

Student Rights, Responsibilities and Judicial Procedures

I. Preamble

Academic institutions exist for the transmission of knowledge, the pursuit of truth, the development of students and the general well-being of society. Free inquiry and free expression are indispensable to the attainment of these goals. As members of this academic community students are encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth.

Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the community. Students should exercise their freedom with responsibility. As members of the academic community, students are subject to the obligations which accrue to them by virtue of this membership. As members of the larger community of which the college is a part, students are entitled to all rights and protection accorded them by the laws of that community.

By the same token, students are also subject to all laws, the enforcement of which is the responsibility of duly constituted authorities. When students violate laws, they may incur penalties prescribed by legal authorities. In such instance, college discipline will be initiated only when the presence of the student on campus will disrupt the educational process of the college. However, when a student's violation of the law also adversely affects the college's pursuit of its recognized educational objectives, the college may enforce its own regulations. When students violate college regulations, they are subject to disciplinary action by the college whether or not their conduct violates the law. If a student's behavior simultaneously violates both college regulations and the law, the college may take disciplinary action independent of that taken by legal authorities.

II. Student Rights

- A. All rights and privileges guaranteed to every citizen by the Constitution of the United States and by the state of North Carolina shall not be denied any student.
- B. Students are free to pursue their educational goals. Appropriate opportunities for learning in the classroom and on the campus shall be provided for by the college. Student performance will be evaluated solely on an academic basis, not on opinions or conduct in matters unrelated to academic standards.
- C. Students have the right to freedom of expression, inquiry, and assembly without restraint or censorship subject to reasonable and nondiscriminatory rules and regulations regarding time, place, and manner.
- D. Students have the right to inquire about and to propose improvements in policies, regulations and procedures affecting the welfare of students through established student government procedures, campus committees, and college offices.
- E. No disciplinary sanctions other than temporary removal from class or activity (only for duration of said activity) may be imposed upon any student without due process. Due process procedures are established to guarantee a student accused of a student code of conduct violation the right of a hearing, a presentation of charges, evidence for charges, the right to present evidence, the

right to have witnesses on one's behalf and to hear witnesses on behalf of the accuser(s), the right to counsel, and the right of appeal.

III. Student Code Of Conduct

The college reserves the right to maintain a safe and orderly educational environment for students and staff. Therefore, when, in the judgment of college officials, a student's conduct disrupts or threatens to disrupt the college community, appropriate disciplinary action will be taken to restore and protect the sanctity of the community.

Students are expected to conduct themselves in accordance with generally accepted standards of scholarship and morality. The purpose of this code is not to restrict student rights but to protect the rights of individuals in their academic pursuits.

The following regulations set forth rules of conduct which prohibit certain types of student behavior. Violation of one or more of the following regulations may result in one of the sanctions described in section V.

- A. Academic Dishonesty—taking or acquiring possession of any academic material (test information, research papers, notes, etc.) from a member of the college staff or student body without permission; receiving or giving help during tests; submitting papers or reports (that are supposed to be original work) that are not entirely the student's own; not giving credit for others' work (plagiarism).
- B. Theft of, misuse of, or damage to college property, or theft of or damage to property of a member of the college community or a campus visitor on college premises or at college functions; unauthorized entry upon the property of the college or into a college facility or a portion thereof which has been restricted in use and thereby placed off limits; unauthorized presence in a college facility after closing hours.
- C. Possession of or use of alcoholic beverages or being in a state of intoxication on the college campus or at college-sponsored or supervised functions off campus or in college-owned vehicles. Possession, use or distribution of any illegal drugs. Any influence which may be attributed to the use of drugs or of alcoholic beverages shall not in any way limit the responsibility of the individual for the consequences of his/her actions. (Refer to Drug and Alcohol Policy)
- D. Lewd or indecent conduct, including public physical or verbal action or distribution of obscene or libelous written material.
- E. Mental or physical abuse of any person on college premises or at college-sponsored or college-supervised functions, including verbal or physical actions which threaten or endanger the health or safety of any such persons or which promote hatred or racial prejudice.
- F. Any act, comment, or behavior which is of a sexually suggestive or harassing nature and which in any way interferes with a student's or any employee's performance or creates an intimidating, hostile or offensive environment.

- G. Intentional obstruction or disruption of teaching, research, administration or disciplinary proceedings, or other college activities, including public service functions and other duly authorized activities on college premises.
- H. Occupation or seizure in any manner of college property, a college facility or any portion thereof for a use inconsistent with prescribed, customary, or authorized use.
- I. Participating in or conducting an assembly, demonstration or gathering in a manner which threatens or causes injury to person or property; which interferes with free access to, ingress or egress of college facilities; which is harmful, obstructive or disruptive to the educational process or institutional functions of the college; remaining at the scene of such an assembly after being asked to leave by a representative of the college staff.
- J. Possession or use of a firearm, knife, incendiary device or explosive, except in connection with a college-approved activity. This also includes unauthorized use of any instrument designed or carried with the intent to inflict serious bodily injury to any person.
- K. Setting off a fire alarm or using or tampering with any fire safety equipment, except with reasonable belief in the need for such alarm or equipment.
- L. Gambling.
- M. Smoking and/or using other forms of tobacco products in classrooms, shops, and labs or other unauthorized areas.
- N. Violations of college regulations regarding the operation and parking of motor vehicles.
- O. Forgery, alteration, or misuse of college documents, records or instruments of identification with intent to deceive.
- P. Failure to comply with instructions of college officials acting in performance of their duties.
- Q. Violation of the terms of disciplinary probation or any college regulation during the period of probation.
- R. Fiscal irresponsibility such as failure to pay college-levied fines, failure to repay college-funded loans or the passing of worthless checks to college officials.
- S. Violation of a local, state or federal criminal law on college premises adversely affecting the college community's pursuit of its proper educational purposes.
- T. Falsification of a college document. College documents include, but are not limited to, financial aid applications, admissions applications, residency determination applications, distance learning documentation and registration materials.
- U. Engaging in inappropriate behavior that interferes with the peace, order, and efficient and effective operation of the college, such as harassing another student or college employee, playing loud music, and using loud, threatening and/or obscene language.
- V. Misuse of Mitchell Community College's computer equipment and/or network, computer Network and Electronic Communications Usage, or engaging in cyber-bullying or cyber-stalking activity.

IV. Disciplinary Procedures

- A. Immediate Suspension. If an act of misconduct threatens the health or well being of any member of the academic community or seriously disrupts the function and good order of the

college, an instructor or administrative officer may direct students involved to cease and desist such conduct and advise them that failing to cease and desist will result in immediate suspension. If the students fail to cease and desist, the instructor or administrative officer may then suspend them from the class or the college until a resolution of the matter can be made. The instructor or administrative officer invoking such suspension shall notify the Vice President for Student Services in writing of the individuals involved and the nature of the infraction as soon as possible but no more than two days following the incident. The Vice President shall resolve the matter in a timely fashion utilizing the steps outlined below in section IV. C.

- B. Responsibility for Implementation. The Vice President for Student Services is responsible for implementing student discipline procedures.
- C. Disciplinary Procedures. In order to provide an orderly procedure for handling student disciplinary cases in accordance with due process and justice, the following procedures will be followed:
 - a. Charges: Any administrative official, faculty member, or student may file charges with the Vice President against any student or student organization for violations of college regulations.
 - b. The written charges must include:
 - c. Name of the student(s) involved
 - d. The alleged violation of the specific code of conduct
 - e. The time, place, and date of the incident
 - f. Names of person(s) directly involved or witnesses to the infractions
 - g. Any action taken that related to the matter
 - h. Desired solutions(s)
- D. Investigation and Decision. Within five working days after the charge is filed, the Vice President shall complete a preliminary investigation of the charge and shall schedule a meeting with the student. After discussing the alleged infraction with the student, the Vice President may act as follows:
 - a. Drop the charge.
 - b. Impose a sanction consistent with those shown in Section V.
 - c. Refer the student to a college office or community agency for services.
- E. Notification. The decision of the Vice President shall be presented to the student in writing immediately following the meeting with the student. In instances where the student cannot be reached to schedule an appointment with the Vice President or where the student refuses to cooperate, the Vice President shall send a certified letter to the student's last known address providing the student with a list of the charges, the Vice President's decision, and instructions governing the appeal process (Section VI).

V. Sanctions

Sanctions that may be issued by the college include, but are not limited to, the following:

- A. Reprimand. A written communication which gives official notice to the student that any subsequent offense against the Student Code of Conduct will carry heavier penalties because of this prior infraction.
- B. General Probation. An individual may be placed on General Probation when involved in a minor disciplinary offense: General Probation has two important implications: the individual is given a chance to show his/her capability and willingness to observe the Student Code of Conduct without further penalty; secondly, if he/she errs again, further action will be taken. This probation will be in effect for no more than two semesters.
- C. Restrictive Probation. Restrictive Probation results in loss of good standing and becomes a matter of record. Restrictive conditions may limit activity in the college community. Generally the individual will not be eligible for initiation into any local or national organization, and may not receive any college award or other honorary recognition. The individual may not occupy a position of leadership or responsibility with any college or student organization, publication, or activity. This probation will be in effect for not less than two semesters. Any violation of Restrictive Probation may result in immediate SUSPENSION.
- D. Restitution. Paying for damaging, misusing, destroying or losing property belonging to the college, college personnel or students.
- E. Interim Suspension. Exclusion from class and/or other privileges or activities as set forth in the notice, until a final decision has been made concerning the alleged violation.
- F. Loss of Academic Credit or Grade. Imposed as a result of academic dishonesty.
- G. Withholding Transcript, Diploma, or Right to Register. Imposed when financial obligations are not met.
- H. Suspension. Exclusion from class(es), and/or all other privileges or activities of the college for a specified period of time. This sanction is reserved for those offenses warranting discipline more severe than probation, or for repeated misconduct. Students who receive this sanction must get specific written permission from the Vice President before returning to campus.
- I. Expulsion. Dismissing a student from campus for an indefinite period. The student loses his/her student status. The student may be readmitted to the college only with the approval of the President.
- J. Group Probation. This is given to a college club or other organized group for a specified period of time. If group violations are repeated during the term of the sentence, the charter may be revoked or activities restricted.
- K. Group Restriction. Removing college recognition during the quarter in which the offense occurred or for a longer period (usually not more than one other quarter). While under restriction the group may not seek or add members, hold or sponsor events in the college community, or engage in other activities as specified.
- L. Group Charter Revocation. Removal of college recognition for a group, club, society, or other organization for a minimum of two years. Re-charter after that time must be approved by the President.

VI. Appeals Procedure

A student who disagrees with the decision of the Vice President for Student Services may request a hearing before a Disciplinary Review Committee. This request must be submitted in writing to the Vice President within three working days after receipt of the Vice President's decision. The Vice President shall refer the matter to a Disciplinary Review Committee together with a report of the nature of the alleged misconduct, the name of the complainant, the name of the student against whom the charge has been filed, and the relevant facts revealed by the Vice President's investigation.

- A. Committee Composition. Membership of the Disciplinary Review Committee shall be composed of the following:
 - a. Three faculty members appointed by the President of the college.
 - b. Three student members appointed by the Student Government Association and approved by the President of the College.
 - c. The President will appoint one administrator to serve as committee chairperson who will vote only in cases of a tie.
 - d. The Vice President for Student Services as an ex-officio nonvoting member.
 - e. At least two faculty/staff members and two students plus the chairperson must be present in order for the committee to conduct business.
- B. Procedures for Hearings Before the Disciplinary Review Committee
 - a. Procedural Responsibilities of the Vice President for Student Services

The Review Committee must meet within 10 working days of receipt of a request for a hearing. At least five working days prior to the date set for the hearing, the Vice President shall send a certified letter to the student's last known address providing the student with the following information:

- A. A restatement of the charge or charges.
- B. The time and place of the hearing.
- C. A statement of the student's basic procedural rights.
- D. A list of witnesses.
- E. The names of Committee members.

On written request of the student, the hearing may be held prior to the expiration of the five day notification period, if the Vice President concurs with this change.

Basic procedural rights of students include the following:

- A. The right to counsel. The role of the person acting as counsel is solely to advise the student. The counsel shall not address the Committee.
- B. The right to produce witnesses on one's behalf.
- C. The right to request, in writing, the President to disqualify any member of the committee for prejudice or bias. (The request must contain reasons). A request for disqualification, if made, must be submitted at least three working days prior to the hearing. If such disqualification

occurs, the appropriate nominating body shall appoint a replacement to be approved by the President.

- D. The right to present evidence.
- E. The right to know the identity of the person(s) bringing the charge(s).
- F. The right to hear witnesses on behalf of the person bringing the charges.
- G. The right to testify or to refuse to testify without such refusal being detrimental to the student.
- H. The right to appeal the decision of the Committee to the President who will review the official record of the hearing. The appeal must be in writing and it must be made within five working days of the completion of the hearing.

The Conduct of the Committee Hearings

Hearings before the Committee shall be confidential and shall be closed to all persons except the following:

- A. The student
- B. Counsels
- C. Witnesses who shall:
 - a. Give testimony singularly and in the absence of other witnesses.
 - b. Leave the committee meeting room immediately upon completion of the testimony.
- D. The hearing will be tape recorded. Tapes will become the property of the college, and access to them will be determined by the Chairperson of the Committee and the Vice President. All tapes will be filed in the office of the Vice President for Student Services for a twelve month period.
- E. The Committee shall have the authority to adopt supplementary rules of procedure consistent with this code.
- F. The Committee shall have the authority to render written advisory opinions concerning the meaning and application of this code.
- G. Upon completion of a hearing, the Committee shall meet in executive session to determine concurrence or non-concurrence with the original finding and to recommend sanctions, if applicable.
- H. Decisions of the Committee shall be made by majority vote.
- I. Within two working days after the decision of the Committee, the Vice President shall send a certified letter to the student's last known address providing the student with the Committee's decision.

Appeal to the President

A student who disagrees with and refuses to accept the findings of the Committee may appeal in writing to the President within five working days after receipt of the Committee's decision. The President shall have the authority to:

1. Review the findings of the proceedings of the Committee.
2. Hear from the student, the Vice President and the member of the Committee before ruling on an appeal.

3. Approve, modify, or overturn the decision of the Committee.
4. Inform the student in writing of the final decision within 10 working days of the receipt of the appeal.

Appeal to the Board of Trustees

Any party of the Review Committee hearing may request in writing a hearing before the Board of Trustees as an appeal of the President's decision within five working days of that decision. The Board of Trustees or a committee of the Board may review information to date and render a decision without the personal appearance before them of the parties of the Review Committee hearing or they may choose to have the parties involved in the hearing appear before them before rendering a decision. The decision of the Board will be made within 20 working days and will be final.

VII. Student Grievance Procedure

- A. Purpose. The purpose of the student grievance procedure is to provide a system to channel student complaints against faculty and staff concerning the following:
 1. Alleged discrimination on the basis of age, sex, race, handicap or other conditions, preferences or behavior, excluding sexual harassment complaints.
 2. Sexual harassment complaints should be directed to the Vice President for Student Services. Because of the sensitive nature of this kind of complaint, a conference with the Vice President will replace the first step of the grievance procedure. The Vice President will counsel the student to determine the appropriate action that is required. If the grievance is not resolved after this meeting, then the remainder of the grievance procedure will be followed.
 3. Academic matters, excluding individual grades, except where the conditions in Item 1 above apply.
- B. Procedures
 1. First Step
The student must go to the instructor or staff member where the alleged problem originated. An attempt will be made to resolve the matter equitably and informally at this level. The conference must take place within five working days of the incident which generated the complaint.
 2. Second Step
If the grievance is not resolved at the informal conference, the student may file a written grievance. A grievance form shall be made available to the student by the Vice President for Student Services. The Vice President will explain the grievance process to the student. The completed grievance form must be presented to the Vice President within five working days after satisfying the first step in the grievance process. The Vice President will then refer the grievance to the immediate supervisor involved. The supervisor shall respond in writing to the student within 10 working days of receipt of the grievance form from the department involved.

3. Third Step

If the student wishes to appeal the decision of the supervisor, a further appeal may be directed to the Vice President for Instruction within five working days. The Vice President for Instruction shall respond in writing to the student within 10 working days of receipt of the grievance form.

4. Fourth Step

If the written statement of the Vice President for Instruction does not satisfy the grievant, a request to appear before the Student Grievance Committee may be made. The student must submit a written request within 5 working days after receiving the written response of the Vice President for Instruction. The request shall include a copy of the original grievance form and the reason why the responses are unsatisfactory. A copy of the responses must be attached to the request by the student.

The Vice President for Instruction shall notify immediately the President who shall insure that the Committee is organized in a manner consistent with Section C of this procedure (The Student Grievance Committee). The Vice President for Instruction will send copies of the appeal to the members of the Committee, the employee, and the employee's supervisor. The employee against whom the grievance was filed shall be given an opportunity to respond in writing to the chairperson of the Committee. Meeting(s) shall be conducted between five and 15 working days following the date of the request. A postponement may be granted by the chairperson upon written request of either party if the reason stated justifies such action.

The Committee shall hold interviews with the grievant, the employee, and the supervisor, singularly, and the absence of other witnesses. The committee may interview any additional witnesses that it considers necessary to render a fair decision.

The Committee shall decide by a majority vote the solution of the grievance. In case of a tie, the chairperson shall vote, thus breaking the tie. The chairperson shall forward a copy of the Committee's decision to all parties involved and to the office of the President of the college within two working days.

5. Fifth Step

The Committee's decision may be appealed by either party involved to the President of the college within 10 working days of the Committee's decision.

The President shall review the Committee's findings, conduct whatever additional inquiries that are deemed necessary and render a decision within 10 working days of receipt of the appeal.

6. Sixth Step

The President's decision may be appealed by either party involved to the Board of Trustees of the college within 10 working days of the President's decision.

The Board of Trustees or a committee of the Board shall review any information to date, conduct whatever additional inquiries that are deemed necessary and render a decision within 20 working days of receipt of the appeal.

The Student Grievance Committee

A Student Grievance Committee will be formed for each grievance. The committee make-up and method of appointment will be the same as for the Disciplinary Review Committee.

Right of Parties Involved in a Grievance

When a grievance committee meeting is scheduled, the parties involved are entitled to:

1. A written notice of the time and place of the meeting. This notice shall be forwarded to all parties at least five working days prior to the meeting unless they waive this requirement.
2. Review all available evidence, documents or exhibits that each party may present at the meeting.
3. Have access to the names of the witnesses who may testify.
4. Appear in person and present information on his or her behalf, call witnesses, and ask questions of any person present at the meeting.
5. The right to counsel. The role of the person acting as counsel is solely to advise the client. The counsel shall not address the Committee.