - ii. The University shall provide the Respondent with notice and an immediate opportunity to challenge the decision in writing to the University's Title IX Coordinator or the System Office of Equal Opportunity immediately following the emergency removal.
- f. Prehearing Investigation. The University shall investigate allegations made in a Formal Complaint in accordance with this Grievance Process.
  - i. Gather Evidence.
    - 1. The burden of proof and burden of gathering evidence sufficient to reach a determination regarding responsibility shall be on the University and not on the parties.
    - 2. The University, Complainant, Respondent, Title IX Coordinator, Investigator, Hearing Panel members, or facilitators of an Informal Resolution process cannot



require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege and the Recipient has obtained that party's voluntary, written consent to do so for the Grievance Process under this policy. Such privileged documents include, among other things, documents that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party.

3. The University shall provide an equal opportunity for the parties to present witnesses and evidence, including fact and expert witnesses, and other inculpatory and exculpatory evidence during the prehearing investigation.
  4. The University shall not restrict either party from discussing the allegations or from gathering evidence.
- ii. Inspection and Review of Relevant Evidence.
1. Prior to the completion of an Investigative Report, the University shall provide both parties with an equal opportunity to inspect and review any evidence obtained as part of the prehearing investigation that is directly related to the allegations raised in a Formal Complaint.
  2. The University shall send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy.
  3. The parties shall have at least ten (10) days to submit a written response, which the Investigator will consider prior to the completion of an Investigative Report.
- iii. Investigative Report. Upon completion of the investigation, the University shall create an Investigative Report that fairly summarizes the relevant evidence. The University shall send to each party and the party's advisor, if any, the Investigative Report in an electronic format or hard copy, for their review and written response, at least ten (10) days prior to the hearing, if a hearing is required under this policy or otherwise provided.
- g. Hearing. If the Formal Complaint is not dismissed or resolved by Informal Resolution, then the Formal Complaint shall proceed to a live hearing. The hearing will be conducted in accordance with the procedure set forth in Attachment 1.
- h. Written Determination Regarding Responsibility.
- i. After a hearing, the Hearing Panel will issue a written determination regarding responsibility that will include: (1) identification of the allegations potentially constituting Title IX Sexual Misconduct; (2) a description of the procedural steps taken throughout the Grievance Process; (3) findings of fact supporting the determination regarding responsibility; (4) conclusions regarding the application of the University's applicable conduct policy to the facts of the alleged conduct; (5) a statement of and rationale for the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's Education Program or Activity will be provided by the University to the Complainant; (6) a statement that the University's procedures are permissible bases for the Complainant and Respondent to appeal; and (7) a statement that the

- determination may be appealed by the parties pursuant to this policy and information on how to file such appeal.
- ii. The University will provide the written determination to the parties simultaneously. The written determination regarding responsibility becomes final when the time period to file an appeal has expired or when the written appeal decision has been sent to the parties.
  - i. Impact Statements. After a determination regarding responsibility, and before a decision regarding sanctions, the Hearing Panel may request, and the parties may provide, impact statements for consideration.
  - j. Appeal.
    - i. Grounds for Appeal. The parties may appeal a determination regarding responsibility or the University's dismissal of a Formal Complaint or any allegations therein on the following grounds:
      1. A procedural irregularity that affected the outcome of the matter;
      2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
      3. The Title IX Coordinator, Investigator(s), or Hearing Panel Members had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or
      4. The sanctions imposed substantially vary from the range of sanctions normally imposed for similar infractions.
    - ii. Process for Appeal.
      1. Filing by Appealing Party. The appeal process is initiated upon a party's filing of a written appeal within three (3) University business days after University's delivery of the written decision regarding responsibility. The written appeal must be filed with the University's Title IX Coordinator or System Office of Equal Opportunity, as directed in the written determination regarding responsibility, and the party's written appeal must set forth the grounds for the appeal and any supporting information.
      2. Response of Non-Appealing Party. Upon the filing of a written appeal, University will give written notice of the filed appeal to the non-appealing party. The non-appealing party will have three (3) University business days after University's delivery of the written notice to respond to the appeal.
      3. Appeal Officer. The University will designate a decision-maker for the appeal (the "appeal officer"). The appeal officer shall not be the same person as any of the Hearing Panel members that reached the determination regarding responsibility or dismissal, the Investigator(s), or the Title IX Coordinator.
      4. Response of Hearing Panel. The appeal officer may submit the written appeal and non-appealing party's response to the Hearing Panel, and the Hearing Panel may submit its response in support of the appeal or original decision to the appeal officer.
      5. Review of Appeal. The appeal officer will first review the appeal to determine if the appeal is timely and properly sets forth the appropriate grounds for appeal, with adequate accompanying evidence. If any of these requirements are not met, the appeal will be dismissed, and the decision will be final. If these preliminary

requirements are met, the appeal officer will then review the substance of the appeal and make a final determination.

6. Written Decision and Notice. Within five (5) University business days of the non-appealing party's deadline to submit a response to the filed appeal, the appeal officer will issue a written decision describing the result of the appeal and the rationale for the result. The appeal officer will provide the written decision simultaneously to both parties. The written decision of the appeal officer is final and may not be appealed.
- k. Informal Resolution Process.
  - i. The Informal Resolution Process presents an alternative to the Grievance Process. After the parties have been provided written notice of a Formal Complaint, the University may offer and facilitate the Informal Resolution Process (which may include, but is not limited to, a mediation process). At any time prior to reaching a determination regarding responsibility, the University may begin the Informal Resolution Process by obtaining the parties' voluntary, written consent to use this Informal Resolution Process. Notwithstanding the foregoing, the Informal Resolution Process will not be offered to resolve allegations that a University Employee engaged in conduct against a student that would constitute Title IX Sexual Misconduct.
  - ii. The University will not require any person to participate in the Informal Resolution Process and will not condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to the Informal Resolution Process. Any party may withdraw from the Informal Resolution Process at any time prior to agreeing to a resolution and resume the Grievance Process with respect to the Formal Complaint.
6. Sanctions and Remedies
  - a. Potential Ranges of Sanctions. The ranges of possible disciplinary sanctions and remedies following a determination regarding responsibility under the Grievance Process are set forth in this Section. The ranges and examples set forth here do not reflect the probability that any particular outcome will occur.
  - b. Sanctions and Remedies Against Students. Possible sanctions or remedies that may be imposed on student Respondents can include, but are not limited to: disciplinary reprimand; educational training; scheduling adjustment; housing reassignment; disciplinary probation; withholding of grades, official transcript, and/or degree; bar against readmission, bar against enrollment, and/or withdrawal from the University; suspension of privileges, including but not limited to participation in athletic or extracurricular activities; denial or revocation of degree; time-limited disciplinary suspension; disciplinary expulsion; or any other sanctions or remedies as deemed appropriate by the University given the circumstances.
7. Mandatory Reporting by Employees
  - a. Mandated by Texas Law. This Section addresses mandatory Employee reporting of Title IX Sexual Misconduct as required by Texas law. A report made under this Section does not constitute a Formal Complaint, which is required by federal regulation to initiate a Title IX Sexual Misconduct Grievance Process.
  - b. Employees Required to Report Sexual Misconduct. Texas law requires Employees to report certain types of sexual misconduct, including but not limited to Title IX Sexual Misconduct, to appropriate University personnel. All Employees, including student Employees, who in the course and scope of employment, witness or receive information

regarding the occurrence of an incident that the Employee reasonably believes constitutes either Title IX Sexual Misconduct, or "Sexual Misconduct" as defined in System Regulation 07.06.B, and is alleged to have been committed by or against an individual who was a student enrolled at the time of the incident shall promptly report the incident to the University Title IX Coordinator, Title IX Deputy Coordinator, or the System Office of Equal Opportunity (OEO). Failure to report "Sexual Harassment," "Sexual Assault," "Dating Violence," or "Stalking," as such terms are defined in System Regulation 07.06.B, is a violation of state law that shall result in termination of employment and may result in criminal penalties. In addition, a knowingly false report under this policy made with the intent to harm or deceive is also a violation of Texas law that shall result in termination of employment and may result in criminal penalties.

- c. Contents of Report. Except as provided by Section 7.d, below, the report required by Subsection 7.b must include all information concerning the incident known to the Reporting Party, including the involved parties' names, regardless of whether the Complainant has expressed a desire for confidentiality; however, the Reporting Party must also state whether the Complainant has expressed a desire for confidentiality.
- d. Contents of Report by Employee with Confidential Relationship. An Employee designated by the University as an individual with whom University students may speak confidentially concerning sexual misconduct or who receives information regarding such an incident under circumstances that render the Employee's communications confidential or privileged under other law shall, in making a report under this policy, state only the type of incident reported and may not include any information that would violate a student's expectation of privacy. This subsection does not affect the Employee's duty to report an incident under any other law.
- e. Limited Exception to Mandatory Employee Reporting. Notwithstanding Section 3.b, above, an Employee is not required to make a report under this Section concerning: (i) an incident in which the Employee was a victim of sexual misconduct, including but not limited to Title IX Sexual Misconduct; or (ii) an incident of which the Employee received information due to a disclosure made at a sexual misconduct public awareness event sponsored by or affiliated with the University.
- f. How to Submit a Report. Employees may fulfill their reporting obligations by submitting a report through the applicable University's electronic reporting form, available at links set forth in

## 8. Non-Retaliation

- a. Non-Retaliation. Retaliation against an individual who reports a potential violation in good faith under this policy, assists someone with a report of a violation or participates or refuses to participate in any manner in an investigation, proceeding, hearing, or other resolution of a complaint made under this policy is strictly prohibited and will not be tolerated. Retaliation includes, but is not limited to threats, intimidation, coercion, discrimination, reprisals, or adverse actions related to an individual's employment or education. In addition, charges against an individual for University code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of Title IX Sexual Misconduct, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this policy.

- b. The University will take appropriate steps to ensure that an individual who, in good faith, reports, complains about, or participates or refuses to participate in an investigation, proceeding, hearing, or other resolution pursuant to this policy will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure outlined in this policy.
  - c. Individuals who are found to have retaliated under this policy will be subject to disciplinary action, up to and including termination of employment, expulsion from the University, or being barred from the University premises and events.
  - d. False Information. An individual found to have knowingly and in bad faith provided materially false information may be subject to disciplinary action up to and including dismissal or separation from the University. A determination regarding responsibility alone is not sufficient to conclude that any party or witness made a materially false statement in bad faith.
9. Confidentiality
- a. The protections provided by this Section apply to:
    - i. Complainant;
    - ii. Reporting Party;
    - iii. An individual who sought guidance from the University concerning an incident;
    - iv. An individual who participated in the University's investigation of an incident; or
    - v. Respondent, if after completing an investigation, the University determines the report to be unsubstantiated or without merit.
  - b. Unless waived in writing by the individual, the identity of an individual described by Subsection (a):
    - i. Is confidential and not subject to disclosure under Chapter 552, Government Code; and
    - ii. May be disclosed by the University or University Employees only to: (1) University Employees or individuals under contract with the University to which the report is made who are necessary for an investigation of the report or other related hearings;(2) Texas Tech University System or University Employees for purposes of complying with applicable law, including for preparation and reconciliation of statistical reporting required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended; (3) a law enforcement officer as necessary to conduct a criminal investigation of the report by individuals described by Subsection (a); (4) a health care provider in an emergency, as determined necessary by the University; (5) the Respondent, to the extent required by other law or regulation; and (6) potential witnesses to the incident as necessary to conduct an investigation of the report and to the extent required by other law or regulation.
  - c. For the purposes of this Section, investigation includes the coordination of the incident response, implementation of Supportive Measures, adjudication of the report, disciplinary action or administrative response to the report, and disclosure by the University as required under state or federal law or regulation.
  - d. Students may make confidential reports to the University Student Counseling Centers, where available, or to other counselors identified by the University. All Complaining Parties may also make confidential reports to local rape crisis centers or to other licensed clinical and/or mental health professionals acting in their professional role of

providing those services, including medical providers employed by the University. Information may be shared by the clinical and/or medical provider only with the Complainant's or Respondent's consent.

#### 10. Cooperation and Non-Interference with the Grievance Process

- a. Non-Interference. Any individual who knowingly and intentionally interferes with a Grievance Process conducted under this policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with a Grievance Process may include, but is not limited to: (i) attempting to coerce, compel, influence, control, or prevent an individual's participation in an investigation or Grievance Process; (ii) removing, destroying, or altering documentation relevant to the investigation; or (iii) encouraging others provide false or misleading information.

#### 11. Training and Education

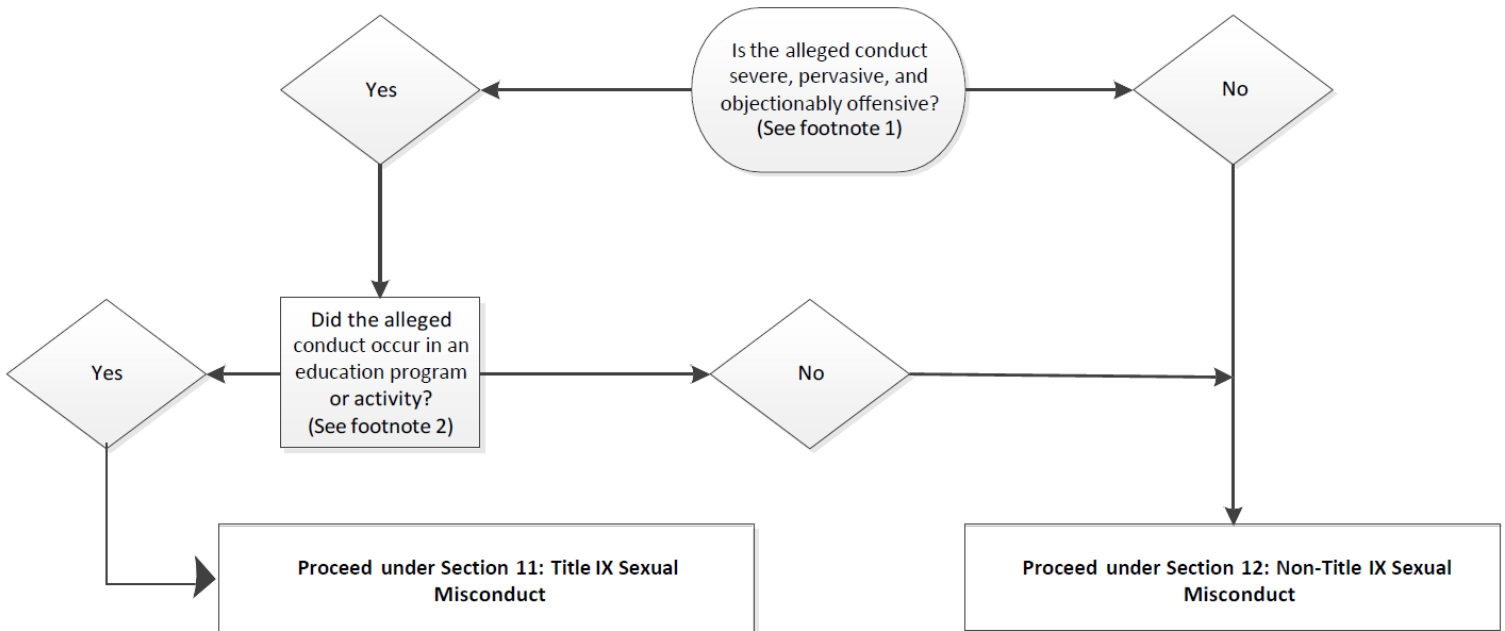
- a. The University's commitment to preventing and raising awareness of the harm resulting from the conduct prohibited in this policy includes providing primary prevention and awareness programs for all incoming students and new Employees, ongoing education to both Employees and students, and emailing information regarding this policy to students at the beginning of each academic semester. This policy is published on the University's website and information regarding this policy and related policies is required in orientation materials for new students, faculty, and staff. All Employees must attend equal employment opportunity non-discrimination and sex/gender discrimination training including sexual assault, sexual harassment, and mandatory reporter training within the first thirty (30) days of employment and receive supplemental training every two (2) years. Other appropriate compliance training sessions will also be conducted on an ongoing basis. Training sessions will include information on how and where to report incidents of prohibited conduct, resources available, as well as risk reduction and safe and positive options for bystander intervention. In addition, the University Employees and administrators responsible for implementing this policy, including the University Title IX Coordinators, Title IX Deputy Coordinators, System Office of Equal Opportunity employees, Investigators, Hearing Panel members, and appeal officers, receive training about offenses, investigatory procedures, due process requirements, impartiality, conflicts of interest, informal resolution processes, and University policies related to or described in this policy.
- b. Notwithstanding the foregoing, Title IX Coordinators, Investigators, Hearing Panel members, and facilitators of an Informal Resolution process shall receive adequate and unbiased training on:
  - i. The application of this Title IX Sexual Misconduct policy, and;
  - ii. The Grievance Process, including, where appropriate, how to conduct hearings, the use of technology, and how to make relevancy determinations.
- c. All materials used to train University Title IX Coordinators, Investigators, Hearing Panel members, and any person who facilitates an informal resolution process are publicly available on the University's Title IX websites set forth in Section 2, above.

#### 12. Recordkeeping

- a. The University will create, make available to the Complainant and Respondent, and maintain for a period of at least seven (7) years from the date of creation of the last record pertaining to the case, the following records:

- i. The Title IX Sexual Misconduct investigation, including any determination regarding responsibility, disciplinary sanctions imposed on the Respondent, and remedies provided to the Complainant;
  - ii. Any appeal and the result therefrom;
  - iii. Informal Resolution, if any; and
  - iv. All materials used to train Title IX Coordinators, Investigators, Hearing Panel members, and any person who facilitates an informal resolution process with regard to Title IX Sexual Misconduct.
- b. The University will also create and maintain for a period of seven (7) years records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Title IX Sexual Misconduct. In each instance, the University will document the basis for its conclusion that its response was not clearly unreasonable, and document that it has taken measures designed to restore or preserve access to the University's Education Program or Activity.

**Midwestern State University  
Section 11 - Attachment 1**



**Footnotes**

1. Items that are automatically considered to meet this standard include, but are not limited to, the following (as each are defined in Section 11: Title IX Sexual Misconduct):

- A. Sexual assault;
- B. Dating violence, domestic violence, or stalking; and
- C. Quid pro quo.

2. "Education program or activity" includes locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University. See 34 CFR 106.44.



Title: Midwestern State University; Section 11 - Attachment 1

Top of chart begins Q: "Is the alleged conduct severe, pervasive, and objectionably offensive? (see footnote 1)"

1. If "No" to alleged conduct, then "Proceed under Section 12: Non-Title IX Sexual Misconduct"
2. If "Yes" to alleged conduct, then Q: "Did the alleged conduct occur in an education program or activity? (See footnote 2)"
  - a. If "No" to education program or activity, then "Proceed under Section 12: Non-Title IX Sexual Misconduct"
  - b. If "Yes" to education program or activity, then "Proceed under Section 11: Title IX Sexual Misconduct"

Footnotes:

1. Items that are automatically considered to meet this standard include, but are not limited to, the following

(as each are defined in Section 11: Title IX Sexual Misconduct):

- A. Sexual assault;
- B. Dating violence, domestic violence; and
- C. Quid pro quo.

2. "Education program or activity" includes locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University. See 34 CFR 106.44.

## Midwestern State University Section 11: Title IX Sexual Misconduct Policy – Attachment 2

### Title IX Sexual Misconduct Hearing Procedures

#### 1. General Requirements

- a. *Hearing.* A live hearing may be conducted with all parties physically present in the same geographic location or, at the University’s discretion, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling participants to simultaneously see and hear each other. At the request of either party, the live hearing may occur with the parties located in separate rooms; however, technology enabling the Hearing Panel, Hearing Officer, parties, and witnesses to simultaneously see and hear the party or the witness answering questions must be used.
- b. *Hearing Panel.* The University will appoint a three-member Hearing Panel (“Hearing Panel”). The Title IX Hearing Officer will be one of the three members of the Hearing Panel and will serve as the Hearing Panel’s chair. The Hearing Panel will be the decision-maker that objectively evaluates all relevant evidence and renders a determination regarding responsibility after the hearing. The determination regarding responsibility will be made by a majority vote of the Hearing Panel. The Hearing Panel has the right and responsibility to ask questions and elicit information from parties and witnesses on its own initiative to aid in obtaining relevant evidence both inculpatory and exculpatory.
- c. *Title IX Hearing Officer.* The University will appoint an independent Title IX Hearing Officer to oversee and conduct the hearing and chair the Hearing Panel (“Hearing Officer”). When the independent Hearing Officer is a licensed attorney, the Hearing Officer will provide confidential legal advice to the Hearing Panel when the panel is deliberating the determination regarding responsibility and drafting the written determination regarding responsibility.
- d. *Parties and Witnesses at Hearing.* All parties, witnesses, and other participants in a hearing must be physically or virtually present in a manner where all participants can simultaneously see and hear each other.
- e. *Advisors.* Each Complainant and Respondent shall have an advisor present at the hearing, and each is entitled to select an advisor of their choice. Each party must inform the University at least ten (10) days prior to the hearing whether the party intends to select and bring an advisor of their choice to the hearing. If a Complainant or Respondent does not have an advisor of their choice present at the hearing, the University will provide without fee or charge to that party, an advisor of the University’s choice. The advisor may be, but is not required to be, an attorney; provided, all advisors appointed or provided by the University shall act only in a capacity as an advisor for the Title IX Grievance Process and not in a capacity as legal counsel for any party. The advisors’ only permissible roles at the hearing are to advise the party and to conduct cross-examination on behalf of that party.
- f. *Rules of Order and Decorum.* The University will adopt rules of order and decorum provided for and enforced by the Hearing Officer. Such rules will include, without limitation, time limits, hearing order, and requirements that participants not badger a witness, and repetition of the same question may be deemed irrelevant by the Hearing Officer; no party be asked questions in an abusive or intimidating manner; and questioning shall be relevant, respectful, and non-abusive.

#### 2. Hearing Procedure

- a. *Title IX Hearing Officer to Direct Hearing.* The Hearing Officer will set the Rules of Order and Decorum and agenda for the hearing and will direct and oversee the hearing in

accordance with this regulation and the Rules of Order and Decorum. The hearing shall be no more than four (4) hours in length, unless the Hearing Officer determines that exceptional circumstances exist justifying a longer hearing.

- b. *Record of Hearing.* The University will create a record of the live hearing and make it available to the parties for inspection and review upon request. The Hearing Panel's deliberations are not part of the live hearing and therefore will not be part of the record.
- c. *Evidence Not Included in the Investigative Report.* Only evidence (including but not limited to documents, media, witnesses, and other tangible evidence) provided by the parties to the Investigator during the pre-hearing investigation, and/or identified or included in the Investigative Report may be presented, introduced, or used at the hearing. Any new evidence identified after completion of the Investigative Report that a party intends to present, introduce, or use at the hearing must be provided to the Title IX Coordinator at least five (5) days prior to the hearing and to the other party at least three (3) days prior to the hearing. Failure to comply with this provision will result in the new evidence being excluded from consideration during the hearing and decision-making process.
- d. *Opening and Closing Statements.* At the direction of the Hearing Officer, Complainants and Respondents will have an opportunity to offer their own opening and closing statements, subject to time limits set by the Hearing Officer.
- e. *Presentation of Evidence.* Each party will have an opportunity to introduce evidence to the Hearing Panel.
  - i. *Rules of Evidence; Relevance.* The Hearing Officer will be responsible for making determinations regarding evidence, including relevance. Information that will be deemed not relevant includes, without limitation, information protected by a legal recognized privilege; questions or evidence about Complainant's sexual predisposition or prior sexual behavior (unless offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent); and any party's medical, psychological, and similar records (unless the party has given voluntary written consent).
- f. *Examination of Witnesses*
  - i. *Direct Examination.* Direct examination may be conducted by the Hearing Officer or the Hearing Panel.
  - ii. *Cross-Examination.* All cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Only relevant cross-examination and other questions, including those challenging credibility, may be asked of a party or witness. Before a participant answers a cross-examination or other question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

## **Section 12: Non-Title IX Sexual Misconduct Policy and Procedures**

Any student who is the victim of sexual misconduct should contact the Title IX Office or file an electronic report, which can be accessed on the MSU homepage or the MSU Safety app.

The University is committed to providing and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from sex discrimination of any kind. The University prohibits discrimination based on sex, which includes pregnancy, sexual orientation and gender identity, and other types of Sexual Misconduct. Sexual Misconduct is a broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes Sexual Harassment, Sexual Assault, Sexual Exploitation, Stalking, Public Indecency, Interpersonal (Dating, Domestic, or Family) Violence, Dating Violence, Sexual Violence, and any other misconduct based on sex. Any acts that fall within the scope of this policy hereinafter are referred to as Sexual Misconduct. Discriminatory behavior is prohibited regardless of the manner in which it is exhibited, whether verbally, in writing, by actions, or electronically displayed or conveyed.

This policy provides information regarding University's prevention and education efforts related to sex discrimination, Sexual Harassment, Nonconsensual Sexual Contact, Nonconsensual Sexual Intercourse, Sexual Assault, Sexual Exploitation, Public Indecency, Sexual Misconduct, Interpersonal Violence, Dating Violence, and Stalking. This policy provides students and employees with their rights and options and also explains how the University will proceed once it is made aware of allegations of prohibited conduct in keeping with the University's values and in order to meet the legal obligations of Title VII, Title IX, the Violence Against Women Act (VAWA), the Campus Sexual Violence Elimination Act (SaVE), the Texas Education Code, 34 CFR Part 106, and other applicable laws and regulations.

This policy applies to all University students and University employees, visitors, applicants for admission, as well as University affiliates and others conducting business on University campuses. This policy will apply to on-campus and off-campus conduct of which the University is made aware and which adversely impacts the educational and employment environments of the University. The University will take all reasonable steps to respond to and prevent recurrence of any Sexual Misconduct and remedy discriminatory effects on the Complaining Party and others, if appropriate.

All investigations and procedures will be non-adversarial in nature and will be conducted in a prompt, equitable, and impartial manner. Investigations conducted under this policy are not criminal investigations. For all complaints under this policy, the burden of proof shall be a preponderance of the evidence, which means more likely than not.

The University expects all members of the University Community to comply with applicable law and University policies. Members of the University Community who violate this policy and related laws may be subject to disciplinary action or sanctions, up to and including, expulsion from the University, or being barred from University premises and events.

For complaints relating to Title IX Sexual Misconduct, please see [Section 11: Title IX Sexual Misconduct](#). For complaints relating to any form of discrimination not covered by this policy or Section 11: Title IX Sexual Misconduct, or for acts of gender/sex discrimination, that are not sexual in nature and do not constitute Sexual Misconduct as defined in this policy or Title IX Sexual Misconduct as defined in Section 11, please see [Section 9: Bias Incident Policy](#). Additionally, if at any time during a Sexual Misconduct grievance process under this policy it is determined that the alleged conduct constitutes Title IX Sexual Misconduct, the University shall proceed under Section 11: Title IX Sexual Misconduct or any other applicable policy and procedure.

## 1. Definitions

- a. **Complaining Party.** An individual who was allegedly subjected to a violation of this policy.
- b. **Consent.** Mutually understandable words or actions, actively communicated both knowingly and voluntarily, that clearly convey permission for a specific activity. Consent is not effective if it results from: (i) the use of physical force, (ii) a threat of physical force, (iii) intimidation, (iv) coercion, (v) incapacitation, or (vi) any other factor that would eliminate an individual's ability to exercise their own free will to choose whether or not to engage in sexual activity.
- c. **Employee.** An individual who receives a W-2 or 1042-S from the University, including full- and part-time faculty, staff, and students. An Employee is working in the course and scope of their employment if the Employee is performing duties in the furtherance of the University's interest.
- d. **Incapacitation.** A state of being that prevents an individual from having capacity to give consent. For example, incapacitation could result from the use of drugs or alcohol, an individual being asleep or unconscious, or because of an intellectual or other disability.
- e. **Interpersonal Violence.** For purposes of this policy, Interpersonal Violence is:
  - i. **Dating Violence.** Physical, sexual, or verbal abuse or violence, or a threat of abuse or violence, committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the Complaining Party. The existence of such a relationship will be determined based on the type and length of the relationship and the frequency of interaction between the individuals involved in the relationship. A casual acquaintanceship or ordinary socializing between two individuals does not constitute a romantic or intimate relationship. This definition does not include acts covered under Domestic or Family Violence.
  - ii. **Domestic or Family Violence.** Physical, sexual, or verbal abuse or violence committed by a current or former spouse or intimate partner of the Complaining Party, by an individual with whom the Complaining Party shares a child in common, by an individual with whom the Complaining Party is cohabiting (or has cohabited) with a spouse or intimate partner, by an individual similarly situated to a spouse of the Complaining Party under the Domestic or Family Violence laws of the state of Texas, or by any other individual against an adult or youth victim who is protected from that individual's acts under the Domestic or Family Violence laws of the state of Texas.
- f. **Public Indecency.** Engaging in private or sexual acts in a publicly viewable location, such that it is offensive to accepted standards of decency including, but not limited to: (i)

exposing one's genitals or private areas; (ii) public urination; (iii) public defecation; and/or (iv) public sex acts.

- g. Reporting Party. An individual or entity (in the case of the University), other than the Complaining Party, who reports an alleged violation of this policy.
- h. Responding Party. Generally, the Responding Party is the individual or organization that is alleged to be responsible for the prohibited conduct alleged in a complaint.
- i. Responsible Employee. All Employees, except as provided in Section 6 below, are Responsible Employees who must report allegations of Sexual Misconduct, including all known information concerning the incident, to the Title IX Coordinator as provided in Section 6 below.
- j. Sex Discrimination. An act that deprives a member of the University Community of their right of access to campuses and facilities and/or of participation in education, services, programs, operations, employment, benefits, or opportunities with the University on the basis of the individual's sex.
- k. Sexual Assault. Sexual contact or intercourse with an individual without that individual's consent, including sexual contact or intercourse against an individual's will or in a circumstance in which an individual is incapable of consenting to the contact or intercourse. Sexual Assault includes:
  - i. Nonconsensual Sexual Contact. Intentional sexual touching, however slight, with any object or part of one's body of another's private areas without consent. Sexual Contact includes: (1) intentional contact with the breasts, buttock, groin, or genitals; (2) touching another with any of these body parts; (3) making another touch you or themselves with or on any of these body parts; or (4) any other intentional bodily contact in a sexual manner.
  - ii. Nonconsensual Sexual Intercourse. Sexual penetration or intercourse, however slight, with a penis, tongue, finger, or any object, and without consent. Penetration can be oral, anal, or vaginal.
  - iii. The following offenses are examples of Sexual Assault:
    - 1. Incest. Sexual intercourse between individuals who are related to each other within the degrees wherein marriage is prohibited by law;
    - 2. Fondling. The touching of the private body parts of another individual for the purpose of sexual gratification, without the consent of the Complaining Party, including instances where the Complaining Party is incapable of giving consent because of the Complaining Party's age or because of the Complaining Party's temporary or permanent mental incapacity;
    - 3. Rape. The 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 individual, without the consent of the Complaining Party; and
    - 4. Statutory Rape. Sexual intercourse with an individual who is under the statutory age of consent.
- l. Sexual Exploitation. Taking nonconsensual or abusive sexual advantage of another for the benefit of oneself or a third party. Prohibited behavior includes, but is not limited to: (i) purposeful recording, distribution, or dissemination of sexual or intimate images or recordings of another individual without that individual's full knowledge or consent; (ii) sexual voyeurism; (iii) inducing another to expose one's genitals or private areas; (iv)

- prostituting another; and (v) knowingly exposing someone to or transmitting a sexually transmitted disease, without the individual's full knowledge and consent.
- m. Sexual Harassment. Unwelcome, sex-based verbal or physical conduct that:
    - i. In the education context, is sufficiently severe, persistent, or pervasive that the conduct unreasonably interferes with a student's ability to participate in or benefit from educational programs or activities.
    - ii. Examples of inappropriate behavior that may constitute Sexual Harassment include, but are not limited to: (1) sexual teasing, jokes, remarks, or questions; (2) sexual looks and gestures; (3) sexual innuendoes or stories; (4) communicating in a manner with sexual overtones; (5) inappropriate comments about dress or physical appearance; (6) inappropriate discussion of private sexual behavior; (7) gifts, letters, calls, emails, online posts, or materials of a sexual nature; (8) sexually explicit visual material (calendars, posters, cards, software, internet, or other multimedia materials); (9) sexual favoritism; (10) pressure for dates or sexual favors; (11) unwelcome physical contact (touching, patting, stroking, rubbing); (12) nonconsensual video or audio-taping of sexual activity; (13) exposing one's genitals or inducing another to expose their genitals; (14) Stalking; (15) domestic or Dating Violence; (16) Nonconsensual Sexual Intercourse, Sexual Assault, or rape; and (17) other gender-based threats, discrimination, intimidation, hazing, bullying, Stalking, or violence.
  - n. Sexual Misconduct. A broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes Sexual Harassment, Nonconsensual Sexual Contact, Nonconsensual Sexual Intercourse, Sexual Assault, Sexual Exploitation, Stalking, Public Indecency, Interpersonal Violence, sexual violence, and other misconduct based on sex.
  - o. Stalking. A course of conduct directed at a specific individual that would cause a reasonable individual to fear for the individual's safety or the safety of others or would cause that individual to suffer substantial emotional distress. A "course of conduct" means two or more acts in which an individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about an individual or interferes with an individual's property. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
  - p. Supportive Measures. Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complaining Party or the Responding Party before or after the filing of a complaint or where no complaint has been filed.
  - q. Title IX Sexual Misconduct. Certain sexual misconduct as defined in and governed by [Section 11: Title IX Sexual Misconduct](#).
  - r. University Community. All University faculty, staff, and students of and visitors to any University premises or University-affiliated activity.
2. Contact Information for University Title IX Coordinator
- a. University Title IX Coordinator (Students). Midwestern State University has a Title IX Coordinator who oversees the University's compliance with Title IX. Students seeking information, to report sexual misconduct of any kind (including both Title IX Sexual

Misconduct and Non-Title IX Sexual Misconduct), or to file a complaint of Sexual Misconduct, should contact the following:

TITLE IX COORDINATOR EMAIL & PHONE	OFFICE ADDRESS	TITLE IX WEBSITE & REPORTING LINK
Laura Hetrick 940.397.4213 <a href="mailto:laura.hetrick@msutexas.edu">laura.hetrick@msutexas.edu</a>	Vinson Health Center Room H-136 3410 Taft Blvd. Wichita Falls, TX 76308	<i>Title IX Website:</i> <a href="https://msutexas.edu/titleix/">https://msutexas.edu/titleix/</a> <i>Reporting Link:</i> <a href="https://cm.maxient.com/reportingform.php?MSUTexas&amp;layout_id=6">https://cm.maxient.com/reportingform.php?MSUTexas&amp;layout_id=6</a>

### 3. Reporting Sexual Misconduct

- a. **Mandatory Reporting to University by Employees.** Texas law requires Employees to report certain types of Sexual Misconduct to appropriate University personnel. All Employees, including student Employees, who in the course and scope of employment, witness or receive information regarding the occurrence of an incident that the Employee reasonably believes constitutes Sexual Misconduct and is alleged to have been committed by or against an individual who was a student enrolled at or an Employee of the University at the time of the incident shall promptly report the incident to the University Title IX Coordinator, Title IX Deputy Coordinator, or the System Office of Equal Opportunity (OEO). An Employee is required to report an incident regardless of where or when the incident occurred. Failure to report Sexual Harassment, Sexual Assault, Dating Violence, or Stalking under this policy is a violation of state law that shall result in termination of employment and may result in criminal penalties.
- b. **Contents of Report.** Except as provided by Section 6.c below, the report must include all information concerning the incident known to the Reporting Party, including the involved parties' names, regardless of whether the Complaining Party has expressed a desire for confidentiality; however, the Reporting Party may also state whether the Complaining Party has expressed a desire for confidentiality.
- c. **Contents of Report by Employee with Confidential Relationship.** An Employee designated by the University as an individual with whom University students may speak confidentially concerning Sexual Misconduct or who receives information regarding such an incident under circumstances that render the Employee's communications confidential or privileged under other law shall, in making a report under this policy, state only the type of incident reported and may not include any information that would violate a student's expectation of privacy. This Subsection does not affect the Employee's duty to report an incident under any other law.
- d. **Reporting by Students and Third Parties Encouraged.** All students and third parties are strongly encouraged to promptly report any incidents of Sexual Misconduct to the University Title IX Coordinator, Title IX Deputy Coordinator, or the OEO.
- e. **Reporting to Law Enforcement Agencies.** All students, Employees, and third parties may also report incidents of Sexual Misconduct to law enforcement, including University and local police. Complaining Parties may choose to notify law enforcement and will be provided the assistance of a Title IX Coordinator, Title IX Deputy Coordinator, or the OEO in contacting these authorities if the individual wishes.



Complaining Parties may also decline to notify law enforcement of incidents of Sexual Misconduct.

- f. **Victims Encouraged to Seek Medical Care.** An individual who experiences Sexual Misconduct is encouraged to seek medical care for treatment and preservation of evidence, if applicable, as soon as practicable after the incident. Preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, a SANE may still collect evidence several days following a Sexual Assault. With the examinee's consent, the physical evidence collected during this medical exam can be used in a criminal investigation. To undergo a SAFE, go directly to the nearest emergency department that provides SAFE services.
- g. **Preservation of Evidence.** An individual who experiences any form of Sexual Misconduct should also preserve other evidence relevant to the complained of activity, such as items of clothing, photographs, phone records, text messages, computer records, and other documents.
- h. **Good Faith Actors.** The University may not discipline or otherwise discriminate against an Employee who in good faith: (i) makes a report as required under this policy or (ii) cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a report made by the individual as required under this policy. This Subsection does not apply to an individual who perpetrates or assists in the perpetration of the incident reported under this policy.
- i. **Non-Disclosure of Private Information to Medical Providers.** Absent consent from the Complaining Party, disclosures to a healthcare provider, mental health care provider, or other medical provider acting in the course and scope of their employment with the University shall only state the type of incident reported and may not include any information that would violate an expectation of privacy. These Employees are encouraged to provide Complaining Parties with information and guidance regarding University reporting options and available resources. This Subsection does not affect the Employee's duty to report an incident under any other law or regulation under which they maintain their licensure.
- j. **Request of Complaining Party Not to Investigate.** If the Complaining Party of an alleged incident of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking reported to the University requests the University not to investigate the alleged incident, the University may investigate the alleged incident in the same manner that an anonymous complaint may be investigated. The University shall inform the Complaining Party whether the University will conduct an investigation. In determining whether to investigate the alleged incident, the University shall consider:
  - i. The seriousness of the alleged incident;
  - ii. Whether the University has received other reports of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking committed by the alleged perpetrator or perpetrators;
  - iii. Whether the alleged incident poses a risk of harm to others; and
  - iv. Any other factors the University determines relevant.

If the University decides not to investigate an alleged incident of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking based on the Complaining Party's request not to investigate, the University shall take any steps it determines necessary to protect the health and safety of the University Community in relation to the alleged incident.

- k. How to Submit a Report. Employees may fulfill their reporting obligations by submitting a report through the applicable University's electronic reporting form, available at the links set forth in Section 2, above. Reporting Employees should keep a receipt or proof of the submission of the report.
  - l. False or Malicious Claims. An individual found to have knowingly submitted a false or malicious claim may be subject to disciplinary action.
4. Complaints By or Against Students
- a. If a student enrolled at the University reports Sexual Misconduct in good faith, the University may not take disciplinary action against that student for violation(s) of the Code of Student Conduct in accordance with the amnesty provisions set forth in the respective University's Student Handbook.
  - b. Sanctions for violations of this policy or the Code of Student Conduct by students may be found in [Section 7: Conduct Procedures](#).
  - c. If a student Employee has a complaint of Sexual Misconduct, which occurs during the course and scope of employment with the University, against an Employee, the student should follow the procedure set forth for Employees in this policy.
  - d. The Complaining or Responding Party who is the subject of an alleged incident of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking will be allowed to drop a course in which they are both enrolled without any academic penalty.
  - e. If a student withdraws or graduates from the University pending a disciplinary charge alleging the student violated this policy and the University's code of conduct by committing Sexual Harassment, Sexual Assault, Dating Violence, or Stalking, the University:
    - i. May not end the disciplinary process or issue a transcript to the student until the University makes a final determination of responsibility;
    - ii. Shall expedite the University's disciplinary process as necessary to accommodate both the student's and the alleged victim's interest in a speedy resolution; and
    - iii. On request by another institution, the University shall provide to the requesting institution information relating to a determination that a student enrolled violated this policy and the University's code of conduct by committing Sexual Harassment, Sexual Assault, Dating Violence, or Stalking.
5. Employee Complaint Procedures, Including Student Employees
- a. Type and Location for Filing a Complaint. If an Employee has a complaint of Sexual Misconduct against another Employee, the general provisions relating to Employees and the Employee complaint procedures set forth in System Regulation 07.10 shall apply.
  - b. Required Form of Complaint. To initiate an investigation, an Employee having a complaint under this policy must submit a completed Complaint of Sexual Harassment, Sexual Assault, or Sexual Misconduct form, which is available at: [http://www.depts.ttu.edu/hr/documents/TTU\\_Misconduct\\_40.03.pdf](http://www.depts.ttu.edu/hr/documents/TTU_Misconduct_40.03.pdf).
  - c. In addition, in complaints of Sexual Misconduct, the following provisions shall control.

- i. While there is no deadline to file a complaint, to promote prompt and equitable review, the Texas Tech University System and University encourages individuals who believe they have experienced Sexual Misconduct to come forward as soon as possible with their complaint and to seek assistance. Delays in reporting greatly limit the ability to stop the Sexual Misconduct, collect evidence, and/or take effective action against individuals or organizations accused of violating this policy.
  - ii. Individuals wishing to remain anonymous may file a complaint in any manner, including by telephone or written communication, with the University Title IX Coordinator, a Title IX Deputy Coordinator, or the System Office of Equal Opportunity. However, electing to remain anonymous may greatly limit the ability to investigate an alleged incident, collect evidence, and/or take effective action against individuals or organizations accused of violating this policy.
  - iii. Both the Complaining and Responding Parties have the right to be accompanied by an advisor of the individual's choosing during all meetings, proceedings, and/or disciplinary hearings at which the individual is present. The role of the advisor will be limited to being present only; advisors are not allowed to actively participate in the process.
  - iv. Upon the agreement of all involved parties, voluntary or informal resolution may be used to resolve complaints as defined in this policy.
  - v. After the investigation is complete, the System Office of Equal Opportunity will simultaneously provide notice in writing to the Complaining Party, to the Responding Party, and to the appropriate administrators of the following: (1) determination of the outcome; (2) the finding of the System Office of Equal Opportunity is final and not appealable by either party; (3) in the event a finding of a violation of this policy is made, appropriate disciplinary actions or sanctions will be taken as determined by the appropriate administrator, up to and including termination of employment; and (4) if either party disagrees with the imposed disciplinary action or lack thereof because the disciplinary action imposed substantially varies from the range of disciplinary actions normally imposed for similar infractions, they may appeal within five business days to the University Title IX Coordinator. However, if the disciplinary action recommended is tenure revocation, proceedings will be pursuant to the University's Tenure Policy.
  - vi. The Complaining Party and Responding Party will be simultaneously notified in writing of any changes to the results of an appeal of any disciplinary action that occur prior to the time such results become final and when such results become final.
6. Complaints Involving Non-University Individuals
- a. Complaints Against University Students or Employees. If a non-University individual has a complaint of Sexual Misconduct by a University student, the individual involved may file a report with either the University's Title IX Office or the OEO, and the University may investigate and take steps to address the situation.
  - b. Complaints By University Students or Employees. If a University student has a complaint of Sexual Misconduct by a non-University party that affects the student's educational program or activity, the student may make a report to the University Title IX Coordinator, Title IX Deputy Coordinator, or the OEO. University may conduct an inquiry and take action, if possible, to prevent further misconduct. However, responses

may differ for complaints regarding third parties based on the level of control the University has over the third party. Even though the ability to take direct action against a third party may be limited, the University may take steps to provide appropriate remedies for the Employee or student and, where appropriate, the broader University Community.

## 7. Retaliation and False Information

- a. Retaliation. Retaliation against an individual who reports a potential violation in good faith under this policy, assists someone with a report of a violation, or participates or refuses to participate in any manner in an investigation or in the resolution of a complaint made under this policy is strictly prohibited and will not be tolerated. Retaliation includes, but is not limited to threats, intimidation, coercion, discrimination, reprisals, or adverse actions related to an individual's employment or education. The University will take appropriate steps to ensure that an individual who, in good faith, reports, complains about, or participates or refuses to participate in an investigation, proceeding, hearing, or other resolution pursuant to this policy will not be subjected to retaliation. Individuals who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure outlined in this policy.
- b. Subsection (a) does not apply to an Employee who:
  - i. Reports an incident of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking perpetrated by the Employee;
  - ii. Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the Employee perpetrated an incident of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking; or
  - iii. Makes a report of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking which after investigation is found not to have been made in good faith.
- c. Individuals who are found to have retaliated under this regulation will be subject to disciplinary action, up to and including termination of employment, expulsion from the University, or being barred from the University premises and events.
- d. False Information. An individual found to have knowingly and in bad faith provided false or malicious information may be subject to disciplinary action up to and including dismissal or separation from the University. A determination that a Responding Party is not responsible for allegations of Sexual Misconduct does not imply information provided was false. Similarly, a determination that a Responding Party is responsible for a policy violation does not imply that a Responding Party's statements disclaiming responsibility were false.

## 8. Interim Measures

- a. The Complaining Parties may request and the University may implement interim measures, as may be necessary to assure the safety and well-being of the participants in the complaint process, to maintain an environment free from harassment, discrimination, or retaliation, and to protect the safety and well-being of the University Community. Appropriate University officials will decide if and what interim measures are necessary. Such interim measures may include, but are not limited to: (i) separating the Complaining Party's and Responding Party's academic or working situations; (ii) forbidding contact between parties involved in a complaint; and (iii) suspending the right

- of the Responding Party to be present on campus or otherwise altering the University status of the Responding Party.
- b. Other interim measures may be implemented depending upon the Responding Party's relationship with the University. These interim measures may be kept in place through the conclusion of any review, investigation, or appeal process. Interim measures can be implemented regardless of whether or not the Complaining Party pursues a formal University action or criminal action.
9. Confidentiality
- a. The protections provided by this Section apply to:
    - i. Complaining Party;
    - ii. Reporting Party;
    - iii. An individual who sought guidance from the University concerning an incident;
    - iv. An individual who participated in the University's investigation of an incident; or
    - v. Responding Party, if after completing an investigation, the University determines the report to be unsubstantiated or without merit.
  - b. Unless waived in writing by the individual, the identity of an individual described by Subsection (a):
    - i. Is confidential and not subject to disclosure under Chapter 552, Government Code; and
    - ii. May be disclosed only to: (1) University Employees or individuals under contract with the University to which the report is made who are necessary for an investigation of the report or other related hearings; (2) Texas Tech University System or University Employees for purposes of complying with applicable law, including for preparation and reconciliation of statistical reporting required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended;<sup>1</sup> (3) a law enforcement officer as necessary to conduct a criminal investigation of the report by individuals described by Subsection (a); (4) a health care provider in an emergency, as determined necessary by the University; (5) the Responding Party, to the extent required by other law or regulation; and (6) potential witnesses to the incident as necessary to conduct an investigation of the report and to the extent required by other law or regulation.
  - c. For the purposes of this Section, investigation includes the coordination of the incident response, implementation of interim measures, adjudication of the report, disciplinary action or administrative response to the report, and disclosure by the University as required under state or federal law or policy.
  - d. The willful and unnecessary disclosure of confidential information by anyone, including the Complaining Party or Responding Party, may affect the integrity of the investigation.
  - e. Students may make confidential reports to the University Student Counseling Centers, where available, or to other counselors identified by University. Likewise, Employees may make confidential reports through the Employee Assistance Program. All Complaining Parties may also make confidential reports to local rape crisis centers or to other licensed clinical and/or mental health professionals acting in their professional role of providing those services, including medical providers employed by the University. Information may be shared by the clinical and/or medical provider only with the Complaining Party's or Responding Party's consent.

#### 10. Cooperation and Non-Interference with an Investigation or Grievance Process

Cooperation by University Employees. All University Employees who are not a Complainant Party or Responding Party are required to comply with the Interim Measures, Supportive Measures or information requests, as directed or requested by the University Title IX Coordinator or System Office of Equal Opportunity

Non-Interference. Any individual who knowingly and intentionally interferes with an investigation or grievance process conducted under this policy is subject to disciplinary action up to and including dismissal or separation from the University. Interference with an investigation or grievance process may include, but is not limited to: (i) attempting to coerce, compel, influence, or prevent an individual from providing testimony or relevant information; (ii) divulging confidential information; (iii) removing, destroying, or altering documentation relevant to the investigation; (iv) providing false or misleading information to the investigator, or encouraging others to do so; or (v) making a report under this policy that, after investigation, is found not to have been made in good faith.

#### 11. Training and Education

The University's commitment to preventing and raising awareness of the harm resulting from the conduct prohibited in this policy includes providing primary prevention and awareness programs for all incoming students and new Employees, ongoing education to both Employees and students, and emailing information regarding this policy to students at the beginning of each academic semester. This policy is published on the University's website and information regarding this policy and related policies is required in orientation materials for new students, faculty, and staff. All Employees must attend equal employment opportunity non-discrimination and sex/gender discrimination training including Sexual Assault, Sexual Harassment, and mandatory reporter training within the first thirty (30) days of employment and receive supplemental training every two (2) years. Other appropriate compliance training sessions will also be conducted on an ongoing basis. Training sessions will include information on how and where to report incidents of prohibited conduct, resources available, as well as risk reduction and safe and positive options for bystander intervention. In addition, the University Employees and administrators responsible for implementing this policy, including the University Title IX Coordinators, Title IX Deputy Coordinators, OEO employees, investigators, and hearing officers, receive annual training about offenses, investigatory procedures, due process requirements, and University policies related to or described in this policy.

#### 12. Free Expression

This policy encourages and respects the right of free speech and expression guaranteed by the First Amendment of the Constitution and academic freedom. Constitutionally protected expression is not considered harassment under this policy; however, some offensive conduct, even though it contains elements of speech, may rise to the level of the type of conduct that creates a sexually hostile environment which is a violation of this policy.

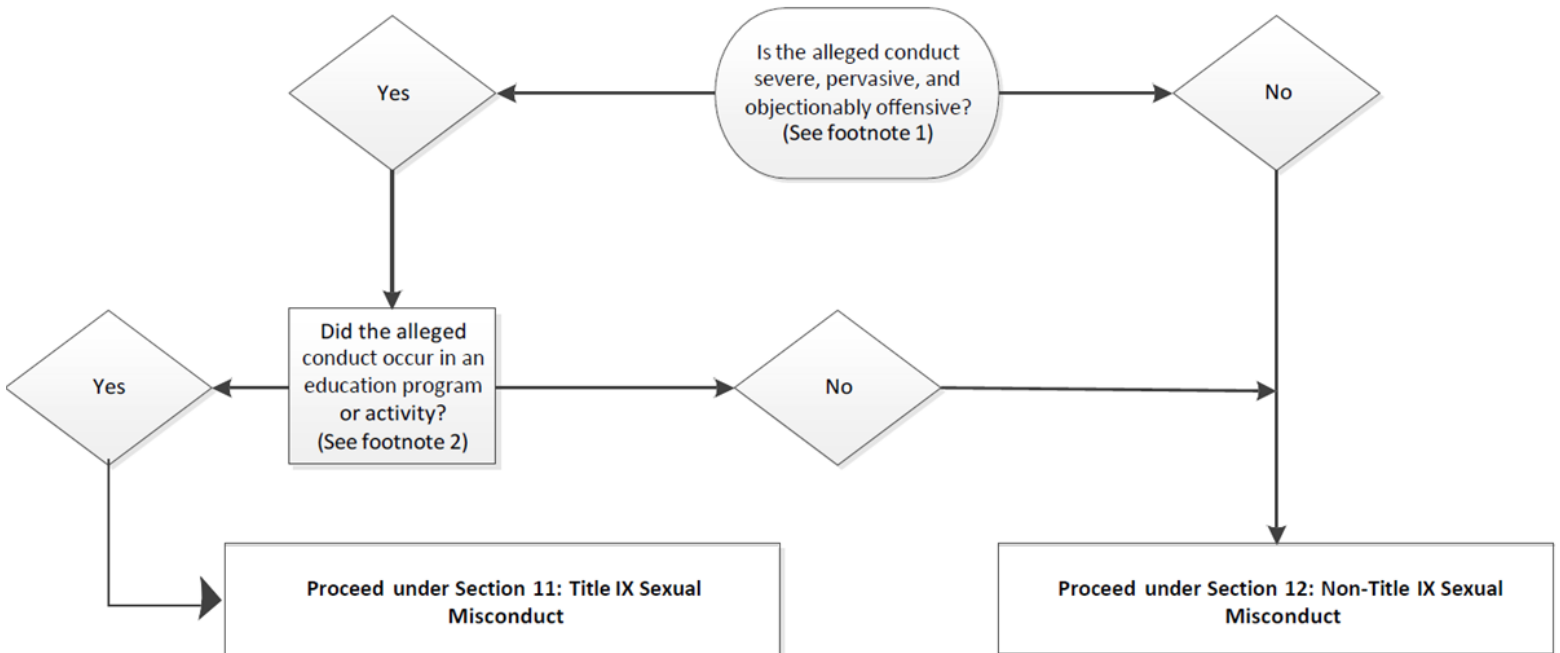
#### 13. Websites and Other Resources

University and System Title IX Websites. The University and System Office of Equal Opportunity maintain websites, set forth above in Section 2, that provide relevant information about this policy as implemented at the University, including resources, supportive measures, local support services, and illustrative examples of definitions contained herein.

Additional Resources. In addition to the websites set forth in Section 2, the following additional online resources are available to members of the University Community:

<https://msutexas.edu/titleix/index.php>

## Midwestern State University Section 12 - Attachment 1



### Footnotes

1. Items that are automatically considered to meet this standard include, but are not limited to, the following (as each are defined in Section 11: Title IX Sexual Misconduct):

- A. Sexual assault;
- B. Dating violence, domestic violence, or stalking; and
- C. Quid pro quo.

2. "Education program or activity" includes locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University. See 34 CFR 106.44.



Title: Midwestern State University; Section 12 - Attachment 1

Top of chart begins Q: "Is the alleged conduct severe, pervasive, and objectionably offensive? (see footnote 1)"

1. If "No" to alleged conduct, then "Proceed under Section 12: Non-Title IX Sexual Misconduct"
2. If "Yes" to alleged conduct, then Q: "Did the alleged conduct occur in an education program or activity? (See footnote 2)"
  - a. If "No" to education program or activity, then "Section 12: Non-Title IX Sexual Misconduct"
  - b. If "Yes" to education program or activity, then "Section 11: Title IX Sexual Misconduct"

Footnotes:

1. Items that are automatically considered to meet this standard include, but are not limited to, the following (as each are defined in Section 11: Title IX Sexual Misconduct):
  - A. Sexual assault;
  - B. Dating violence, domestic violence, or stalking; and
  - C. Quid pro quo.
2. "Education program or activity" includes locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University. See 34 CFR 106.44.

# PART II: University Policies and Procedures

## Academic Dishonesty Policy & Procedures

Academic Dishonesty: Cheating, collusion, and plagiarism (the act of using source material of other persons, either published or unpublished, without following the accepted techniques of crediting, or the submission for credit of work not the individual's to whom credit is given). Additional guidelines on procedures in these matters may be found in the Office of Student Rights and Responsibilities.

- a. The term "cheating" includes, but is not limited to: (1) use of any unauthorized assistance in taking quizzes, tests, or examinations; (2) dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments; or (3) the acquisition without permissions, of tests or other academic material belonging to a member of the university, faculty, or staff.
- b. The term "plagiarism" includes, but is not limited to, the use by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgement. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.
- c. The term "collusion" means collaboration with another person in preparing work offered for credit if that collaboration is not authorized by the faculty member in charge.

### Academic Dishonesty Procedure

- I. After an alleged incident of Academic Dishonesty occurs, the instructor does the following:
  - a. Informs the student of the academic sanction to be imposed;
  - b. Informs the student of his/her right to appeal the sanction;
  - c. Notifies the department chair of the incident and the sanction imposed.
- II. The department chair then reports the incident and the sanction to the following parties:
  - a. Dean of the College
  - b. Director of Student Rights and Responsibilities
  - c. Dean of Graduate Studies (if the incident occurred in a graduate course)
  - d. Registrar (if the sanction is a course grade of F).

Note: if the faculty member is a department chair, the dean assumes the role of the department chair in addition to the role of dean. If the faculty member is a dean, the Provost assumes the role of the dean.
- III. The student accepts the academic sanction or appeals the sanction to the department chair in writing no later than five (5) working days after being notified of the sanction.
- IV. If the student appeals the sanction imposed by the instructor, the department chair investigates the incident and consults with the instructor and student. If the chair and instructor do not agree on the disposition, the appeal proceeds directly to the dean. If the chair and instructor agree on the disposition of the appeal, the chair notifies the following parties of any change in the sanction:
  - a. Student
  - b. Instructor

- c. Dean of the College
  - d. Director of Student Rights and Responsibilities
  - e. Dean of Graduate Studies (if the incident occurred in a graduate course)
  - f. Registrar (if the sanction is a course grade of F or if a sanction of F is revoked).
- V. The student accepts the academic sanction imposed by the instructor and department chair or appeals the sanction to the dean of the college in writing no later than five (5) working days after being notified of the department chair's decision.
- VI. If the student appeals the decision of the instructor and department chair, or if the chair and the instructor did not agree on an academic sanction, the dean of the college investigates the incident, consults with all parties, decides the disposition of the sanction, and informs the following parties of the decision:
- a. Student
  - b. Instructor
  - c. Department Chair
  - d. Director of Student Rights and Responsibilities
  - e. Dean of Graduate Studies (if the incident occurred in a graduate course)
  - f. Provost
  - g. Registrar (if the sanction is a course grade of F or if a sanction of F is revoked).
- VII. The student accepts the academic sanction imposed by the dean of the college or appeals the decision of the dean of the college to the Academic Appeals Committee in writing no later than five (5) working days after being notified of the dean of the college's decision.
- VIII. If the student appeals the decision of the dean of the college, the Academic Appeals Committee investigates the incident and holds a hearing. The Academic Appeals Committee may remove the sanction, confirm the sanction, or impose a different academic sanction, and may refer the case to the Student Conduct Committee with a recommendation for a conduct sanction in addition to the academic penalty. The chair of the Academic Appeals Committee informs the following parties of the decision:
- a. Student
  - b. Instructor
  - c. Department Chair
  - d. Dean of the College
  - e. Director of Student Rights and Responsibilities
  - f. Dean of Graduate Studies (if the incident occurred in a graduate course)
  - g. Provost
  - h. Registrar (if the sanction is a course grade of F or if a sanction of F is revoked).
- IX. The Student Conduct Committee considers exclusively whether to add disciplinary sanctions to the academic sanction imposed beforehand and selects and imposes the sanction(s). The Director of Student Rights and Responsibilities informs the following parties of the decision:
- a. Student
  - b. Instructor
  - c. Department Chair
  - d. Dean of the College

- e. Dean of Graduate Studies (if the incident occurred in a graduate course)
- f. Provost.

## **Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus (AIDS/HIV) Infection**

Midwestern State University recognizes Human Immunodeficiency Virus (HIV) as a serious public health threat and is committed to encouraging an informed and educated response to questions raised by students. Guidelines have been developed to address the medical, educational, legal, administrative, and ethical issues involved. Information related to the Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus policy is available in the Midwestern State University Operating Policy 34.06, [Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus Infection](#).

### **Building Hours and Keys**

Classroom buildings will generally be open Monday through Friday from 7:00 a.m. to 6:00 p.m., when classes are in session. Buildings in which evening classes are taught will close at the conclusion of the final class period. Classroom buildings will be closed Saturdays, Sundays, and holidays unless otherwise noted. Clark Student Center, Moffett Library, and the Student Wellness Center will be open daily unless otherwise noted.

#### *Entry to Closed Buildings and Student Use of Authorized Building Keys*

Authorized Entry of Closed Buildings and Facilities – Only students issued an outside door key or students accompanied by faculty or staff members *for the duration of their stay* may enter closed buildings or facilities.

When buildings are closed to general use, student athletes working out on athletic equipment or practicing on indoor courts must be accompanied by coaches or by graduate assistants who have been issued authorized outside door keys. Coaches and graduate assistants *must remain with the athletes for the duration of their stay in the building*. When student athletes are accompanied by graduate assistants, no extraneous persons may be in attendance or participate in the activities, and both the student athletes and the teaching assistants must be in possession of their student I.D. cards.

#### *Restrictions upon Students Holding Authorized Outside Door Keys*

- I. Students issued an authorized outside door key will be prohibited from using *recreational facilities*, such as basketball courts and exercise equipment, *or computer labs or meeting rooms* for their *own private purposes* or that of their friends and acquaintances *when buildings are closed to general use*.
- II. Students issued authorized outside door keys for academic buildings are prohibited from working in laboratories and studios *unless accompanied by an MSU faculty/staff for the duration of their stay in the building*.

*Disciplinary Action* – The following will be cause for disciplinary action:

- 1. Students in possession of unauthorized building keys.
- 2. Students lending their authorized building keys to *unauthorized persons*.

3. Students leaving doors ajar or otherwise enabling unauthorized persons to enter buildings or facilities closed to general use.
4. Unauthorized entry or occupation of university buildings.

### **Campus Crime Reporting**

All criminal incidents as well as all traffic accidents should be reported to the University Police Department immediately.

Midwestern State University is committed to assisting all members of the community in providing for their own safety and security. The Annual Security and Fire Safety Report is available here: <https://msutexas.edu/police/assets/files/clery-report.pdf>. The report contains information regarding campus security and personal safety including topics such as crime prevention; public safety authority; crime reporting policies; fire safety; programs to prevent dating violence, domestic violence, sexual assault, and stalking; the procedures the University will follow when one of these crimes is reported; and other matters of importance related to security on campus. The report also contains information about fire statistics in MSU Texas Residential Facilities and crime statistics for the three most recent calendar years concerning reported crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by the University or a recognized student organization; and on public property within, or immediately adjacent to and accessible from the campus. This information is required by law and is provided by the Midwestern State University Police Department.

If you would like to receive a hard copy of the Annual Security and Fire Safety Report which contains this information, you can stop by the Midwestern State University Police Department at 6 Eureka Circle, Wichita Falls, TX or you can request that a copy be mailed to you by calling (940) 397-4239.

#### *Notification of Penalty for False Alarm or Report*

It is an offense under the Texas Penal Code, Sec 42.06, to make, initiate, communicate, or circulate a report about a present, past, or future bombing, fire, offense or other emergency knowing that it is false or baseless and the report would ordinarily:

1. cause action by an official or volunteer agency organized to deal with emergencies, or
2. place a person in fear of imminent serious bodily injury, or
3. prevent or interrupt the occupation of a building, room, place of assembly, place to which the public has access, or aircraft, automobile, or other mode of conveyance.

Offenses under this section are considered a Class A misdemeanor. However, when a false report is of an emergency involving a public or private institution of higher education or involving a public primary or secondary school, public communications, public transportation, public water, gas, or power supply or other public service, the offense is considered a state jail felony.

## Carrying Concealed Handguns on Campus Policy

### I. Policy Statement

Midwestern State University (MSU) is committed to providing a safe and secure learning, working and living environment for students, faculty, staff, and visitors, and to respecting the right of individuals who are licensed to carry a handgun where permitted by law. Individuals who are licensed to carry may do so on MSU's campus premises except in locations and at activities prohibited by law or by this policy. The carrying of any handgun by an unlicensed person or the open carry of a handgun is not permitted in any place on MSU's campus premises.

### II. Reasons for Policy

The necessity for this policy is occasioned by the 84th Texas Legislature's enactment of Senate Bill No. 11 (S.B. 11 – commonly known as the “campus carry” law) which added Section 411.2013 to the Texas Government Code authorizing the concealed carry of handguns on the premises of MSU that takes effect on August 1, 2016. In accordance with S.B. 11, this policy memorializes the rules and regulations enacted by the President of MSU in consultation with students, faculty, and staff and approved by the Board of Regents.

### III. Application of Policy

This policy applies to all faculty, staff, students, guests, visitors, and individuals and organizations doing business on or on behalf of MSU. This policy does not apply to commissioned peace officers as defined in article 2.12 of the Texas Code of Criminal Procedures.

### IV. Definitions (specific to this policy)

- A. Activities: all functions, events, and programs on the MSU campus premises.
- B. Equipment that is incompatible with metallic objects: means, for example, magnetic resonance imaging and nuclear magnetic resonance machines.
- C. Extremely dangerous chemicals, biologic agents, or explosive agents: means biological hazards including a biological substance used in research or experimentation that poses a threat to the health of a living organism, primarily that of a human, and is classified as biosafety level (BSL) 3 or 4 by the Centers for Disease Control and Prevention (biological hazards can include medical waste or samples of microorganisms); or any chemical(s) with a National Fire Protection Association (NFPA) label that lists a particular chemical(s) as a 3 or higher in any category of flammability, instability, or health hazard, or is listed as radioactive in the special hazard category.
- D. Campus Premises: all land, buildings, and portions of buildings owned or leased by the University.
- E. Campus Housing: a residential facility owned or leased and operated by the University and located on the campus premises.
- F. Collegiate Sports: intercollegiate, club, and intramural athletic activities occurring on the campus premises.
- G. Concealed Handgun: a handgun, the presence of which is not openly noticeable to the ordinary observation of a reasonable person.
- H. Days: means business days.
- I. Employee: an individual at any component of MSU, who is hired in a full-time, part-time, or temporary capacity in a faculty or staff position or in a position where the individual is required to be a student as a condition of employment.
- J. Handgun: any firearm that is designed, made, or adapted to be fired with one hand.

- K. Interscholastic Event: a function or program involving elementary or secondary schools.
  - L. License Holder: a person issued a License to Carry a Handgun (formerly called a “Concealed Handgun License”) by the Texas Department of Public Safety under Chapter 411 of the Texas Government Code.
  - M. Reviewing Official: the University official designated by the President to review a decision to temporarily restrict the carrying of concealed handguns on the campus premises.
  - N. Secure Gun Storage: a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means (18 U.S.C. §921(a)(34)(c)).
  - O. Store: to take steps that a reasonable person would take to prevent the access to a firearm, including but not limited to placing a firearm in a locked container (secure gun storage); for purposes of this policy, a firearm that is temporarily rendered inoperable by use of a trigger lock or other means is not stored.
  - P. Work Area: the place(s) an individual performs assigned duties as an employee of MSU.
- V. Rules and Regulations
- A. Open Carry Prohibited. All persons, including License Holders, are prohibited from openly carrying a handgun on the campus premises, including on any public driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area on the campus premises.
  - B. Carrying of Concealed Handgun by a License Holder Right to Carry. A license holder may carry a concealed handgun while on the campus premises (including public driveways, streets, sidewalks or walkways, parking lots, parking garages, and other parking areas) and in MSU passenger transportation vehicles, unless prohibited by state or federal law, or by this policy. License holders are responsible for knowing areas where carrying a concealed handgun is prohibited where notice is not required to be posted.
    1. Intoxication. A license holder may not carry a concealed handgun while intoxicated.
    2. Display of Concealed Handgun. A license holder may not carry a partially or wholly visible handgun, or intentionally or knowingly display a handgun in plain view of another person, even if holstered, on the campus premises, including public driveways, streets, sidewalks or walkways, parking lots, parking garages, or other parking areas on the premises of MSU.
    3. Requirement to Display License. A license holder must display his or her license to carry when directed by a law enforcement officer in accordance with section 411.205 of the Texas Government Code. Otherwise, an individual is not required to disclose whether he or she is a license holder in order to participate in any program or service offered by MSU, except as required by law.
  - C. Carrying of Concealed Handgun by Employees. An employee who lawfully holds a license to carry may carry a concealed handgun into his or her work area, unless prohibited under this policy, but is not authorized to use the weapon in the course and scope of performing his or her duties. An employee whose possession, storage, or use of a handgun results in personal injury or property damage is personally liable for the injury or damage, and is not entitled to immunity under section 411.208 of the Texas

Government Code or any other immunity to which the individual may be otherwise entitled as a University employee.

- D. Locations and Activities where Concealed Handguns are prohibited. A license holder is prohibited from carrying a concealed handgun onto the campus premises where prohibited by law and where prohibited by this policy based on the nature of the student population, specific safety concerns, uniqueness of the campus environment, and special or unique uses.
1. Concealed handguns are prohibited:
    - a. at a location where a high school, collegiate, or professional sporting event or interscholastic event is taking place as prohibited under section 46.035(b)(2) of the Texas Penal Code, or where a sports club or intramural athletic competition is taking place;
    - b. at a location used as a church, synagogue, or other established place of religious worship as prohibited under section 46.035(b)(6) of the Texas Penal Code;
    - c. at a location designated as a polling place on the day of a federal, state, or local election, including while early voting is in progress as set out in section 46.03(a)(2) of the Texas Penal Code;
    - d. at a location where the campus premises is used by a court unless the handgun is carried pursuant to written regulation or written authorization of the court in accordance with section 46.03(a)(3) of the Texas Penal Code;
    - e. in a nonpublic, secure portion of the MSU Police Department used to conduct official business as prohibited under section 411.207(b) of the Texas Government Code;
    - f. in any laboratory, room, or storage area with extremely dangerous chemicals, biologic agents, or explosive agents, and areas with equipment that is incompatible with metallic objects, as defined by this policy;
    - g. where state or federal law or contract, at the sole discretion of the state or federal government or organization with whom the contract is entered, requires exclusion of a handgun in a specific location, including the MSU Testing Center, and the exclusion does not generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus premises;
    - h. at a location where medical, health, or clinical services are provided, specifically Vinson Health Center, Gaines Dental Hygiene Clinic, MSU Counseling Center, West College of Education Counseling Center, and MSU Psychology Clinic, including offices within each of these clinics or centers;
    - i. at a location where services (e.g., activities/camps) to minors are provided, specifically locations used for Pre-K through Grade 12 activities/camps on the MSU Campus, including residence halls and other buildings used for summer camps and other scheduled activities where school-age children are on the MSU campus, SAT and ACT testing on the MSU campus, and University Interscholastic League (UIL) events held on the MSU campus;
    - j. at a location where intercollegiate, club, intramural, and sporting and athletic activities and events occur on the campus premises, specifically the D. L. Ligon Coliseum, MSU Softball, Soccer and Tennis Centers, and Redwine Wellness Center, and fields or other areas on campus premises utilized for such events;



- k. at a location where any meeting, hearing, or other occurrence that involves formal grievances, discipline, dismissal, or remediation of students, faculty, or staff; and
    - l. in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.
  - 2. Concealed handguns are prohibited at the following Activities: where intercollegiate, club, intramural, and sporting and athletic activities and events occur on the campus premises, specifically D. L. Ligon Coliseum, MSU Softball, Soccer, and Tennis Centers, and Redwine Wellness Center, and fields or other areas on campus premises utilized for such events.
- E. **Obligation to Provide Notice Where Concealed Handguns are Prohibited.** The University shall provide notice at all locations and activities where concealed handguns are prohibited under this policy and may post notice where handguns are expressly prohibited but where notice is not required to be posted by law. The language of the notice, which is set out in section 30.06 of the Texas Penal Code, shall not be altered in any way unless revised by state law. Any individual who without authorization, tampers with, defaces, modifies, or removes a notice provided pursuant to this policy is subject to disciplinary action, including trespass from campus, suspension, termination of employment or a business relationship, and is subject to criminal prosecution.
  - 1. Notice required under this policy must read:
    - Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.
  - 2. Notice must be provided in writing and on a card or other document in both English and Spanish. When notice is posted at a location, the sign must appear in contrasting colors with block letters at least one (1) inch in height, displayed in a conspicuous manner that is clearly visible to the public, and at a sufficient distance from the location or activity to inform a license holder that entry on the property or presence at the activity with a concealed handgun is prohibited.
  - 3. The University's General Counsel and the MSU Police Department shall be responsible for developing and implementing procedures to ensure campus compliance with the notice requirements provided by this policy.
  - 4. The University shall publish this policy annually in the policy manual and student handbook, and on a webpage dedicated to the carrying of concealed handguns on campus premises.
  - 5. Contracts for use of the campus premises shall include pertinent provisions of this policy.
- F. **Campus Housing.** A concealed handgun may be carried or stored in campus housing as set out in this policy. Any time a handgun in a campus housing facility is not in the immediate care, custody, or control of the owner, that handgun must be stored within secure gun storage. No gun storage will be provided by MSU; however, secure gun storage safes may be rented through the Office of Residence Life and Housing for use in campus housing.

1. Residents

A license holder who resides in campus housing may carry a concealed handgun into campus housing and may store the weapon in his or her assigned residential room except during periods between the spring and fall semesters when the facility hosts summer camps attended by minors.

- a. A resident who brings a concealed handgun into campus housing pursuant to this policy must carry the weapon on his or her person at all times or store it in his or her assigned room within secure gun storage.
- b. A handgun may be stored only in a residential room, and in a locked container rented from or approved by the University.
- c. A resident may not intentionally or knowingly display a handgun in plain view of another person in campus housing except as necessary to properly store the weapon in his or her assigned residential room.
- d. A student who is assigned to a residential room in campus housing where a firearm is stored and is concerned about his or her wellbeing may request a transfer to another residential room through the regular University housing process.

2. Non-Residents

- a. A license holder who does not reside in campus housing may carry a concealed handgun into campus housing except during periods between the spring and fall semesters when the facility hosts summer camps attended by minors.
- b. The handgun must be carried on the non-resident's person at all times and may not be stored in a campus housing room.

3. Responsible for Personal Injury or Damage. A resident or non-resident whose possession, use, or storage of a handgun results in personal injury or property damage is personally liable for the injury or damage.

G. Temporarily Prohibiting Concealed Handguns on Campus Premises

1. The President or President's designee may prohibit the carrying of concealed handguns for up to seven (7) days in order to promote safety on the campus premises:
  - a. when the activity has a history for violence;
  - b. where a large-scale activity, due to the presence of alcohol, uniqueness of the campus environment, specific threat of violence, or other safety considerations presents a reasonable threat to health or safety; or
  - c. upon request of the University Chief of Police when it reasonably appears there is threat of injury to human life, destruction to University property, or a threat of willful disruption of orderly operation of the University as defined in section 51.231 of the Education Code, or upon receipt of credible information of imminent injury to human life or destruction to University property.
2. Review of Decision to Temporarily Restrict Carrying of Concealed Handgun
  - a. A license holder may request review of the decision to temporarily prohibit the carrying of a concealed handgun.
  - b. The request must be submitted in writing to the reviewing official and describe why allowing concealed handguns at the location or activity does not present a safety concern.

- c. The reviewing official may request additional information and must notify the license holder of the decision no later than two (2) days after receiving the request for review. The notice must provide the reason(s) for the decision.
- d. The decision of the reviewing official is final.
- H. Sanctions for Violating this Policy. Any individual who violates this policy is subject to disciplinary action which may include trespass from campus, suspension, or termination of employment or a business relationship, and is subject to criminal prosecution.
- I. Training. The MSU Police Department will establish Safe Campus training that will be made available to the University community.
- J. Report to Legislature. MSU's President, or her/his designee, shall prepare a report for the Texas Legislature describing the campus rules adopted to regulate the carrying of concealed handguns on campus and the reasons for the rules not later than September 1, 2016 and every even-numbered year thereafter. This report will be submitted to the University's Board of Regents prior to submission to the Legislature.
- K. Amending Policy. As provided for by law, the President may, at her/his discretion, amend the provisions of this policy as necessary for campus safety, which shall take effect as determined by the President unless subsequently amended by the Board of Regents.

### **Computer and Network Services**

Midwestern State University recognizes that Information Technology (IT) is critical for the University and must be managed in compliance with state and federal laws. Information regarding computer and network services is available in the Midwestern State University Operating Policy 44.10, [Information Technology Operations](#).

### **Disability Grievance Procedures**

It is the policy of Midwestern State University that no otherwise qualified person, on the basis of disability, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program, activity, or employment of the university. Any student/employee seeking accommodations on the basis of disability must register with the Office of Disability Support Services and must provide all required documentation of disability.

#### **1. Informal Resolution**

Individuals with grievances related to discrimination or lack of accommodation on the basis of a disability are encouraged to resolve the problem directly with the area involved. Students should contact the Office of Disability Support Services for advice and/or assistance. If no resolution is forthcoming or if direct confrontation is deemed inappropriate, the student may report the requested accommodation or the alleged discrimination to the area's immediate supervisor or the appropriate department head. The supervisor or department head should attempt to resolve the complaint and to maintain the student's anonymity, if requested. If resolution is not satisfactory, the student may request assistance from the appropriate vice president in attempting to reach an informal resolution on the matter.

## 2. Formal Grievance

If the student is not satisfied with the informal resolution, he/she may file a grievance. The student must notify the ADA Coordinator (Director of Disability Support Services) in writing of the complaint. The notice should state the nature and date of the alleged discrimination, the name(s) of the individual(s) involved, the names of any other witnesses or participants, and the remedy the student seeks. The request must be signed by the student and filed within thirty (30) days of the alleged incident.

## 3. Hearing

A grievance hearing will be held within fifteen (15) working days following receipt of the written request. The case shall be heard by complaint. The committee, by majority vote, shall determine whether or not a remedy is appropriate.

## 4. Findings

The Committee will transmit its findings and determinations to the Vice President for Student Affairs within five (5) working days following the grievance hearing. The Vice President shall then notify the complaint in writing of the decision of the committee.

## Appeal

An appeal to the president of the university on the record only may be made by the complaint in writing within fifteen (15) working days following receipt of the grievance committee's decision. Unless the president acts within ten (10) working days following receipt of the written appeal, the grievance committee's decision is upheld. The president's decision shall be final.

The availability and use of this grievance procedures does not prevent a person from filing a complaint of discrimination on the basis of disability with the U.S. Department of Health and Human Services, Office for Civil Rights.

ADA Coordinator  
Debra Higginbotham  
Director, Disability Support Services  
Clark Student Center, Room 168  
(940) 397-4140

<https://msutexas.edu/student-life/disability/index.php>

## **Disaster Policy**

The purpose of these regulations is to acquaint all employees and students with the university's policies associated with disasters and related traumatic events.

A. **TORNADO:** A tornado is a violent local storm with whirling winds of tremendous speed. It appears as a rotating funnel-shaped cloud which extends toward the ground from the base of a thundercloud. The peak time for tornadoes is from March through June, but they can occur any time of the year.

1. **TORNADO WATCH:** Means that weather conditions are favorable for tornadoes to develop. Go about normal daily activities, but be alert to the weather.

2. **TORNADO WARNING:** Means a tornado has actually been sighted or indicated on radar. Take refuge in a place of safety immediately. The National Weather Service issues weather warnings to the public over radio and television stations. The city of Wichita Falls will sound warning sirens. Procedures to be followed at Midwestern State University if a tornado warning is sounded are as follows:
  - a. Under no circumstances should students, faculty, or staff attempt to leave campus while the warning is in effect.
  - b. Faculty should not dismiss classes. Students should be directed to an interior hallway on the lowest floor of the building. Persons should lie on the floor as close to the wall as possible. Auditoriums, gymnasiums, or other free-span rooms should be avoided.
  - c. If the building in which you are located is not steel-framed or reinforced concrete construction, and time permits, you should move as quickly as possible to the nearest reinforced structure. Otherwise, move to a small room in the interior part of the building and, if possible, seek shelter under heavy furniture. Stay away from windows. Unreinforced buildings on campus are classrooms – Music, Music Education, Instrumental Music (Band Hall), McGaha Hall, and McCullough Hall; staff buildings – Vinson Health Center, Welding Shop, and Paint Shop; residence halls – Sunwatcher Village.
  - d. Because of the possibility of a power failure, elevators should not be used.
  - e. Because there is the danger that high pressure steam lines may burst, university basements and utility tunnels (including those labeled fallout shelters) should be avoided.
  - f. Tornado drill procedures and tornado warning procedures for university housing are outlined in the current *Residence Life Handbook*.

3. **Special Functions**

Because large groups of people frequently gather for special functions on campus, the following plan is developed for Ligon Hall, Fain Fine Arts Building, Akin Auditorium, Bolin Hall, and Clark Student Center.

- a. **D.L. Ligon Hall**  
Persons in attendance should be directed to locker rooms, varsity and visitor dressing rooms, interior classrooms and offices, and the weight room via the east hallway. Persons on the floor area should be moved into the teams' dressing rooms. Persons on the east side of the upper deck should be moved to the men's locker room via the east hallway. Persons on the west side of the upper decks should be moved to the weight room and women's locker room.
- b. **Fain Fine Arts Center**  
Persons should be directed to hallways adjacent to the auditorium on all three levels either ends of the foyer, and the restrooms. Persons in the production backstage should take cover in small classrooms and hallways adjacent to the stage area.
- c. **Akin Auditorium**  
Persons should be directed to hallways in Hardin Hall.
- d. **Bolin Hall, Rooms 100 and 127**  
Persons should be directed to inner hallways.
- e. **Clark Student Center**  
Persons should be directed to inner hallways and inner offices.

- B. FIRE: In case of fire, notify the fire department first, then call the University Police Department, and sound alarm for the building to begin evacuation. Procedures to be followed at Midwestern State University in case of fire are as follows:
1. The person discovering the fire will notify the Wichita Falls Fire Department (phone number 911) and then call the University Police Department (extension 4239).
  2. The person discovering a fire will immediately give a vocal alarm in the building and make an attempt to extinguish the fire before it spreads.
  3. The building in which the fire is located will be evacuated under the supervision of the first faculty or staff member on the scene, and personnel will be moved a minimum of 300 feet from the location of the fire.
  4. Fire drill procedures and fire evacuation procedures for university housing are outlined in the current *Residence Life Handbook*.
  5. When a fire alarm is sounded in a building, all persons will leave the building until it is determined to be safe to re-enter.
- C. Bomb Threats: Compared with other university emergencies, the covert and criminal nature of bombing incidents makes detection and disarming of explosive devices a highly dangerous problem. A high percentage of all bomb threats are hoaxes; however, the chance remains the threat may be authentic and appropriate action should be taken in each case to provide for the safety of people and property. When a report of a bomb threat or explosion occurs, an immediate report should be made to the University Police Department.

### **Expressive Activities on Campus**

I. Policy Statement

Midwestern State University (“MSU” or “University”) recognizes freedom of speech and expression as a fundamental right and seeks to ensure free, robust, and uninhibited debate and deliberations by students enrolled at the University as well as other persons. It is the policy of the State of Texas and MSU, as it pertains to as an institution of higher education, to protect the expressive rights of persons guaranteed by the constitutions of the United States and the State of Texas by: (1) recognizing freedom of speech and assembly as central to the mission of the University; and (2) ensuring that all persons may assemble peaceably on University campuses for expressive activities, including to listen to or observe the expressive activities of others.

For purposes of this policy, expressive activities do not include commercial speech. As such, commercial activities are prohibited on University grounds without a prior written agreement with the University.

II. Reason for Policy

The purpose of this policy is to comply with the provisions of Section 51.9315 of the Texas Education Code as enacted by Senate Bill 18 by the 86th Texas Legislature (Regular Session) in 2019, and ensure the fundamental right of freedom of speech and expression on the MSU campus.

III. Application of Policy

This policy is applicable to MSU students, faculty, staff, and others who wish to engage in expressive activities on MSU campuses.

This policy applies to all expressive activities of any person in the University's common outdoor areas. This policy does not apply to the activities of the University itself. Individuals may engage in expressive activities without prior reservation, registration, or approval, provided such activities are conducted pursuant to applicable law as well as University policy.

#### IV. Definitions

Benefit – Includes:

- (1) recognition by or registration with an institution of higher education;
- (2) the use of an institution of higher education's facilities for meetings or speaking purposes;
- (3) the use of channels of communication controlled by an institution of higher education; and
- (4) funding sources made generally available to student organizations at an institution of higher education.

Common Outdoor Area – Means outdoor space that is operated and either owned or leased by the University and not used for dedicated University business or an event, an educational function, or a research function on a permanent or semi-permanent basis. It does not include University structures or the surfaces associated with or connected to University buildings.

Event – Means something that occurs in a certain place during a particular interval of time; events include but are not limited to human speakers, performances, exhibits, tables, distribution of literature, signs, and public assemblies.

Expressive Activities – Means any speech or expressive conduct protected by the First Amendment to the United States Constitution or by Section 8, Article I, Texas Constitution, and includes assemblies, protests, speeches, the distribution of written material, the carrying of signs, and the circulation of petitions. The term does not include commercial speech.

Institution of Higher Education – Has the meaning assigned by Section 61.003 of the Texas Education Code. MSU is an institution of higher education.

Student Organization – Includes any organization that is composed mostly of students enrolled at an institution of higher education and that receives a benefit from the institution.

#### V. Procedures and Responsibilities

##### A. Common Outdoor Areas

1. The University's common outdoor areas are deemed traditional public forums.
2. Any person is permitted to freely engage in expressive activities in the common outdoor areas of the University's campus as long as the person's conduct:
  - a. is not unlawful; or
  - b. does not materially and substantially disrupt the normal operations of the University's campus.
3. Notwithstanding Subsection V.A.1 and 2, MSU reserves the right to impose reasonable restrictions on the time, place, and manner of expressive activities in the common outdoor areas of the University's campus and those restrictions must:
  - a. be narrowly tailored to serve a significant University interest;
  - b. employ clear, published, content-neutral, and viewpoint-neutral criteria;
  - c. provide for ample alternative means of expression; and

- d. allow members of the University community to assemble or distribute written material without a permit or other permission from the university.
- 4. Groups or individuals engaging in materially and substantially disruptive activities in common outdoor areas, or those failing to comply with applicable laws or University policy, may face immediate removal from University premises and/or other appropriate actions by University officials, including University police.
- 5. Groups or individuals are responsible for any damages and harm to persons and property that arise from expressive activities in common outdoor areas.
- 6. Expressive activities on the University campus do not imply endorsement by the University.
- 7. Subsections V.A.1, 2, and 3 do not limit the right of student expression at other campus locations or prohibit faculty members from maintaining order in the classroom.

B. Reservation of Common Outdoor Areas.

- 1. Use of common outdoor areas for expressive activities does not require advance registration or reservation with the University. However, advance registration and reservation is recommended to ensure the availability of common outdoor area(s) of interest to the individual or group seeking to engage in expressive activities. If an area of the University's common outdoor areas has been reserved, the reserving individual or group shall be given priority for use of such area.
  - a. Advance registration and reservation requests for common outdoor areas on the University campus shall be submitted to the Clark Student Center.
  - b. The recommended advance notice for submitting a registration and reservation request is two (2) weeks.

C. Reasonable Time, Place, and Manner Restrictions

- 1. The following reasonable time, place, and manner restrictions are applicable to expressive activities in University common outdoor areas:
  - a. Activities that are unlawful or that materially and substantially disrupt the normal operations of the University are prohibited.
  - b. Activities that materially and substantially prevent other individuals or groups from carrying out an expressive activity are prohibited.
  - c. Activities that substantially interfere with vehicular or pedestrian traffic including the ingress or egress of University facilities and offices are prohibited. No person or organization may engage in expressive activity within a ten-foot clearance around points of entry and the exterior perimeter of all University buildings.
  - d. Activities that substantially interfere with fire protection, law enforcement, or emergency or medical services are prohibited.
  - e. Activities that threaten or endanger the health or safety of any person on University grounds are prohibited.
  - f. Activities that result in damage or destruction of University property are prohibited. Nothing may be affixed to or written on University property or grounds.
  - g. Activities that inherently lose First Amendment protection are prohibited.



- h. Activities involving the possession, use, or display of firearms, facsimile firearms, ammunition, explosives, or other items that could be used as weapons, including but not limited to poles, clubs, swords, shields, rigid signs that can be used as a weapon or shield, or other objects that can be construed as weapons as covered within the MSU Code of Student Conduct, are prohibited unless authorized by federal, state, or local laws.
  - i. Activities characterized by the use of a mask, facial covering, or disguise to conceal the identity of the wearer in a calculated fashion to obstruct the enforcement of the law or University policy, or to intimidate, hinder or interrupt a University official or police officer in the lawful performance of their duties, are prohibited.
  - j. Expressive signage, posters, displays, or structures (herein “displays”) must be hand-held, no larger than 3 feet in height by 3 feet in width. Displays, literature, and other items may not be left unattended.
  - k. Any person or organization distributing literature on campus as part of an expressive activity will pick up all copies dropped on the ground in the common outdoor area where the literature was distributed prior to vacating the area.
  - l. Amplified sound devices must be hand-held. Amplified sound shall not exceed 80 decibel levels near University buildings, as measured at the outdoor edge of such buildings closest to the amplified sound. “Amplified sound” means sound whose volume is increased by any electric, electronic, mechanical, or motor-powered means. Shouting, group chanting, and acoustic musical instruments are exempt from this definition and are not subject to special rules on amplified sound, but are subject to general rules on disruption.
  - m. No open flames are permitted on the University campus without the express written permission of the University.
  - n. Any activities that are subject to licensing, code, or ordinance requirements/permits must have the proper licenses/permits and satisfy such codes and ordinances (e.g., serving food and beverages).
2. The above list of reasonable time, place, and manner restrictions is not intended to be all-inclusive. The University reserves the right, as necessary, to impose additional reasonable time, place, and manner restrictions as circumstances arise.
  3. The University’s decisions will not be based on political, religious, philosophical, ideological, or academic viewpoints.
  4. The University reserves the right to relocate, limit, or prohibit individuals or groups engaged in expressive activities in University common outdoor areas based on reasonable time, place, and manner restrictions.
- D. Students’ and Employees’ Rights and Responsibilities Regarding Expressive Activities on Campus
1. Any person, subject to Subsection V.C, shall be allowed to engage in expressive activities on campus, including by responding to the expressive activities of others.
  2. Student organizations and faculty are allowed to, subject to Subsections V.C and V.F, invite speakers to speak on campus.
  3. Students, student organizations, faculty, or staff who unduly interfere with the expressive activities of others on campus will be subject to the disciplinary policies

- and procedures outlined in the applicable Student Handbook, catalog, or operating policies and procedures.
4. Violation of this policy may also constitute a breach of applicable criminal law. In such circumstances, the Penal Code and Code of Criminal Procedure will apply.
  5. Grievances concerning an alleged violation of this policy will be processed in accordance with University policies and procedures.
- E. Prohibited Actions by University against a Student Organization
1. The University may not take action against a student organization or deny the organization any benefit generally available to other student organizations at the institution on the basis of a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any expressive activities of the organization.
- F. Speaker Fees and Approvals
1. University student organizations and faculty have the right to invite speakers to speak on campus. When reviewing and determining whether to approve a speaker to speak on campus, or in determining the amount of a fee to be charged for use of the University's facilities, for purposes of engaging in expressive activities, the University will not consider any anticipated controversy related to the event. The University will consider content-neutral and viewpoint neutral criteria related to the needs of the event including, but not limited to:
    - a. the proposed venue and the expected size of the audience;
    - b. any anticipated needs for security;
    - c. any other necessary accommodations the University deems necessary for the event; and
    - d. any relevant history of compliance or noncompliance with University policies by the speaker and/or the requestor.

## **General Student Complaints**

### *Purpose*

The purpose of this policy is to establish a process by which students may address general issues that do not fall under formal grievance policies. In an effort to expedite resolution to complaints, students will be requested to first follow the Informal Complaint Process. If resolution does not occur via the Informal Complaint Process, the student may follow the Formal Complaint Process.

### *Informal Complaint Process*

The informal complaint process promotes dialogue and understanding, and provides a framework to expedite resolution. It additionally promotes student development through self-advocacy and open communication. Prior to filing a formal complaint, the student must use the following informal procedure. The Informal Complaint Process is initiated in the Office of Student Rights and Responsibilities.

- The student should discuss with the Director of Student Rights and Responsibilities, or designee, the nature of the complaint in order to determine the most appropriate and expeditious manner of addressing said complaint. The Director of Student Rights and Responsibilities, or designee, and the student determine the faculty or staff member best

equipped to address the complaint. The comfort of the student in addressing the complaint with any member of the faculty or staff is considered.

- The Director of Student Rights and Responsibilities, or designee, will assist the student in contacting the faculty or staff best equipped to handle a complaint. The student should discuss the complaint thoroughly with the determined faculty or staff as soon as practical. Both parties should openly discuss the issue and attempt to explore a mutually satisfactory outcome.
- The Director of Student Rights and Responsibilities maintains a log of Informal Complaints registered with his/her office. This log includes the student's name, contact information, nature of complaint, and complaint referral, if necessary.
- Within five (5) days of logging the complaint, the Director of Student Rights and Responsibilities, or designee, will follow-up with all parties in order to determine the disposition of the complaint. The disposition will be included in the complaint log.
- If the complaint is resolved, the process ends.
- If the complaint is not resolved, the student may initiate a Formal Complaint Process.

### *Formal Complaint Process*

A formal written complaint may be issued if the Informal Complaint Process does not produce resolution. The student is encouraged to contact the Office of Student Rights and Responsibilities prior to submitting a formal complaint so that they can be well-informed of the formal complaint process. The student must use the following formal complaint procedure:

- The student must submit in writing to the appropriate Dean, Director, Chair, or Supervisor, as determined in consultation with the Director of Student Rights and Responsibilities, an outline of what occurred, any witnesses to the alleged event, and the desired outcome of the complaint.
- The appropriate Dean, Director, Chair, or Supervisor, with guidance from the Director of Student Rights and Responsibilities, interviews all affected parties and witnesses.
- Within seven (7) business days of receiving the written complaint, the Dean, Director, Chair, or Supervisor issues a written decision regarding the complaint.
- If the complaint is resolved, the process ends.
- If the complaint is not resolved, the affected student may appeal the decision to the appropriate Vice President. The Director of Student Rights and Responsibilities will assist the student in making this determination. The appeal must be in writing, no later than seven (7) business days after receipt of the final disposition of the formal appeal.
- The Vice President will consider the appeal and issue a final decision to the student in writing. A copy of the final resolution will be sent to the student and the Director of Student Rights and Responsibilities.

### **Instructor Drop**

An instructor may drop a student any time during the semester for excessive absences, for consistently failing to meet class assignments, for an indifferent attitude, or for disruptive conduct. The instructor must give the student a verbal or written warning prior to dropping the student from the class. An instructor's drop of a student takes precedence over the student initiated course drop of a later date. The instructor will assign a grade of either WF or F through the first 9 weeks of a long semester, the first 4 1/2 weeks of an 8 week part-of-term, the first 6

weeks of a 10 week summer term, or the 12th class day of a 4 or 5 week summer term consisting of 20 days. After these periods the grade will be an F. The date the instructor drop form is received in the Office of the Registrar is the official drop date.

A student dropped from a class by a faculty member for disruptive behavior has the right of appeal to the Student Conduct Committee through the Office of Student Rights and Responsibilities (CSC 108).

### **Official Out-Of-Town University Trips**

When an official out-of-town trip is sponsored by a university college or department, the faculty or administrator involved will be responsible for all arrangements and supervision. When registered student organizations plan an official out-of-town trip, all arrangements must be cleared through the Office of Student Leadership and Involvement.

To ensure that student safety is a priority, this policy for student travel is intended to assist students in safe travel for university-sanctioned trips. This policy pertains to students or registered student organizations that travel over 25 miles to a university-sanctioned event.

#### *Definition of University-Sanctioned Travel*

University-sanctioned travel occurs when travel meets one or more of the following conditions:

1. A university department or registered student organization plans the travel and/or recognizes for professional or educational purposes.
2. The university or registered student organization requires travel.
3. University or registered student organization funds are used.
4. Travel is undertaken in a university-owned or leased vehicle.

#### *Travel Procedures*

The designated advisor(s) (faculty or staff) must accompany each student travel group. Any exception must be approved by the Dean of Students prior to such travel. The following procedures must be followed prior to travel:

1. Access and print a Student/Group Travel Form from the Dean of Students' website or MustangsLink.
2. Complete Student/Group Travel Form and submit to the Dean of Students Office or Office of Student Leadership and Involvement at least 10 days prior to the date of travel.
3. Receive approval of the travel request.

For questions or more information about the Student Travel Policy, please contact the Dean of Students office in room 108 of the Clark Student Center.

### **Posting on University Property**

#### I. Policy Statement

Midwestern State University recognizes freedom of speech and expression as a fundamental right and seeks to ensure free, robust, and uninhibited debate and deliberations by students enrolled at the University as well as other persons. This policy

provides a standard for the location of printed matter posted in or on University buildings. This policy does not attempt to establish the type of material that may or may not be posted; rather, it is directed to the location on or within a building where the posting of printed material is permitted.

## II. Reason for Policy

The purpose of this Operating Policy/Procedure (OP) is to provide space and standards for posting items on campus property.

## III. Application of Operating Policy

This operating policy applies to all MSU students, faculty, staff, and others who wish to post items on MSU campuses.

## IV. Definitions

For purposes of this operating policy:

*Benefit* – Includes:

- (1) recognition by or registration with an institution of higher education;
- (2) the use of an institution of higher education's facilities for meetings or speaking purposes;
- (3) the use of channels of communication controlled by an institution of higher education; and
- (4) funding sources made generally available to student organizations at an institution of higher education.

*Student Organization* – Includes any organization that is composed mostly of students enrolled at an institution of higher education and that receives a benefit from the institution.

*University Property* – Means any building or property owned or controlled by the University.

## V. Procedures and Responsibilities

- A. The posting of any type of printed matter in the form of University communications, departmental notices, correspondence, posters, signs, banners, announcements, cards, advertisements, etc., must only be on approved University announcement boards (General Use Boards and Community Use Boards). The posting of such material on painted surfaces, doors, glass, tile, trees, or other surfaces not specifically designed or designated for this purpose is prohibited. For information about the location(s) of approved University announcement boards inside of a particular University building, individuals should contact the Clark Student Center office of the college/department office responsible for the building in question.
- B. All material posted by the University affiliated departments or student organizations on General Use Boards must be approved and stamped by the Clark Student Center office, where compliance with size restrictions, sponsorship, and master calendar is verified. Material to be posted on General Use Boards inside of residential facilities must also be approved and stamped by the Office of Residence Life and Housing. Material will not be denied approval on the basis of the content or viewpoint expressed, unless such content represents a violation of local, state, or federal law, or inherently loses First Amendment protection. All material posted advertising a specific event must carry the name and contact information of the respective sponsor (i.e. an academic program, administrative department, or a student organization).

- C. Material posted by University affiliated departments or student organizations on General Use Boards are subject to clearing one (1) week after posting, or otherwise after the event being advertised is completed.
- D. University affiliated departments, student organizations, individual students, and employees may post on designated Community Use Boards in the Clark Student Center without seeking prior approval. Only one (1) copy of each positing may be placed on Community Use Boards. Only non-commercial materials may be posted on Community Use Boards. The University may impose reasonable restrictions on Community Use Boards, to include:
  - 1. Postings that are unlawful.
  - 2. Postings that inherently lose First Amendment protection.
  - 3. Postings that materially and substantially prevent other individuals or groups from carrying out an expressive activity.

For information about the location(s) of Community Use Boards inside of the Clark Student Center, individuals should contact the Clark Student Center office.
- E. Postings on Community Use Boards are subject to clearing one week after posting, or otherwise after the event being advertised is completed.
- F. The placement of special occasion banners or other material in or on certain University buildings such as the Clark Student Center, residence halls, or athletic facilities will be permitted only with the approval of the respective director, department head, dean or building authority of those facilities, and in accordance with University policy.
- G. Damage to University facilities by items posted in prohibited locations will be the responsibility of the department or student organization that posted the items.
- H. Most University buildings have adequate board space available. When additional space is needed, the respective director, department head, dean or building authority of those facilities should initiate action to increase the space.
- I. The posting of signs, placards, barrier tape, and other types of similar warning materials by University entities and/or other entities and/or other entities have jurisdiction is permissible in location other than those noted if there are valid reasons for such postings. The following are examples of such valid reasons:
  - 1. To ensure the health and safety of the building occupants;
  - 2. To secure the building contents; and
  - 3. To identify specific locations and prevent disturbance of materials as part of an ongoing investigation.

The entity responsible for posting the warning materials shall attempt, as much as possible, to minimize the damage caused by such attachment to the interior building finishes. If possible, the warning materials should be adhered to surfaces capable of being cleaned following the posting. Following the termination of the event requiring the notification, the posting entity shall be responsible for the timely removal of the warning materials.

## **Residence Life & Housing**

The Residence Life & Housing program is a vital part of the Midwestern campus community. The program is intended to support the educational mission of the university through programs, activities, services, facilities, and personnel that promote an atmosphere in university housing

conducive to meeting the academic, social, cultural, and personal/developmental needs of resident students.

### *Residence Life Policy*

The residence life policy is based on the knowledge that living in university housing can provide both educational and social opportunities important to the success of college students. All students enrolling at Midwestern State University are required to live in university housing unless they:

1. Are living in the home of their parents or legal guardian within 60 miles of the campus and commuting to class.
2. Are married and living with their spouse.
3. Have accumulated 45 semester hours of college academic credit as a post-high school student prior to the first day of classes for the housing agreement period. Hours achieved while in high school are not counted (e.g. concurrent or dual credit).
4. Have reached the age of 21 prior to the first day of classes for the housing agreement period.
5. Are part-time students enrolled in 11 hours or less for the fall or spring semester.

### *Food Service Policy*

All students living in MSU residence halls (except Sundance Court, Sunwatcher Village) during the fall and spring semesters are required to have a residential meal plan. Three (3) meal plans (Platinum All Access; Gold 200; Silver 150) are available for students residing in the residence halls. Each meal plan includes Flex dollars that may be used at any dining facility on campus, as well as a meal exchange program for use at retail dining locations.

### *Policy Exceptions*

In unusual circumstances, the Director of Residence Life and Housing may grant exceptions to these policies. Regardless of the reason for a request for an exception to the housing requirement, all requests must be made in writing (forms are available in the Office of Residence Life and Housing) and filed with the director by the following dates:

FALL SEMESTER: July 1

SPRING SEMESTER: January 1

Students requesting an exception to the required meal plan policy must complete a form (available in the Office of Residence Life and Housing) and, if necessary, provide medical evidence of any special dietary need. During the time that an exception is being reviewed, the student will remain on his or her chosen meal plan.

### *Withdrawals*

Students living in university housing must move out within 24 hours of withdrawing or being withdrawn from the university.

For more information, contact the Office of Residence Life & Housing, located across the street from Legacy Hall in Sunwatcher Clubhouse (3704 Louis J. Rodriguez Drive), or refer to the *Residence Life Handbook*.

## **Student Event Guidelines**

### *Registration*

1. All activities and events of registered student organizations must be registered and approved through MustangsLink. Event registration is available online through each registered student organization's MustangsLink portal.
2. Event registration must occur for all registered student organization activities, whether held on or off campus.
3. By registering events through MustangsLink, events can be added to the University Master Calendar and Student Life calendar. Registering events is not the same as requesting or reserving university facilities. For assistance with requesting University facilities, please contact the Clark Student Center.
4. The deadline for registering a social event is four (4) days prior to the event, except for those activities approved as alcoholic beverage functions and/or requiring the services of a police officer. Those functions must be registered ten (10) days prior to the event.
5. Cancellation of functions and facilities is equally important and should be made through the Clark Student Center. The Clark Student Center reserves the right to change room assignments or setups in order to accommodate the greatest number of customers.
6. Registered student organization events where alcohol will be served, held off campus, open to the public, and/or involving efforts to raise funds require approval of the organization's faculty/staff advisor prior to event registration and approval. Information as to duties and responsibilities of faculty/staff advisors regarding registration of alcohol functions is available in the Clark Student Center office.

### *Dress and Conduct*

1. Those attending student activities are requested to use good judgment about their dress, exercising good taste at all times.
2. Conduct at student activities shall be the responsibility of the sponsoring individual, group, department, or organization. If property damage should occur during the activity, the person or department/organization responsible for the damage will be assessed for the repair or replacement of the damaged item. When the person or persons responsible for the damage cannot be identified, the sponsoring department/organization will be assessed for the damages.

### *Raffles*

The Charitable Raffle Enabling Act states that an institution of higher education shall allow the sale of tickets to a raffle by a registered student organization at any facility of the institution, subject to reasonable time, place, and manner restrictions.

### *Corporate or Business Co-Sponsorship of Activities*

All corporate or business co-sponsors of a university or student organization event must enter into a contract with the university, the terms of which must be set by and/or approved by the university Administrative Council. This policy applies to sponsorship or co-sponsorship only and shall not be interpreted to include paid advertising.

### *Faculty/Staff Advisors and Campus Police*



1. Faculty/Staff advisors must be listed on the student organization roster which is on file with the Office of Student Leadership and Involvement through MustangsLink. At events where faculty/staff advisors are necessary, it is important that the advisor be present at all times during the social event. Extending an invitation to advisors well in advance of the event is a mark of thoughtfulness and courtesy.
2. Normally the faculty/staff advisor is a faculty member, an administrator, or a full-time staff member at the university; however, in special and unusual circumstances, a graduate assistant at the university can be approved by the Director of Student Leadership and Involvement to serve in this capacity.
3. Faculty/staff advisors are required to attend organization events at which alcohol will be served. A faculty/staff advisor must be present at all times during the entire event.
4. One police officer is required at all programs that have been approved as an alcohol event except when the function is an on-campus, invitation- only function involving one student organization. Exceptions to this requirement can be requested when completing the alcohol registration process by submitting an event safety and security plan, which must address how the behavior of attendees will be monitored and appropriately managed to reflect the values and expectations of the University. The event safety and security plan must be approved by the Dean of Students or designee in order for the event to occur.
5. When MSU officers are required for events, the cost per hour for each officer will be determined by the University Police Department. The University Police Department must be notified at least ten (10) days prior to the function to schedule any officers.

#### *Expenses (Building Use)*

Midwestern State University is allocated funds by the State of Texas for its operations as related to its primary mission of education. Student- sponsored groups and organizations are required to fund the costs, utilities, custodial help, etc., incurred above university educational costs, for activities which the groups or organizations sponsor.

1. Generally, an approved (internal) group or organization will not be charged the utility costs for the use of a facility if it is used within normal hours of operations. Scheduling for any event or activity is required, even though no charges are assessed, through the Clark Student Center office.
2. Normal room custodial support will be provided within regular building hours at no additional cost. Extra costs, i.e., special cleanup, when incurred, will be billed to the using group.
3. For events outside normal hours of operation, internal groups and organizations will be charged for actual costs for each hour or fraction thereof that the facility is required beyond the normal hours. Additional charges will be added whenever additional custodial support is required, i.e., setup or cleanup.
4. Charges to internal groups will be determined by the Clark Student Center office from the approved rates. The chart of charges is on file in the Clark Student Center office. The CSC office will identify the appropriate student group to be billed and provide this information to the University Business Office to initiate billing.

#### *General*

1. Sponsoring organizations are invited to discuss plans for student activities with the staff in the Clark Student Center office or Office of Student Leadership and Involvement.

2. Attendance at events sponsored by Midwestern State University students is restricted to MSU students, faculty, staff, and guests of the sponsoring organization unless other groups are approved by the Clark Student Center office or Dean of Students.

### **Student Financial Responsibility Statement**

When registering for classes, you acknowledge and agree to all terms and conditions set forth by Midwestern State University including liability for all tuition, fees, room, board, and other related charges. Failure to pay your student financial obligation in full by the due date for the semester allows Midwestern State University to exercise its right to pursue other legal action for collection. This includes, but is not limited to, placing your past due account with a collection agency and/or other third party such as an attorney. In addition to paying your past due account, you will be obligated to pay all reasonable costs and expenses of collection, including, without limitation, reasonable court costs and attorneys' fees and/or collection agency fees and charges. Midwestern State University may also disclose to credit bureau organizations that you have defaulted on your student financial obligation to Midwestern State University. Failure to attend classes does not absolve you from financial liability. In all cases, it is your responsibility to drop classes by the published drop/add date or you will be held liable for those classes.

It is mandatory that all registered students agree to the SFRA each semester before registering for classes. Please login to your student portal, select the WebWorld/Banner link, select the Student tab, then click on the Student Financial Responsibility Agreement and follow the prompts. Select the accept button.

### **Student Identification**

The Campus Card is the official identification card of Midwestern State University which allows access to numerous campus locations and events. All enrolled students are eligible to receive a Campus Card. Each student will be issued an initial card at no cost. Campus Cards will only be issued after verification of enrollment and with the presentation of a government-issued photo ID (e.g. Driver's License, Military ID, or Passport). A replacement fee of \$20 exists for all lost, stolen, or damaged cards.

In addition to providing all the campus access features of the current MSU Campus Card (e.g. building access, library access, meal plan access, and on-campus event admission).

Campus Cards are issued at the Clark Student Center Information Desk, Room 121.

### **Student Organization Policies**

While all registered student organizations have faculty/staff advisement, general coordination and supervision of Midwestern State University's student organizations are handled through the Office of Student Leadership and Involvement. Information regarding the present status of all groups, their current officers, and membership requirements may be obtained in that office.

#### *General Policies*

In order to be in good standing with the university, student organizations must fulfill the requirements listed as follows:

1. All student organization members must be enrolled students at MSU during the semester(s) in which they plan to participate in their respective organization(s).
2. Once officially approved and registered, student organizations must have a minimum of four (4) members to remain in good standing.
3. Each student organization must complete a MustangsLink student organization profile renewal by October 1 for the fall semester and February 15 for the spring semester.
4. Each student organization must have a campus-related advisor from the faculty or staff. In general, selection of the faculty/staff advisors will be made by the organization in accordance with the national and/or local constitution and in consultation with the Director of Student Leadership and Involvement. Faculty/staff advisors are to counsel the officers and members of the organization with regard to the purposes and activities of the organization. The faculty/staff advisors shall oversee and be responsible for its financial planning and transactions and shall confirm the eligibility of membership and of members to hold office. Faculty/staff advisors should attend as many organization meetings and programs as possible. A faculty/staff advisor is required to attend events where alcohol is served and/or off-campus guests are present.
5. All student organizations must observe an alcohol-free academic week. No alcohol will be permitted at registered functions taking place Sunday- Thursday.
  - A. Alcoholic beverages at approved student organization events must be distributed by a TABC licensed third party vendor which will ensure compliance with state law in regard to consumption, intoxication, drinking age, distribution, sale, etc. A copy of the third party vendor's current license must be submitted with an Alcohol Registration Form to event approval.
6. All activities, whether held on or off campus, must be registered in the student organization's profile on MustangsLink. All activities must conform to university social regulations. The failure of a student organization to conform to university policies will result in disciplinary action and could result in suspension.
7. Each student organization must have a constitution or statement of purpose on file in the Office of Student Leadership and Involvement.
8. No student organization shall initiate efforts to raise funds from private donors or organizations without prior university approval. Requests for approval should be initiated in writing through the Office of Student Leadership and Involvement and should include the following information:
  - A. Name of organization, business, or donor to be contacted.
  - B. Amount or nature of specific items or funds being requested.
  - C. Intended purpose of raising funds and method of distribution of products or use of funds. Upon receipt of the request, the Office of Student Leadership and Involvement will secure approval from the Office of University Development to avoid conflicts with potential donors. This provision will ensure that fundraising efforts are centrally planned and coordinated. Notification of approval or denial will be given to each organization from the Office of Student Leadership and Involvement.
9. Midwestern State University assumes no fiscal responsibility or liability for any student organization including club sport organizations.

10. All club sport teams are required to have a group accident policy, covering the entire membership, each academic year. A copy of the policy is to be submitted to the Office of Student Leadership and Involvement at the beginning of each fall semester. Additionally, members of club sport teams are required to sign a liability waiver before participating in the sport. Each club sport team is responsible for ensuring compliance with this policy.
11. A student organization training must be completed by October 1 of each year. Each organization is required to have one student representative participate in a training, online or in person.
12. A student representative from each student organization must complete a university sponsored or approved risk management training by February 15 of each year.
13. Regulations pertaining to student organizations may be obtained in the Office of Student Leadership and Involvement, CSC 121.

#### *Additional Policies for Social Fraternities/Sororities*

1. All single-sex fraternities and sororities as recognized by Title IX of the Education Amendments of 1972 criteria, and formed and operating not for professional or honorary purposes, must be members of an appropriate MSU governing council (IFC, CGC, or PHC), as determined by the Director of Student Leadership and Involvement.
2. Each fraternity/sorority must adhere to the MSU Greek Life Standards of Excellence and submit yearly review materials by January 31.
3. Each fraternity/sorority must adhere to the MSU Greek Life policies for Academic Reporting, Expansion/Extension, and Recruitment/Intake. Full policies are available in the Office of Student Leadership and Involvement, CSC 121.
4. Each fraternity/sorority must maintain a 2.50 semester chapter GPA and adhere to the MSU Greek Life Academic Policy. The full policy is available in the Office of Student Leadership and Involvement, CSC 121.

#### *Procedure for Establishing a New Organization*

1. Students interested in forming a new organization must meet with the Director of Student Leadership and Involvement, or his/her designee. Student organizations may be officially registered when formed for purposes that are consistent with the philosophy and goals of Midwestern State University. The purposes, goals and activities of one organization should not duplicate those of another.
2. The following forms must be submitted to the Director to begin the approval process: the student organization roster (a list of proposed members, officers and faculty-staff advisor) with a minimum of eight (8) currently enrolled MSU students, an Activity Reservations/Guidelines Agreement, and a constitution or statement of purpose which must include:
  - A. The exact title of the organization.
  - B. The purpose of the organization. Is it fostering a broad educational goal? Does it have a social, cultural, or political aim? Why was the group founded? Be precise enough so that a non-member would understand the group's written purpose. Religious organizations must indicate their religious affiliation.
  - C. A statement of the group's willingness to abide by all university policies.

- D. A statement that membership must be open to all Midwestern State University students, with the exception of single-sex organizations as recognized by Title IX of the Education Amendments of 1972.
  - E. Details on how to become a member. How are voting members identified? What is the deadline for joining to be able to vote? Who keeps the official membership list?
  - F. Membership dues, if applicable.
  - G. Details on how a member may remain in the organization if she/he fails to pay dues.
  - H. A statement on the number of officers. What are their titles and duties? Will the officers constitute an executive committee? Officers must be full-time undergraduate students.
  - I. Details on how officers are elected. What constitutes a quorum? What type of ballot? Who may vote? When are they elected, and for what period? Who is eligible for office? When do officers assume office? How may officers be removed? How will mid-year vacancies be filled? You may wish to clarify the role of the faculty-staff advisor.
3. If the organization has a state, regional, or national affiliation, the organization must also include from its state, regional, or national office the constitution, by-laws, financial support, type of supervisory role held with local chapters, and documentation establishing recognition and support for a student organization at MSU. When this is obtained, final approval of the state, regional, or national organization must be made by the university's Administrative Council.
  4. Final approval for local organizations must be made by a committee comprised of the Vice President for Student Affairs, Associate Vice President & Dean of Students, and the Director of Student Leadership and Involvement.
  5. Prospective MSU student organizations may have a maximum of three (3) organizational meetings on campus prior to final approval. All student organizational meetings must comply with the MSU Activity Reservations/Guidelines Agreement.

#### *Eligibility to Hold Office in a Student Organization*

1. Officers of each organization must have a 2.0 cumulative grade point average preceding election to office and must maintain this average while in office.
2. An officer must not be on University academic or conduct probation.

### **Student Records**

Midwestern State University maintains educational records for each student who is or has been officially enrolled.

Areas in which student records are maintained:

- A. Academic Records - Registrar's Office
- B. Admissions Records - Admissions Office, Dr. Billie Doris McAda Graduate School, and Global Education Office
- C. Financial Aid Records - Financial Aid Office
- D. Graduate Studies Records - Dr. Billie Doris McAda Graduate School
- E. Placement Records - Career Management Center
- F. Progress Records - Faculty Offices and Academic Advising Offices
- G. Disciplinary Records - Office of Student Rights and Responsibilities

- H. Housing Records - Residence Life and Housing
- I. Athletics Records - Athletics Office
- J. Occasional Records - University staff person who maintains minutes of faculty or committee meetings or copies of correspondence

#### Directory Information

This is information which may be released to the general public without the written consent of the student. A student may request that the Directory Information be withheld from the public by making a written request to the Office of the Registrar during the first 12 class days of a fall or spring semester or the first 4 class days of a summer term. This request will remain in effect the remainder of the academic year, and the request must be renewed each fall. The following items have been designated as Directory Information:

- A. Name
- B. Date and Place of Birth
- C. Current and Permanent Address
- D. Telephone Listing
- E. Major and Minor Fields of Study
- F. Student Enrollment Status (full-time/part-time)
- G. Classification
- H. Participation in Officially Recognized Activities and Sports
- I. Weight and Height of Members of Athletic Teams
- J. Dates of Attendance
- K. Degrees and Awards Received
- L. All Previous Educational Agencies or Institutions Attended
- M. Photographs

#### Review of Record

Students who desire to review their records may do so upon written request of the appropriate record custodian. The Review Request Form must identify as precisely as possible the records to be reviewed.

#### Challenge to Accuracy of Record-keeping

Students who desire to challenge the accuracy of their records shall follow the procedure outlined below:

#### Informal Review

The procedure outlined for Review of Record shall be followed. The review official will summarize action taken on the Review Request form. This form should be signed and dated by the review official and maintained with the student's record. If the Informal Review does not clarify the accuracy of record-keeping, the student may request a Formal Review.

#### Formal Review

The Provost will chair and appoint a committee to hear challenges concerning records of offices reporting to him or her. The Vice President for Student Affairs and the Vice President for Enrollment Management will each chair and appoint a committee to hear challenges concerning

records in their respective areas. The student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records. The student may be assisted by one or more individuals, including an attorney.

The Provost or the appropriate Vice President will prepare a written decision based solely on the evidence presented at the hearing for their respective areas. The decision will include a summary of the evidence presented and the reasons for the decision. If the University's decision is that the challenged information is not inaccurate, misleading, or in violation of the student's right of privacy, the student will be notified that he/she has a right to place in the record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.

The statement will be maintained as part of the student's education records as long as the contested portion is maintained. If MSU discloses the contested portion of the record, it must also disclose the student's statement. If MSU decides that the information is inaccurate, misleading, or in violation of the student's rights of privacy, it will amend the record and notify the student, in writing, that the record has been amended.

Students have a right to consent to disclosures of personally identifiable information (PII) contained in their education records, except to the extent that the Family Educational Rights and Privacy Act (FERPA) authorizes disclosure without consent. The following exceptions permit disclosure without consent:

- a. Disclosure without consent is permitted to school officials with legitimate educational interests. A school official is a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the University has contracted (such as an attorney, auditor, collection agent, or enrollment or loan and degree verification service); a person serving on the Board of Regents; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.
- b. The Higher Education Amendments of 1998 allow disclosure of the final results of student disciplinary proceedings involving students found to have committed a disciplinary offense that would constitute a "crime of violence" (or a non-forcible sex offense) under federal law, specifically the name of the student found to have committed the offense, the violation committed, and any sanction imposed.
- c. The 1998 FERPA amendments also allow institutions of higher education to disclose to a parent or legal guardian of a student under the age of 21 years information regarding the student's violation of any federal, state, or local law, or any institutional rule or policy related to the use or possession of alcohol or a controlled substance.
- d. Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

- School officials with legitimate educational interest;
- Other schools to which a student is transferring (seeks or intends to enroll);
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

Students have a right to consent to disclosure of personally identifiable information (PII) contained in their education records, except to the extent that FERPA authorizes disclosures without consent. Certain exceptions permit disclosure without consent. As of January 3, 2012, the U.S. Department of Education's FERPA regulations expand the circumstances under which a student's education records and personally identifiable information contained in such records may be accessed without the student's consent. Students needing more details regarding these exceptions may contact the Office of the Registrar.

Students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by Midwestern State University to comply with the requirements of FERPA.

FERPA allows the Texas Higher Education Coordinating Board (the State of Texas educational governing entity), with student consent, to disclose to higher education institutions the number of credit hours taken previously.

#### Address Changes

Students whose names, home addresses, local college addresses, email addresses, or other pertinent information changes after initial registration at MSU are requested to notify the Office of the Registrar, the MSU Business Office, Financial Aid office, MSU Admissions or Dr. Billie Doris McAda Graduate School, and Moffett Library. Student employees should also notify Human Resources and the Payroll office. The Global Education Office should be notified if an international student has an address change. Students may change their addresses online through the myMSUTexas portal. All notices, information, and official correspondence are addressed to the last mailing address on record with the university or MSU issued student email address. Failure by the student to have the current correct mailing address or email address on record with the university shall not be construed to invalidate any notices or correspondence. Under Texas law, students are responsible for reporting changes in legal residence. This notification is submitted to MSU Admissions or Dr. Billie Doris McAda Graduate School.

#### Release of Information

Release of Information Forms are used to grant permission for university officials to release specified information from a student's educational record to a third party (i.e. parent, spouse, agency, or sponsor). Federal privacy laws prohibit Midwestern State University from providing non-directory information within a student's educational record to a third party, such as grades,



course schedule, financial aid, discipline, housing assignment, and email address. Any student who desires information to be released to a third party must submit an Authorization to Release Student Information Form to the Dean of Students Office. Forms are available on the Dean of Students website, <http://www.msutexas.edu/student-life/dean/assets/files/release-of-information-form.pdf>, and in person through the Dean of Students Office, Clark Student Center, Room 108.

#### Student Email Address

Midwestern State University provides all enrolled students an official “my.msutexas.edu” University email address through Google. The email address is activated once a student is admitted to the University and is accessible through the myMSUTexas Portal under the “Gmail” link in the Quick Launch menu on the left side of the Portal homepage. The email address (and associated Google applications) will stop being available 13 months after a student graduates or disenrolls from Midwestern State University.

The “my.msutexas.edu” email address is the University’s primary method of electronic communication with students. Students are responsible for all electronic communications delivered to their Midwestern State University “my.msutexas.edu” email address. Failure to read an electronic communication sent to the “my.msutexas.edu” email address does not excuse a student from the information, expectations, or requirements described therein.

### **Student Right to Know**

In compliance with the Student Right to Know and Campus Security Act of 1990, Midwestern State University provides all students, employees, and prospective students up-to-date information about campus crime statistics, six-year graduation rates of students and student athletes, and campus services such as tuition and fee rates, housing options, withdrawal procedures, study abroad programs and disability services. Links to current information are available at <https://msutexas.edu/finaid/additional-consumer-resources>.

### **Traffic Appeals**

#### PURPOSE

A Traffic Appeals Committee composed of students and faculty/staff shall be appointed to review appeals from students and faculty/staff who wish to contest a ticket received for violation of the university traffic and vehicle regulations. The committee shall have the authority to render judgments with reference to the *Traffic and Parking Regulations found within MSU Operating Policy 62.01*. The Traffic Appeals Committee exists to assist those students and faculty/staff with violations due to unusual or extenuating circumstances. The decision of the committee is final.

#### COMPOSITION

The Traffic Appeals Committee shall consist of eight (8) members (three (3) students, two (2) faculty members, two (2) staff members and the Student Government Association Vice President).

## PROCEDURE AND DISPOSITION

- A. Request for Appeal. A student wishing to contest a ticket may appeal using the Rydin online parking management system available through the University Police website. For each violation, an appeal must be submitted within seventeen (17) calendar days after the citation was issued. Should the person charged not pay a violation fee or appeal of the citation within the allotted time period, the appeal process will be forfeited and a \$15.00 late fee will be assessed.
- B. Conduct of Review. All Traffic Appeal Committee meetings shall be closed to the public. The co-chairperson (or designee) shall preside and conduct the business of the review. The committee may request further information from the university police officer or the appealing student with regard to the citation in question.
- C. Review Procedure. The Traffic Appeals Committee will meet regularly during the academic year. It shall make the findings and determinations in an executive session (only members of the committee and advisor present). The committee shall promptly consider each case on its merits, make its findings and determinations, and submit them to the Dean of Students. Results of the appeal will be communicated to the student electronically using the Rydin system in a timely manner. If the student is found not in violation, a waiver shall be made of the penalty fee assessed.

Students who amass unpaid citations will be subject to transcript and registration holds on file with the Business Office, and may be referred to the student conduct process. A student with three or more unresolved citation may be subject to their vehicle being impounded in place.

### **Use of Tobacco Products**

Smoking or other tobacco use, tobacco advertising, tobacco sales, and free distribution of tobacco products are prohibited on the Midwestern State University campus.

Midwestern State University seeks to provide a safe, healthy, pleasant environment for its faculty, staff, and students. To this end, the use of tobacco products, including smoke and smokeless tobacco, and the advertising, sale, free distribution, and discarding of tobacco products shall be prohibited in all indoor and outdoor facilities and in all university vehicles. The policy extends to faculty, staff, students, vendors, guests, and visitors.

#### *Specifications*

1. "Use of tobacco products" shall include
  - a. Possession of a lighted tobacco product;
  - b. Use of smokeless tobacco products; or
  - c. Use of e-cigarettes and other tobacco derived products.
2. "Indoor and outdoor facilities and university vehicles" shall include
  - a. All university-owned or leased vehicles, including cars, pick-up trucks, vans, box trucks, and carts; or
  - b. All private vehicles parked on property owned or leased by Midwestern State University.
3. All buildings and facilities owned or leased by Midwestern State University, including residential homes

- a. All outdoor areas owned or leased by Midwestern State University, including the grounds of the Main Campus and the South Campus and the grounds of residential homes owned by the university.
4. Exceptions: None

### *Enforcement*

1. It is the responsibility of all members of the campus community and campus visitors to observe the provisions of this policy.
2. It is the responsibility of all students, faculty, staff, and campus visitors to uphold the honor of the university by affirming its commitment to this policy.
3. Courtesy and consideration will be exercised when informing violators of this policy. No person will be retaliated against for informing others of the policy or asking others to comply with the policy.
4. A complaint against a violator who fails to comply with the policy after being asked by another to do so, may be referred to a provost and vice president for academic affairs, vice president, associate vice president, dean, or director. Appropriate disciplinary action may be applied to a violator against whom multiple complaints have been received.

### **Withdrawals**

Withdrawals are when a student wishes to be unenrolled from all courses at MSU. A withdrawing student must contact the Office of Student Affairs, preferably in person, to begin the withdrawal process and complete an official withdrawal slip. At the time of withdrawal, a student will be informed of any eligible refund for tuition and fees and any academic consequence of the withdrawal given the timing within a particular term. If a student is unable to withdraw him/herself (i.e. due to medical reasons, etc.), he/she may only be withdrawn by someone who has legal power of attorney for the student. Students living in university housing must move out within 24 hours of withdrawing or being withdrawn from the university.

A student who wishes to un-enroll from all courses at MSU must come to the Office of Student Affairs, located in the Clark Student Center, room 108, to fill out a withdrawal slip. The student will need to bring his/her MSU I.D. Card at the time of withdrawal. Distance education students may contact the Student Affairs Office via phone to withdraw. Once the withdrawal slip has been completed and signed by the student, copies are distributed to the Registrar's Office, Business Office, and Financial Aid Office. Students unable to withdraw themselves from MSU (due to medical reasons, etc.) may only be withdrawn by someone who has legal power of attorney for the student.

### **Refunds**

Only students withdrawing before the official first class of the term will receive a 100% refund of tuition and fees. Starting the first day of classes, the refund rate decreases to 80%.

### *Refund and Repayment Policy Withdrawal Process*

A withdrawing student who has received a prior student loan(s) will be required to visit with the Financial Aid Office, if possible, to complete an online Exit Interview session. A student who is not able to report to campus may have the withdrawal request processed via phone or email but

still will be required to complete an online Exit Interview session with the Financial Aid Office. Upon receipt of the withdrawal form in the Financial Aid Office, the appropriate federal and/or state refund calculation will be performed to determine if the student must repay all or part of the aid awarded, as detailed below. Refer to the information below regarding the FEDERAL “RETURN OF TITLE IV AID” POLICY to determine if you will be required to repay any financial aid monies as a result of withdrawal from the University.

A student who withdraws or is administratively withdrawn from Midwestern State University (MSU) may be eligible to receive a refund to all or a portion of the tuition, fees and room/board charges that were paid to MSU for the semester. HOWEVER, if the student received financial aid (federal/state/institutional grants, loans and/or scholarships), all or a portion of the refund may be returned to the financial aid programs. As described below, two formulas (federal and state) exists in determining the amount of the refund. (Examples of each refund calculation will be made available upon request.)

*Federal “Return of Title IV Aid” Policy*

The federal refund formula is applicable to any student receiving Title IV aid, which includes the Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, TEACH Grant, Federal Perkins Loan, Federal Direct Loan (Subsidized and/or Unsubsidized), and Federal Direct PLUS Loans (parent or graduate); this refund calculation excludes Federal Work-Study. The federal refund formula provides a return of Title IV aid if the student withdraws, is administratively withdrawn, or voluntarily stops attending all classes before completing more than 60% of the semester. If any refund remains after the required return of the Title IV aid, the refund will then be used to repay other state/institutional grants and/or scholarships, as detailed in the State Refund Policy. If any financial aid funds are released to the student prior to the student’s withdrawal via a refund check as a result of a credit balance on the student’s account, the student may then be required to repay all or a portion of the financial aid funds that had been previously released to the student. A student not receiving Title IV aid will have his/her refund calculated using only the State Refund Policy, as below. Additional details about these refund policies are available at <https://msutexas.edu/finaid/withdrawal-policy>

*State Refund Policy*

As stated in the current catalog, a student who withdraws from the University will receive a prorated refund of tuition, fees and room/board charges, in accordance with the following schedule:

Fall/Spring Semesters		Summer Term(s)	
Prior to 1st class day	100%	Prior to 1st class day	100%
During the first 5 class days	80%	During the 1st, 2nd or 3rd day	80%
During the second 5 class days	70%	During the 4th, 5th or 6th day	50%
During the third 5 class days	50%	After the 6th day	0%
During the fourth 5 class days	25%		
After the fourth 5 class days	0%		

*Petitioning for a Full (100%) Refund*

To petition for a 100% refund after the first day of classes, students must meet the following requirements:

1. The reason for withdrawing was beyond the student's control (medical, family emergency, etc.);
2. Provide a written statement explaining why the student feels he/she deserves a full refund;
3. Provide supporting documentation to validate the reason for withdrawal (i.e. medical records with date of admittance and release).

Once a student has provided the Office of Student Rights and Responsibilities with the above information/documentation, the information will be provided to the Vice President of Administration and Finance to make the final decision on whether or not the refund petition will be approved.

## **Appendix A; Drug and Alcohol Abuse Prevention Program**

The Drug-Free Schools and Communities Act Amendments of 1989 requires an annual distribution, in writing, to each student for which academic credit will be awarded (regardless of the length of the student's program of study) as well as all employees, and must include the following:

1. Standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;
2. A description of applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;
3. A description of health risks associated with the use of illicit drugs and the abuse of alcohol;
4. A description of drug or alcohol counseling, treatment, or rehabilitation or re-entry programs available to students or employees; and
5. A statement of the disciplinary sanctions the University will impose on students and employees and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the applicable standards of conduct.

The following information is provided annually to students and employees of Midwestern State University for their assistance and to comply with provisions of the Act.

### **PREVENTION OF ALCOHOL ABUSE AND ILLICIT DRUG USE AT MIDWESTERN STATE UNIVERSITY**

Midwestern State University has adopted and implemented a program to prevent unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on the campus or as a part of any of its activities. Midwestern State University recognizes the importance of information about drug and alcohol abuse; therefore, this information is designed to provide you with information about university policies and procedures, applicable legal sanctions and health risks associated with alcohol abuse and illicit drug use.

### **STANDARDS OF CONDUCT**

Midwestern State University prohibits the unlawful possession, use, or distribution of alcohol and illicit drugs by employees and students on University property or as a part of any officially sponsored University activity. Policies and procedures adopted by the Board of Regents and Midwestern State University relating to the standards of conduct expected of its students and employees in the area of illicit drugs and alcohol are provided in the Student Handbook and in the university's operating policies and procedures.

## HEALTH RISKS OF ALCOHOL AND DRUGS

### Alcohol's Effects on the Body

Drinking too much – on a single occasion or over time – can take a serious toll on a person's health. Below is information about how alcohol can affect the human mind and body.

#### Brain

Alcohol interferes with the brain's communication pathways, and can affect the way the brain looks and works. These disruptions can change mood and behavior, and make it harder to think clearly and move with coordination.

#### Heart

Drinking a lot over a long time or too much on a single occasion can damage the heart, causing problems including:

- Cardiomyopathy – stretching and drooping of heart muscle
- Arrhythmias – irregular heart beat
- Stroke
- High blood pressure

#### Immune System

Drinking too much can weaken your immune system, making your body a much easier target for disease. Chronic drinkers are more liable to contract diseases like pneumonia and tuberculosis than people who do not drink too much. Drinking a lot on a single occasion slows your body's ability to ward off infections – even up to 24 hours after getting drunk.

#### Liver

Heavy drinking takes a toll on the liver, and can lead to a variety of problems and liver inflammations including:

- Steatosis or fatty liver
- Alcoholic hepatitis
- Fibrosis
- Cirrhosis

#### Pancreas

Alcohol causes the pancreas to produce toxic substances that can eventually lead to pancreatitis, a dangerous inflammation and swelling of the blood vessels in the pancreas that prevents proper digestion.

#### Cancer

Based on extensive reviews of research studies, there is a strong scientific consensus of an association between alcohol drinking and several types of cancer. In its Report on Carcinogens, the National Toxicology Program of the US Department of Health and Human Services lists consumption of alcoholic beverages as a known human carcinogen.

The research evidence indicates that the more alcohol a person drinks—particularly the more alcohol a person drinks regularly over time—the higher his or her risk of developing an alcohol-

associated cancer. Based on data from 2009, an estimated 3.5 percent of all cancer deaths in the United States (about 19,500 deaths) were alcohol related. Clear patterns have emerged between alcohol consumption and the development of the following types of cancer:

- **Breast cancer.** Epidemiologic studies have consistently found an increased risk of breast cancer with increasing alcohol intake. Pooled data from 118 individual studies indicates that light drinkers have a slightly increased (1.04-fold higher) risk of breast cancer, compared with nondrinkers. The risk increase is greater in moderate drinkers (1.23-fold higher) and heavy drinkers (1.6-fold higher). An analysis of prospective data for 88,000 women participating in two US cohort studies concluded that for women who have never smoked, light to moderate drinking was associated with a 1.13-fold increased risk of alcohol-related cancers (mostly breast cancer).
- **Colorectal cancer.** Moderate to heavy alcohol consumption is associated with 1.2- to 1.5-fold increased risks of cancers of the colon and rectum compared with no alcohol consumption.
- **Esophageal cancer.** Alcohol consumption at any level is associated with an increased risk of a type of esophageal cancer called esophageal squamous cell carcinoma. The risks, compared with no alcohol consumption, range from 1.3-fold higher for light drinking to nearly 5-fold higher for heavy drinking. In addition, people who inherit a deficiency in an enzyme that metabolizes alcohol have been found to have substantially increased risks of esophageal squamous cell carcinoma if they consume alcohol.
- **Head and neck cancer.** Moderate to heavy alcohol consumption is associated with higher risks of certain head and neck cancers. Moderate drinkers have 1.8-fold higher risks of oral cavity (excluding the lips) and pharynx (throat) cancers and 1.4-fold higher risks of larynx (voice box) cancers than non-drinkers, and heavy drinkers have 5-fold higher risks of oral cavity and pharynx cancers and 2.6-fold higher risks of larynx cancers. The risks of these cancers are substantially higher among persons who consume this amount of alcohol and also use tobacco.
- **Liver cancer.** Heavy alcohol consumption is associated with approximately 2-fold increased risks of two types of liver cancer (hepatocellular carcinoma and intrahepatic cholangiocarcinoma).

Sources: The National Institute on Alcohol Abuse and Alcoholism, National Cancer Institute  
Drugs' Effects on the Body

All controlled substances have abuse potential or are immediate precursors to substances with abuse potential. Below is information about how drugs can affect the human mind and body.

Narcotics (Fentanyl, Heroin, Hydromorphone, Methadone, Morphine, Opium, Oxycodone)

- **Effects on the Mind:** Besides their medical use, narcotics/opioids produce a general sense of well-being by reducing tension, anxiety, and aggression. These effects are helpful in a therapeutic setting but contribute to the drugs' abuse. Narcotic/opioid use comes with a variety of unwanted effects, including drowsiness, inability to concentrate, and apathy.
- **Effects on the Body:** Narcotics/opioids are prescribed by doctors to treat pain, suppress cough, cure diarrhea, and put people to sleep. Effects depend heavily on the dose, how it's taken, and previous exposure to the drug. Negative effects include slowed physical activity,



constriction of the pupils, flushing of the face and neck, constipation, nausea, vomiting, and slowed breathing. As the dose is increased, both the pain relief and the harmful effects become more pronounced. Some of these preparations are so potent that a single dose can be lethal to an inexperienced user. However, except in cases of extreme intoxication, there is no loss of motor coordination or slurred speech.

#### Stimulants (Amphetamines, Cocaine, Khat, Methamphetamine)

- **Effects on the Mind:** When used as drugs of abuse and not under a doctor's supervision, stimulants are frequently taken to produce a sense of exhilaration, enhance self-esteem, improve mental and physical performance, increase activity, reduce appetite, extend wakefulness for prolonged period, and "get high." Chronic, high-dose use is frequently associated with agitation, hostility, panic, aggression, and suicidal or homicidal tendencies. Paranoia, sometimes accompanied by both auditory and visual hallucinations, may also occur. Tolerance, in which more and more drug is needed to produce the usual effects, can develop rapidly, and psychological dependence occurs. In fact, the strongest psychological dependence observed occurs with the more potent stimulants, such as amphetamine, methylphenidate, methamphetamine, cocaine, and methcathinone. Abrupt cessation is commonly followed by depression, anxiety, drug craving, and extreme fatigue, known as a "crash."
- **Effects on the Body:** Stimulants are sometimes referred to as uppers and reverse the effects of fatigue on both mental and physical tasks. Therapeutic levels of stimulants can produce exhilaration, extended wakefulness, and loss of appetite. These effects are greatly intensified when large doses of stimulants are taken. Taking too large a dose at one time or taking large doses over an extended period of time may cause such physical side effects as dizziness, tremors, headache, flushed skin, chest pain with palpitations, excessive sweating, vomiting, and abdominal cramps.

#### Depressants (Barbiturates, Benzodiazepines, GHB, Rohypnol)

- **Effects on the Mind:** Depressants used therapeutically do what they are prescribed for: induce sleep, relieve anxiety and muscle spasms, and prevent seizures. They also cause amnesia, leaving no memory of events that occur while under the influence, reduce reaction time, impair mental functioning and judgment, and cause confusion. Long-term use of depressants produces psychological dependence and tolerance.
- **Effects on the Body:** Some depressants can relax the muscles. Unwanted physical effects include slurred speech, loss of motor coordination, weakness, headache, lightheadedness, blurred vision, dizziness, nausea, vomiting, low blood pressure, and slowed breathing. Prolonged use of depressants can lead to physical dependence even at doses recommended for medical treatment. Unlike barbiturates, large doses of benzodiazepines are rarely fatal unless combined with other drugs or alcohol. But unlike the withdrawal syndrome seen with most other drugs of abuse, withdrawal from depressants can be life threatening.

#### Hallucinogens (Ecstasy/MDMA, Ketamine, LSD, Peyote & Mescaline, Psilocybin)

- **Effects on the Mind:** Sensory effects include perceptual distortions that vary with dose, setting, and mood. Psychic effects include distortions of thought associated with time and space. Time may appear to stand still, and forms and colors seem to change and take on

new significance. Weeks or even months after some hallucinogens have been taken, the user may experience flashbacks — fragmentary recurrences of certain aspects of the drug experience in the absence of actually taking the drug. The occurrence of a flashback is unpredictable, but is more likely to occur during times of stress and seems to occur more frequently in younger individuals. With time, these episodes diminish and become less intense.

- Effects on the Body: Physiological effects include elevated heart rate, increased blood pressure, and dilated pupils.

### Marijuana/Cannabis

- Effects on the Mind: When marijuana is smoked, the tetrahydrocannabinol (THC) passes from the lungs and into the bloodstream, which carries the chemical to the organs throughout the body, including the brain. In the brain, the THC connects to specific sites called cannabinoid receptors on nerve cells and influences the activity of those cells. Many of these receptors are found in the parts of the brain that influence pleasure, memory, thought, concentration, sensory and time perception, and coordinated movement. The short-term effects of marijuana include problems with memory and learning, distorted perception, difficulty in thinking and problem-solving, and loss of coordination. The effect of marijuana on perception and coordination are responsible for serious impairments in learning, associative processes, and psychomotor behavior (driving abilities). Long term, regular use can lead to physical dependence and withdrawal following discontinuation, as well as psychic addiction or dependence. Clinical studies show that the physiological, psychological, and behavioral effects of marijuana vary among individuals and present a list of common responses to cannabinoids, as described in the scientific literature:
  - Dizziness, nausea, tachycardia, facial flushing, dry mouth, and tremor initially
  - Merriment, happiness, and even exhilaration at high doses
  - Disinhibition, relaxation, increased sociability, and talkativeness
  - Enhanced sensory perception, giving rise to increased appreciation of music, art, and touch
  - Heightened imagination leading to a subjective sense of increased creativity
  - Time distortions
  - Illusions, delusions, and hallucinations are rare except at high doses
  - Impaired judgment, reduced coordination, and ataxia, which can impede driving ability or lead to an increase in risk taking behavior
  - Emotional lability, incongruity of affect, dysphoria, disorganized thinking, inability to converse logically, agitation, paranoia, confusion, restlessness, anxiety, drowsiness, and panic attacks may occur, especially in inexperienced users or in those who have taken a large dose
  - Increased appetite and short-term memory impairment are common
- Effects on the Body: Short-term physical effects from marijuana use may include sedation, bloodshot eyes, increased heart rate, coughing from lung irritation, increased appetite, and decreased blood pressure. Marijuana smokers experience serious health problems such as bronchitis, emphysema, and bronchial asthma. Extended use may cause suppression of the immune system. Withdrawal from chronic use of high doses of marijuana causes physical signs including headache, shakiness, sweating, and stomach pains and nausea.

Withdrawal symptoms also include behavioral signs such as restlessness, irritability, sleep difficulties, and decreased appetite.

## Steroids

- **Effects on the Mind:** Case studies and scientific research indicate that high doses of anabolic steroids may cause mood and behavioral effects. In some individuals, steroid use can cause dramatic mood swings, increased feelings of hostility, impaired judgment, and increased levels of aggression (often referred to as “roid rage”). When users stop taking steroids, they may experience depression that may be severe enough to lead one to commit suicide. Anabolic steroid use may also cause psychological dependence and addiction.
- **Effects on the Body:** A wide range of adverse effects is associated with the use or abuse of anabolic steroids. These effects depend on several factors including age, sex, the anabolic steroid used, amount used, and duration of use. In adolescents, anabolic steroid use can stunt the ultimate height that an individual achieves. In boys, steroid use can cause early sexual development, acne, and stunted growth. In adolescent girls and women, anabolic steroid use can induce permanent physical changes, such as deepening of the voice, increased facial and body hair growth, menstrual irregularities, male pattern baldness, and lengthening of the clitoris. In men, anabolic steroid use can cause shrinkage of the testicles, reduced sperm count, enlargement of the male breast tissue, sterility, and an increased risk of prostate cancer. In both men and women, anabolic steroid use can cause high cholesterol levels, which may increase the risk of coronary artery disease, strokes, and heart attacks. Anabolic steroid use can also cause acne and fluid retention. Oral preparations of anabolic steroids, in particular, can damage the liver. Users who inject steroids run the risk of contracting various infections due to non-sterile injection techniques, sharing of contaminated needles, and the use of steroid preparations manufactured in non-sterile environments. All these factors put users at risk for contracting viral infections such as HIV/AIDS or hepatitis B or C, and bacterial infections at the sight of injection. Users may also develop endocarditis, a bacterial infection that causes a potentially fatal inflammation of the heart lining.

## Inhalants

- **Effects on the Mind:** Inhalant abuse can cause damage to the parts of the brain that control thinking, moving, seeing, and hearing. Cognitive abnormalities can range from mild impairment to severe dementia.
- **Effects on the Body:** Inhaled chemicals are rapidly absorbed through the lungs into the bloodstream and quickly distributed to the brain and other organs. Nearly all inhalants produce effects similar to anesthetics, which slow down the body’s function. Depending on the degree of abuse, the user can experience slight stimulation, feeling of less inhibition, or loss of consciousness. Within minutes of inhalation, the user experiences intoxication along with other effects similar to those produced by alcohol. These effects may include slurred speech, an inability to coordinate movements, euphoria, and dizziness. After heavy use of inhalants, users may feel drowsy for several hours and experience a lingering headache. Additional symptoms exhibited by long-term inhalant users include:
  - Weight loss, muscle weakness, disorientation, inattentiveness, lack of coordination, irritability, depression, and damage to the nervous system and other organs

- Some of the damaging effects to the body may be at least partially reversible when inhalant abuse is stopped; however, many of the effects from prolonged abuse are irreversible.
- Prolonged sniffing of the highly concentrated chemicals solvents or aerosol sprays can induce irregular and rapid heart rhythms and lead to heart failure and death within minutes. There is a common link between inhalant use and problems in school — failing grades, chronic absences, and general apathy.
- Paint or stains on body or clothing; spots or sores around the mouth; red or runny eyes or nose; chemical breath odor; drunk, dazed, or dizzy appearance; nausea; loss of appetite; anxiety; excitability; and irritability

Source: Drugs of Abuse, US Department of Justice Drug Enforcement Administration Resource Guide, 2017 Edition

## DRUG AND ALCOHOL ABUSE COUNSELING SERVICES

Trained personnel in the MSU Counseling Center are available to counsel university students who voluntarily seek assistance and have not been charged with violation of university policy.

## DRUG AND ALCOHOL PREVENTION AND EDUCATION PROGRAMS

The university places considerable emphasis on prevention programs, teaching basic behavioral skills, increasing awareness of the dangers of high- risk behavior, and aiming to shift social norms and correct misperceptions about what substance safety risk behaviors students are actually engaging in. Following is a listing of relevant prevention and education initiatives.

### AlcoholEdu, Office of the Dean of Students

AlcoholEdu is a 1.5 hour online training program required of all incoming MSU Texas undergraduates under the age of 25. Entering undergraduates 25 and older and graduate students are invited to complete the training, but not required. A required student is ineligible to register for the subsequent long semester courses until the training is complete. The training incorporates the latest evidence-based prevention methods to create a highly engaging user experience that inspires students to reflect on and consider changing their drinking habits in addition to providing strategies for staying safe while in college.

### AlcoholEdu (Sanctions Module), Office of Student Rights and Responsibilities

AlcoholEdu for Sanctions is designed specifically to help students who have violated campus alcohol policies to make safer and healthier choices and to avoid experiencing alcohol related problems again. The course provides a strong educational foundation to support campus judicial programs and is an essential component of a comprehensive alcohol prevention initiative. The course re-emphasizes the skills and topics important for this particular group of students to reconsider, such as standard drink measurements, factors affecting blood alcohol content and how to identify and respond to alcohol poisoning. The goals for this course are to help educate students to make different drinking choices and reduce their participation in behaviors that will lead to additional sanctions.

Campus Safety Program at Orientation, Admissions & Student Leadership and Involvement  
New students participating in freshman and transfer orientation programs prior to the semester, including online orientation, early orientation, and Mustangs Roundup, receive information about campus safety. Information includes university policies, reporting options, confidential resources, and educational programs that pertain to alcohol, drugs, and sexual misconduct.

#### College Connections, Tutoring and Academic Support Programs

College Connections is a first-year seminars for new undergraduates. The curriculum includes a unit on wellness discussing the harmful effects of substance abuse. Students also receive a more intimate look at the resources on campus and in our local community relevant to wellness should they ever need to seek help. Instructors also build in reminders to complete the University's Think About It training program to help ensure students complete their modules on alcohol, drug, and sexual misconduct awareness.

#### Community Partners Program, Vinson Health Center

Multiple community resources address various aspects of health problems generated by behavioral issues. Our community partners program systematically coordinates the student health center with the Public Health Department. This has provided coordinated STI testing and tracking, free condom distribution, and on-campus presence of public health for STI screening on HIV/AIDS Awareness Day. We also coordinate education on STI's by providing continuing education credits to addiction professionals, juvenile justice workers, professional counselors, marriage and family counselors, and social workers. We have also established an expedited counseling, testing, and treatment program with the HIV Preventive Services Office, providing onsite, immediate services for patients with a positive HIV screening test.

#### Conduct Referrals, Residence Life and Housing

Residence Life and Housing makes multiple student conduct referrals on the basis of alleged alcohol or drug violations. In addition to following University conduct procedures in these instances, an educational approach helps connect students with supportive campus partners, such as the Counseling Center, as applicable.

#### Internal Awareness and Intervention Program, Vinson Health Center

MSU provides discrete detection, prevention, and treatment to students at the Vinson Health Center. Every student is screened for emotional concerns, alcohol use, tobacco use, and substance use; positive answers are followed by motivational interviewing and treatment as indicated. We have developed an expedited STI screening process that is RN directed. The STI screening process involves interview, counseling, testing, and a sexual health product bag. Monthly well woman classes provide accurate and practical knowledge regarding women's health, STI's, and gynecologic issues. We provided office space for a counselor from First Step in the clinic and coordinated private appointments for the counselor.

#### Marijuana 101, Office of Student Rights and Responsibilities

Marijuana 101 is an online course used for sanctioning pursuant to violations of the University drug policy. The course provides an exploration of a student's attitudes, behaviors, and risk levels related to marijuana use. The lessons provide an overview of marijuana's effects on the body, the laws related to marijuana, and how to reduce or stop marijuana use.

#### Mustangs Shuttle and MESA Bus Service, Office of the Dean of Students

The Mustangs Shuttle and MESA is a service provided by the City of Wichita Falls, which offers free shuttle rides to and from the university while classes are in session. The Mustangs Shuttle operates Monday-Thursday until 10pm, while the MESA operates Friday-Saturday until midnight.

#### New Member Institute, Student Leadership and Involvement

Each semester, all new members of Greek-letter organizations participate in a series of educational programs through the New Member Institute intended to educate new members about the responsibilities of fraternity and sorority life membership, and bring awareness to the important topics of alcohol, drugs, hazing, sexual misconduct, diversity/inclusion, and scholarship.

#### Outreach Presentations, Counseling Center

Programs are planned and presented on request by student organizations on topics including safe partying and substance abuse. Organizations which are members of the fraternity and sorority system at the University typically request a program annually.

#### Outreach/Education Program, Vinson Health Center

As health experts, we both provide and participate in educational opportunities beyond the clinic walls. These include education on STI's and on contraception provided each semester to senior nursing classes, sociology classes (human sexuality), and to incoming freshmen. Vinson Health Center staff have participated in educational activities to enhance understanding of the Clery Act, VAWA, Title IX, and hosted an in-service by the local SANE nurse program. Vinson Health Center staff has provided expertise on STI's and women's health to the combined sororities on campus, and has contributed to National Women's Day and other Campus Climate activities.

#### Psycho-Educational Substance Abuse Counseling, Counseling Center

Group therapy sessions centered on the issues of alcohol and drug use are available monthly and presented by a Licensed Chemical Dependency Counselor. Referrals to the sessions are made through the Counseling Center.

#### Residence Hall Programming, Residence Life and Housing

Residence Life staff focus programming through a traditional wellness model. Alcohol and drug awareness programming are included in this model each semester. Resident Assistants and Hall Directors are the primary staff members responsible for hosting these events within their respective residence hall.

#### Safe Spring Break, Residence Life and Housing

Residence Life and Housing conducts a campus-wide spring break safety program each March titled to promote healthy student behaviors during spring break. Alcohol and drug information is included in this annual program.

#### Sexual Assault Awareness Month, Title IX Office

Each April, collaborative programming is offered to raise awareness and enhance prevention of sexual misconduct/assault. These programs include speakers, workshops, trainings, and

information campaigns. Included in many of these programs is information about the interrelationship between alcohol use and sexual misconduct, as well as the role alcohol/drugs play in determining affirmative consent.

#### Speakers/Performances, Counseling Center & Title IX Office

Each year, the Counseling Center and/or Title IX Office sponsors a major program for students, which includes content on awareness/abuse.

#### Step-Up Bystander Intervention Training, Athletics

Each academic year, student-athletes attend the Step-Up Bystander Intervention Training. The Step-Up Bystander Intervention Training is an interactive in-person training that encourages prosocial behavior and educates students to be proactive in helping others. It received a NASPA Gold award and recently was identified as a 'Best Practice' by the NCAA Sports Science Institute of national and international scholars.

#### Student-Athlete Development, Athletics

The Athletic department provides various types of life skills workshops to enhance the lives of student-athletes. The Drug and Alcohol Prevention program is one that focuses on the negative effects drugs and alcohol have on the human body as it pertains to athletics. These educational workshops provide the opportunity for student-athletes to ask questions and become more knowledgeable about the services available to them on campus.

#### Student Organization Risk Management Training, Student Leadership and Involvement

Student organization leaders are required to complete annual Risk Management training. Alcohol is a specific topic included in the training. The training focuses on building knowledge and skill amongst student organization leaders to minimize and address risk and enhance the health and safety of students and other members of the MSU community.

#### Student Success Series, First2Go

The student success series provides student programs on various topics important to undergraduate student success. A program titled Sex, Drugs, Alcohol and Everything in Between by Julia Garcia was presented to students and included stories of real life experiences of excessive partying that ultimately led to a sexual assault, death of a best friend and infamous night that almost took the entire college experience away completely.

## DISCIPLINARY SANCTIONS

Where violation of the MSU Drug-Free Schools and Communities Act Policy is found, the university will, in accordance with established procedures of Midwestern State University, take appropriate disciplinary action against such students or employees, up to and including expulsion or termination of employment. The University may require such students or employees to participate satisfactorily in an off-campus drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency. The cost of such programs, not covered by applicable insurance, shall be borne by the individual.

Students or employees found in violation of university policy or Local, State, or Federal law regarding the use, possession, or distribution of alcohol or other drugs (as defined by the Texas Health and Safety Code, Chapter 481, Texas Controlled Substances Act, and the Texas Alcoholic Beverage Code, Chapter 1) will be subject to legal penalty in addition to any appropriate university personnel or disciplinary action(s).

#### University Disciplinary Sanctions for Students

VIOLATION: Minor in Possession/Consumption of Alcohol or Housing Alcohol Policy Violation	POSSIBLE DISCIPLINARY SANCTIONS
First Offense (possible sanctions include, but are not limited to)	Participation in an alcohol education course, at the student's expense unless provided through the University Authorship of a research/reflection essay Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)
Second Offense (possible sanctions include, but are not limited to)	Mandated substance abuse assessment by an approved agency and required compliance with the assessing counselor's evaluation Authorship of a research/reflection essay Fine of \$100 Notification of parents/guardians of students under the minimum legal drinking age of 21 Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)
Third and Subsequent Offenses (possible sanctions include, but are not limited to)	Suspension or expulsion from University housing and/or the University Fine of \$200 Notification of parents/guardians of students under the minimum legal drinking age of 21 Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)



<p>VIOLATION: Purchasing, Selling or Providing Alcohol to Minors</p>	<p>POSSIBLE DISCIPLINARY SANCTIONS</p>
<p>First Offense (possible sanctions include, but are not limited to)</p>	<p>Participation in an alcohol education course at the student's expense, unless provided through the University  Mandated substance abuse assessment by an approved agency and required compliance with the assessing counselor's evaluation  Authorship of a research/reflection essay  Fine of \$100  Notification of parents/guardians of students under the minimum legal drinking age of 21  Suspension from University housing  Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)</p>
<p>Second Offense (possible sanctions include, but are not limited to)</p>	<p>Suspension or expulsion from the University  Notification of law enforcement authorities  Fine of \$200  Notification of parents/guardians of students under the minimum legal drinking age of 21  Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)</p>

<p>VIOLATION: Driving Under the Influence/Driving While Intoxicated</p>	<p>POSSIBLE DISCIPLINARY SANCTIONS</p>
<p>First Offense (possible sanctions include, but are not limited to)</p>	<p>Loss of driving and/or parking privileges on campus for a specified period of time  Participation in an alcohol education course, at the student's expense, unless provided through the University  Authorship of a research/reflection essay  Fine of \$100  Notification of parents/guardians of students under the minimum legal drinking age of 21  Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)</p>
<p>Second Offense (possible sanctions include, but are not limited to)</p>	<p>Suspension or expulsion from University housing and/or the University  Notification of law enforcement authorities  Fine of \$200  Notification of parents/guardians of students under the minimum legal drinking age of 21  Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)</p>

VIOLATION: Possession of Drug Paraphernalia or Housing Drug Policy Violation	POSSIBLE DISCIPLINARY SANCTIONS
First Offense (possible sanctions include, but are not limited to)	Participation in a drug education course, at the student's expense, unless provided through the University Authorship of a research/reflection essay Notification of parents/guardians of students under 21 years of age Notification of law enforcement authorities Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)
Second Offense (possible sanctions include, but are not limited to)	Expulsion from University housing Notification of parents/guardians of students under 21 years of age Mandated substance abuse assessment by an approved agency and required compliance with the assessing counselor's evaluation Authorship of a research/reflection essay Fine of \$100 Notification of law enforcement authorities Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)
Third Offense (possible sanctions include, but are not limited to)	Expulsion from the University Notification of parents/guardians of students under 21 years of age Fine of \$200 Notification of law enforcement authorities Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)

VIOLATION: Possession or Use of Drug Illegal Drugs	POSSIBLE DISCIPLINARY SANCTIONS
First Offense (possible sanctions include, but are not limited to)	Expulsion from University housing Suspension from the University for a period of not less than the remainder of the semester in which the infraction occurred Participation in a drug education course, at the student's expense, unless provided through the University Mandated substance abuse assessment by an approved agency and required compliance with the assessing counselor's evaluation Authorship of a research/reflection essay Notification of parents/guardians of students under 21 years of age Fine of \$100 Notification of law enforcement authorities Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)
Second Offense (possible sanctions include, but are not limited to)	Expulsion from the University Notification of parents/guardians of students under 21 years of age Fine of \$200 Notification of law enforcement authorities Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)

VIOLATION: Manufacture, Sale or Distribution of Illegal Drugs	POSSIBLE DISCIPLINARY SANCTIONS
First Offense (possible sanctions include, but are not limited to)	Expulsion from University housing Suspension from the University for a period of not less than the remainder of the semester in which the infraction occurred Notification of parents/guardians of students under 21 years of age Fine of \$100 Notification of law enforcement authorities Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)
Second Offense (possible sanctions include, but are not limited to)	Expulsion from the University Notification of parents/guardians of students under 21 years of age Fine of \$200 Notification of law enforcement authorities Other sanctions as determined by the Director of Student Rights and Responsibilities (or designee)

PENALTIES UNDER STATE OF TEXAS LAW

OFFENSE	LEGAL SANCTIONS AND PENALTIES UNDER TEXAS LAW
Manufacture or delivery of controlled substances (drugs)	<p>Minimum: Fine not to exceed \$10,000 and confinement in jail for a term of not more than 2 years and not less than 180 days.</p> <p>Maximum: Fine not to exceed \$250,000 and imprisonment in TDC for life or for a term of not more than 99 years nor less than 15 years.</p>
Possession of controlled substances (drugs)	<p>Minimum: Confinement in jail for a term of not more than 180 days, a fine not to exceed \$2,000, or both.</p> <p>Maximum: Confinement in TDC for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed \$250,000.</p>
Delivery of marijuana	<p>Minimum: Confinement in jail for a term of not more than 180 days, a fine not to exceed \$2,000, or both.</p> <p>Maximum: Confinement in TDC for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed \$100,000.</p>
Possession of marijuana	<p>Minimum: Confinement in jail for a term of not more than 180 days, a fine not to exceed \$2,000, or both.</p> <p>Maximum: Confinement in TDC for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed \$50,000.</p>
Driving while intoxicated (includes intoxication from alcohol, drugs, or both)	<p>Fine up to \$10,000; Jail time between 3 days and 1 year; State prison time between 2 years and 10 years; Annual surcharge up to \$2000 for 3 years to keep your license; DWI intervention or education programs; Possible ignition interlock device.</p>
Public Intoxication: Minors Purchase of alcohol by a minor Consumption of alcohol by a minor Possession of alcohol by a minor	<p>Class C Misdemeanor, punishable by a fine up to \$500; Alcohol awareness class; 8 to 40 hours community service; 30-180 days loss or denial of driver's license.</p>
Selling or providing alcohol to a minor	<p>Class A misdemeanor, punishable by a fine up to \$4,000, confinement in jail for up to a year, or both. Driver's license automatically suspended for 180 days upon conviction.</p> <p>The state penalties described above are based on applicable State of Texas statutes and are subject to change at any time by the Texas Legislature and the Governor of Texas. Please refer to the applicable State of Texas statute for additional information.</p>

PENALTIES UNDER FEDERAL LAW

OFFENSE	LEGAL SANCTIONS AND PENALTIES UNDER FEDERAL LAW
<p>Manufacture, distribution, or delivery of controlled substances (drugs)</p>	<p>Minimum: Punishable by up to 3 years in prison and fine up to \$250,000.</p> <p>Maximum: Punishable by a term of life imprisonment without release (no eligibility for parole) and a fine not to exceed \$8,000,000 for an individual or \$20,000,000 (if other than an individual).</p>
<p>Possession of controlled substances (drugs)</p>	<p>Minimum: Punishable by up to 1 year in jail and minimum fine of \$1,000.</p> <p>Maximum: Punishable by up to 3 years in prison and fine up to \$5,000 plus costs of investigation and prosecution.</p>
<p>Distribution of controlled substances (drugs) to a person under 21 years of age</p>	<p>Minimum: Punishable by double the federal penalty for distribution of drugs. Maximum: Punishable by triple the federal penalty for distribution of drugs.</p> <p>The federal penalties described above are based on applicable federal statutes and are subject to change at any time by the US Congress and the President of the United States. There are additional factors in the federal sentencing guidelines, including various enhancement provisions for prior offenses. Title 21 U.S.C. Section 860 provides that the federal statutory penalties double (and in some cases triple) when a controlled substance is distributed (or even possessed with intent to distribute) within 1,000 feet of a school or a public university. Please refer to the applicable federal statute for additional information.</p>

## Appendix B: Information Supplementing the University Sexual Misconduct Policy

In addition to the information provided in the university Sexual Misconduct Policy, students should know that rape is a crime and should be reported to civil authorities. Rape is often thought of as a violent attack on a woman by a madman who uses a weapon to threaten his victim, but this description does not apply to the majority of rapes that take place in the United States. "Victims of rape and sexual assault report that in nearly 3 out of 4 incidents, the offender was not a stranger...two thirds of the victims 18 to 29 years old had a prior relationship with the rapist" (Greenfield, 1997). Therefore, university students are more likely to be victimized by someone they know, and perhaps trust, than by someone who is a stranger. Both men and women can be victims. Non-consensual intercourse by a person one knows is defined as *date rape* or *acquaintance rape*, both of which are as serious a crime as stranger rape.

### FREQUENTLY ASKED QUESTIONS

The following are some of the most commonly asked questions regarding the university's Sexual Misconduct Policy and procedures.

a) *Does a complaint remain confidential?*

Reports made to licensed counselors, health service providers, victim services advocates and clergy will be kept confidential. Other reports are considered private. The privacy of all parties to a complaint of sexual misconduct will be maintained, except insofar as it interferes with the university's obligation to fully investigate allegations of sexual misconduct. Where information is shared, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. In all complaints of sexual misconduct, the reporting party will be informed of the outcome. In some instances, the administration also may choose to make a brief announcement of the nature of the violation and the action taken, to the community, though personally identifying information about the victim will not be shared. Certain university administrators are informed privately (e.g., the President of the University, Title IX Coordinator, Vice President for Student Affairs, Dean of Students, Chief of Police, Director of Student Rights and Responsibilities, Director of the Counseling Center, etc.). The university must statistically report the occurrence on campus of any major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

b) *Will my parents/guardians be told?*

No, not unless you tell them. Whether you are the reporting party or the accused student/responding party, the university's primary relationship is to the student and not to the parent/guardian. However, in the event of major medical or conduct action, or academic jeopardy, students are strongly encouraged to inform their parents. University officials may directly inform parents when requested to do so by a student, or in a life-threatening situation, or if an accused student has signed the permission slip at registration which allows such communication.

c) *Do I have to name the alleged perpetrator?*

Yes, if you want formal conduct action to be taken against the alleged perpetrator. No, if you choose to respond informally and do not file a formal complaint. One should consult the complete privacy policy described in Section 12: Sexual Misconduct Policy of the *Code of*

*Student Conduct* to better understand the university's legal obligations regarding information which is shared with various university officials.

d) *What should I do if I am accused of sexual misconduct?*

First, do not contact the alleged victim. You may immediately want to contact someone in the campus community who can act as your advisor. You may also contact the Director of Student Rights and Responsibilities, Director of Human Resources, or Title IX Coordinator who can explain the university's procedures for dealing with sexual misconduct complaints. You may also want to talk to a confidential counselor in the Counseling Center.

e) *What should I do about legal advice?*

Victims of criminal sexual assault need not retain a private attorney to seek prosecution because legal issues will be handled through a representative from the local District Attorney's office. You may want to retain an attorney if you are the accused student/responding party or are considering filing a civil action against the alleged perpetrator.

f) *What should I do about changing university housing rooms?*

If you want to move, or have the accused student moved, you may request a room change through the Residence Life Room Change policy or contacting the Director of Residence Life & Housing. Room changes under these circumstances are considered emergencies. It is the university's policy that in emergency room changes, the student is moved to the first available suitable room. Other accommodations available to you might include:

1. Assistance from university support staff in completing the relocation;
2. Arranging to dissolve a housing contract and pro-rating a refund;
3. Exam, paper or assignment rescheduling;
4. Taking an incomplete in a class;
5. Transferring class sections;
6. Academic withdrawal; and/or
7. Alternative course completion options.

g) *What should I do to preserve evidence of a sexual assault?*

Physical information of a sexual assault must be collected within about 120 hours of the assault for it to be useful in a criminal prosecution. If you believe you have been a victim of a sexual assault, you should go to a hospital emergency room before washing yourself or your clothing. A sexual assault health professional (a specially trained nurse called a SANE) at the hospital is on call and will counsel you. If you go to the hospital, local police will be called but you are not obligated to talk to the police or to prosecute. The exam will help to keep that option open for you should you decide later to exercise it.

The hospital staff will collect information, check for injuries and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet. (Plastic containers do not breathe, and may render forensic information useless.) If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as information. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear information for the police to collect.

h) *Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?*

No, not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

i) *Will a student be sanctioned when reporting an act of sexual misconduct if the student has illegally used drugs or alcohol?*

No. The university offers amnesty in such situations. The seriousness of sexual misconduct is a major concern and the university does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct.

j) *What should I do if I am uncertain about what happened?*

If you believe that you have experienced non-consensual sexual contact or intercourse, but are unsure of whether it was a violation of the university's sexual misconduct policy, you should contact the Title IX Coordinator, Associate Vice President for Student Affairs, or Director of Human Resources. The university employs licensed counselors in the Counseling Center and the community offers confidential victim advocates from First Step, Inc. These individuals can help you to define and clarify the event(s), and advise you of your options.

## RISK REDUCTION TIPS

Tips like these tend to make victims feel blamed if a sexual assault occurs. It is never the victim's fault, and these tips are offered in the hope that recognizing patterns can help men and women to reduce the risk of victimization. That said, only a rapist or an empowered bystander can intervene to prevent a rape or assault. Generally, an assault by a known offender will follow a four-step pattern:

- a) An individual's personal space is violated in some way. For example, the perpetrator may touch the victim in a way that does not feel comfortable.
- b) If the victim does not express discomfort, the perpetrator may begin to view the victim as an easy target because she/he is not acting assertively.
- c) The perpetrator may take the victim to a location that is secluded and where the victim is vulnerable.
- d) The victim feels trapped or unable to be assertive and is raped or assaulted.

Decisive action early in an encounter may be the key to avoiding rape. An individual who can combine assertiveness and self-defense skills, who is self-confident and definite in his/her interactions with others, is less likely to become a victim of rape. If the individual can assertively defend his/her rights initially, he/she has a better chance of avoiding being raped than does a person who resorts to techniques such as pleading or trying to talk the perpetrator out of it. If you find yourself in an uncomfortable sexual situation, these suggestions may help you to reduce your risk:

- a) Make your limits known before things go too far.
- b) Give clear messages. Say "yes" when you mean yes and "no" when you mean no. Leave no room for misinterpretation. Tell a sexual aggressor "NO" clearly and loudly, like you mean it.
- c) Try to extricate yourself from the physical presence of a sexual aggressor.
- d) Grab someone nearby and ask for help.



- e) Be responsible for your alcohol intake/drug use and realize that alcohol/drugs lower your sexual inhibitions and may make you more vulnerable to someone who views a drunk or high person as a sexual opportunity.
- f) Watch out for your friends and ask that they watch out for you. A real friend will get in your face if you are about to make a mistake. Respect them if they do.
- g) Be aware of any nonverbal messages you may be sending that conflict with what you are saying. Notice your tone of voice, gestures and eye contact.
- h) Be forceful and firm when necessary. Don't be concerned with being polite. Your passivity may be interpreted as permission or approval for this behavior.
- i) Do not acquiesce to something you do not want just to avoid unpleasantness. Do not allow "politeness" to trap you in a dangerous situation. This is not the time to be concerned about hurt feelings.
- j) Trust your feelings or instincts. If a situation does not feel comfortable to you or you feel anxious about the way your date is acting, you need to respond. Leave immediately if necessary.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- a) Do not make assumptions about:
  1. Consent;
  2. Someone's sexual availability;
  3. Whether a person is attracted to you;
  4. How far you can go; or
  5. Whether a person is physically and mentally able to consent to you.
- b) Clearly communicate your intentions to your sexual partner and give him/her a chance to clearly relate his/her intentions to you.
- c) Mixed messages from your partner should be a clear indication that you should step back, defuse the sexual tension, and communicate better. Perhaps you are misreading your partner. Perhaps your partner has not figured out how far he/she wants to go with you yet. You need to respect the timeline with which your partner is comfortable.
- d) Do not take advantage of someone's drunkenness or drugged state, even if he/she did it to him/herself.
- e) Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Do not abuse that power.
- f) Understand that consent to some forms of sexual behavior does not necessarily imply consent to other forms of sexual behavior.
- g) On this campus, silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.
- h) Do not force someone to have sex with you, or have sex with a partner who has not clearly consented to you by words or actions unmistakable in their meaning.

## REFERENCES

Greenfield, L.A. (1997). Sex offenses and offenders [Electronic version]. *U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics*. Retrieved July 26, 2010, at <http://bjs.ojp.gov/content/pub/pdf/SOO.PDF>.

## Appendix C: University and Community Resources for Victims of Sexual Misconduct

### Midwestern State University Campus Resources

University Police  
Patrick Coggins, Chief of Police

**(940) 397-4239**

[patrick.coggins@msutexas.edu](mailto:patrick.coggins@msutexas.edu)

Counseling Center  
Dr. Pam Midgett, Director

**(940) 397-4618**

[pam.midgett@msutexas.edu](mailto:pam.midgett@msutexas.edu)

Vinson Health Center  
Dr. Keith Williamson, Medical Director  
and University Physician

**(940) 397-4231**

[keith.williamson@msutexas.edu](mailto:keith.williamson@msutexas.edu)

Title IX Coordinator  
Laura Hetrick, Director and  
Coordinator of Title IX

**(940) 397-4213**

[laura.hetrick@msutexas.edu](mailto:laura.hetrick@msutexas.edu)

Deputy Title IX Coordinator  
Dawn Fisher, Director of Human  
Resources

**(940) 397-4221**

[dawn.fisher@msutexas.edu](mailto:dawn.fisher@msutexas.edu)

Deputy Title IX Coordinator  
Kristi Schulte, Director of Residence  
Life and Housing

**(940) 397-4217**

[kristi.schulte@msutexas.edu](mailto:kristi.schulte@msutexas.edu)

## COMMUNITY RESOURCES

First Step, Inc. - First Step provides comprehensive, confidential services to victims of sexual assault and domestic and family violence, including an abuse prevention program. Their services are offered free of charge and include a 24-hour crisis hotline, 24-hour emergency shelter, confidential counseling, legal advocacy, and emergency transportation. The hotline phone number is (800) 658-2683. The regular office phone number is (940) 723-7799. First Step is located at 624 Indiana Avenue, Suite #304, Wichita Falls, TX 76301.

United Regional Health Care System  
1600 Eleventh Street  
Wichita Falls, TX 76301  
(940) 764-7000

Kell West Regional Hospital  
5420 Kell Boulevard  
Wichita Falls, TX 76310  
(940) 692-5888

Crime Victim Compensation – Attorney General’s Office – (800) 983-9933