

# Student Code of Conduct 2014-2015

## I. Rights and Responsibilities of Students

Academic institutions exist for the transmission of knowledge, the pursuit of truth, the development of students, and the general well-being of society. Newberry College recognizes that its students retain all of the rights provided by the constitutions of the United States and State of South Carolina, Federal and state statutes, and applicable College policy, while attending the College. Free inquiry and free expression are indispensable to the attainment of these goals. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth.

Freedom of the individual may be defined as the right to act or speak, so long as it does not adversely affect the rights of others. Believing in this concept, Newberry College will protect freedom of action and freedom of speech for both students and employees, so long as it is not of an inflammatory or demeaning nature and does not interfere with the students' living and study conditions and the administration of its affairs. It shall constitute a disruptive act for any member of the campus community to engage in any conduct which would substantially obstruct, interfere with or impair instruction, research, administration, authorized use of College facilities, the rights and privileges of other members of the Newberry community, or disciplinary proceedings. Moreover, Newberry College is committed to improving the quality of student life by promoting a diversified educational and cultural experience. Therefore, racist conduct or other acts of bigotry will not be tolerated.

Rights and freedoms imply duties and responsibilities. Note should be taken that a student who exercises his or her rights as a private citizen—whether individually or as a member of a group—must assume full responsibility for his or her actions. All Newberry students and employees must abide by local, state, and federal laws and with all published College policies and regulations. Violations of laws and regulations will subject the perpetrator to disciplinary action by the College and/or the appropriate civil or criminal court.

## II. Authority and Responsibility

Responsibility for good conduct rests with students as adult individuals. Student organizations have similar responsibility for maintaining good conduct among their members and guests and at activities they sponsor. Organizations wishing to become chartered that violate Newberry policy or do not fulfill requirements to be a chartered organization can still be subject to this code of conduct and possible restrictions outside the code. Restrictions will be overseen by the Director for Student Engagement and Leadership and monitored by the Dean of Students office if no formal charges are brought. All members of the campus community are expected to use reasonable judgment in their daily campus life and to show due concern for the welfare and rights of others.

This code is promulgated in accordance with the policies of the Board of Trustees of Newberry College. The Dean of Student Affairs as the President's designee in these matters shall normally obtain the advice of the Campus Disciplinary Board before recommending changes in rules governing student rights, responsibilities and conduct. Under normal circumstances, the Dean of Student Affairs will designate the responsibility for the operation of the Student Code of Conduct to the Office of Student Affairs, particularly the Associate Dean of Students. This responsibility includes formulating and implementing operating procedures for the judicial consideration of conduct violations and the imposition of sanctions in an efficient, consistent, fair, legal and educational manner. The Associate Dean may further delegate responsibility to various judicial bodies and administrative staff.

The President of Newberry College is authorized to assign disciplinary cases to special hearing committees or officers as the President deems appropriate.

### **III. Application of Laws and Off-Campus Activities**

Newberry College is not a sanctuary beyond the reach of the criminal laws of the United States, the State of South Carolina, and the City of Newberry. While the rules and regulations of Newberry College are not meant to duplicate general laws, there are some aspects in which the lawful interests of the institution as an academic community coincide with the broader public interest treated in general laws. Students, or student organizations, who commit offenses against the laws of municipalities, states, or the United States, are subject to prosecution by those authorities and may be subject to disciplinary action under College rules when their conduct violates institutional standards. Newberry students, or student organizations, are subject to the provisions of this Student Code of Conduct while on College premises or College-related premises, and when involved with off-campus Newberry activities. Students, or student organizations, will be held accountable to this code for their off-campus activities when it can be ascertained the off-campus act has a direct detrimental impact on the College's educational functions. Any disciplinary action imposed by Newberry may precede and be in addition to any penalty imposed by an off-campus authority.

### **IV. Prohibited Conduct**

The following constitutes the official record of general violations of conduct rules and regulations at Newberry College. Students and student organizations are expected to abide by these regulations. These regulations are not designed to define prohibitive conduct in exhaustive terms. Additional rules and regulations may be adopted and will be promulgated through campus communication channels. A student or student organization that is responsible for misconduct or is responsible for being an accessory to misconduct shall be subject to the sanctions authorized by this code. Students who anticipate or observe a violation of College policy are expected to remove themselves from participation and are encouraged to report violations. Areas of misconduct include:

A. Disruption of classes, seminars, research projects, or activities of the College.

B. Actual or threatened physical assault or injury to persons.

C. Actual, threatened or attempted sexual misconduct and sexual harassment includes but is not limited to offensive touching; non-consensual sexual assault; forced sexual assault; stalking; or sexual exploitation and other sexual misconduct violations. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal, electronic, or physical conduct of a sexual nature that is severe or pervasive, and objectionably offensive, such that it undermines the victim's educational experience and denies equal access to an institution's resources and opportunities. Additionally sexual misconduct includes conduct that is directed towards a person or group because of their sexual orientation or gender identity or expression. See the definitions and descriptions of sexual assault, sexual misconduct and sexual harassment as well as campus disciplinary procedures in the Student Planner and Handbook.

D. Bullying – Intimidating or threatening an individual with harm is prohibited. Bullying is defined as any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication which (1) places a person in actual and reasonable fear of harm to his/her person or damage to his/her property or reputation; or (2) creates or is likely to create a hostile environment by substantially interfering with a student's educational opportunities or benefits; or (3) involves coercion or required behaviors or activities defined as hazing in the hazing policy; or (4) includes personally abusive epithets when directly addressed to any ordinary person, in the context used and as a matter of common knowledge, are inherently likely to provoke an immediate violent reaction, whether or not they actually do so. Such words include, but are not limited to, those terms widely recognized to be derogatory references to race, ethnicity, religion, sex, gender, sexual orientation, disability, and other personal characteristics.

E. Disorderly conduct - Individual or group behavior which unnecessarily disturbs individuals or groups is prohibited. Such conduct includes, but is not limited to, unwelcome physical contact, hazing, and boisterous or threatening conduct which is unreasonable for the area, time, or manner in which it occurs.

- F. Drugs - The manufacture, distribution, sale, use, offer for sale, or possession of drugs or narcotics, or drug paraphernalia in accordance with State statutes.
- G. Behavior or activities which endanger the safety of oneself or others - This includes, but is not limited to, destructive behavior by individuals and/or groups; self-destructive behavior; arson; and tampering, damaging, or misusing fire equipment.
- H. Possession and/or use of firearms, fireworks, dangerous weapons and hazardous chemicals - Newberry College is unwilling to allow even the mere presence of dangerous weapons. While some objects are clearly dangerous, what is used dangerously may also be considered a weapon.
- I. Damage to property - Damage, destruction, or defacement of College property or property of any person as a result of a deliberate action or as a result of reckless or imprudent behavior.
- J. Theft of property - Theft of College property or possession of stolen College property or property of any person.
- K. Misuse of College documents - Forging, transferring, altering, or otherwise misusing any Newberry document, including identification cards, course registration material, or other document or record.
- L. Unauthorized use of the name or insignia of the College by individuals or groups.
- M. Unauthorized presence in or forceful entry into a College facility or College-related premises.
- N. Misuse of telephone - No student shall make or assist in making unauthorized or annoying telephone calls or otherwise misuse or abuse telephone equipment.
- O. Violations of any of the restrictions, conditions or terms of any sanctions resulting from a previously held disciplinary hearing or failure to complete conditions or terms within the designated time.
- P. Misappropriation or misuse of student organization funds or property - This includes, but is not limited to, over-extension of the budget of a student organization; spending receipts prior to proper deposit; and unauthorized personal use of equipment.
- Q. Computer abuse - This includes, but is not limited to, plagiarism of programs; misuse of computer accounts; unauthorized destruction of files; creating illegal accounts; possession of unauthorized passwords; and disruptive or annoying behavior on the College's computer systems.
- R. Providing false information - In the application for admission, petitions, requests, disciplinary hearing or other matters of record and transaction with officials of Newberry College.
- S. False reporting of an emergency - The false report of a bomb, fire or other emergency in any building, structure or facility by means of activating an alarm or in any other manner.
- T. Violation of Privacy - Photographing, audio or video recording, producing, or creating or distributing a digital electronic file or filming another person without that person's knowledge and consent, while the person is in a place where he or she would have a reasonable expectation of privacy is prohibited. Examples include residence hall rooms, bathrooms, locker rooms, study areas and instructional space. Also see Newberry College's *Regulations for Responsible Use of Information Technology*.
- U. Failure to identify oneself when requested by persons in authority who are in the process of discharging their responsibilities.
- V. Intimidation or Harassment of any person involved in a campus disciplinary investigation or hearing or of faculty, staff, or student staff who are in the process of discharging their official responsibilities is prohibited.

W. Unauthorized use or possession of keys - No one may use or possess any College key without proper authorization. No student is allowed under any condition to have a College key duplicated.

X. Sale of textbooks - The sale of a textbook by any student who does not own the book is prohibited without prior authorization from the owner of the book.

Y. Violation of the College's alcoholic beverage policy.

Z. Violation of the College's fundraising, solicitation, canvassing, assembly, and posting policies.

AA. Violation of the College's hazing policy.

BB. Violations of the Residence Hall contract not specifically listed under Campus Disciplinary Board or Residence Life Office jurisdiction.

CC. Violations of College policies and procedures-Failure to abide by any published College policy or procedure is prohibited, including the General Conduct Policy.

DD. Unauthorized or misuse of College property or equipment.

EE. Commission of any act which is a violation of a criminal law of the United States.

FF. Violations of the Academic Integrity Policy.

## **V. Disciplinary Process**

Any person, agency, organization or entity may make a complaint to the Office of Student Affairs alleging a violation of the Student Code of Conduct by a student or student organization. The College will treat a police report or citation as a complaint. The College's proceedings are separate from civil litigation or criminal arrest and prosecution and will be carried out prior to, simultaneously with, or following civil or criminal proceedings. Rulings associated with the College code of conduct are not linked to decisions related to legal matters and may differ in outcome.

All students and student organizations are subject to the disciplinary procedures prescribed in this code. If a student, allegedly involved in a violation of the Student Code of Conduct, separates or graduates from the College prior to resolution, the disciplinary process can continue at the discretion of the College. If a hearing is not pursued upon the separation of the student, the pending charges will be resolved, at the discretion of the College, prior to any future readmission.

- A. Initiation of Charges - Upon receipt of information, the Office of Student Affairs will review the complaint, any relevant evidence and may initiate the disciplinary process. Complaints concerning violations of this Code must be brought in writing to the Office of Student Affairs within 120 days of discovery of the alleged offense. Exceptions to this policy will be made at the sole discretion of the Dean of Student Affairs or designee. Such exceptions may involve allegations that are still under investigation or cases in which the safety of individuals or the College community is deemed by that official to be at risk. In the absence of sufficient information as determined by the Associate Dean of Students or designee, a complaint will be dismissed. Depending on the violation(s), circumstances of the incident and prior disciplinary history, if any, the Associate Dean of Students or his/her designee can implement the following.
- B. Notification of Charges – Once it is determined that disciplinary proceedings will be initiated, the accused student or student organization will be provided written notification of the alleged violation(s). The notice may be sent to the mailing address and/or e-mail address with the College information system or the address on the complaint. The written notice shall describe the alleged violation(s) and information the student or student organization about the reported circumstances underlying the alleged violation(s) with the date and time of the Student Conduct

Conference with the Associate Dean of Students or designee. The Student Conduct Conference provides the accused with:

1. Opportunity to discuss the allegations and provide information;
2. Notice of formal charges resulting from allegations;
3. Notification of the process for resolved formal charges through conduct proceedings; and
4. Opportunity to accept or deny responsibilities for formal charges.

C. Options for Resolution of Disciplinary Charges - It should be clearly understood that there is a fundamental difference between the nature of student discipline and that of criminal law.

Regardless of the options exercised for resolution of charges, the discipline of students within the College community must be consistent with the educational mission of the institution.

At the Student Conduct Conference with a conduct officer, the charged student will have all the disciplinary options outlined below fully explained:

1. Plead not responsible to the charge(s) and have a regular hearing before the Campus Disciplinary Board where a determination of responsibility will be made. If held responsible by the Campus Disciplinary Board, an appropriate sanction(s) will be determined.
2. Plead not responsible to the charge(s) and request an administrative hearing before the Associate Dean of Students or designee where a determination of responsibility will be made. If held responsible by this administrative hearing officer, an appropriate sanction(s) will be determined. The Associate Dean or designee may decline to conduct the hearing, in which case the matter must be heard by the Campus Disciplinary Board.
3. Accept responsibility for the charge(s) and elect for the Campus Disciplinary Board to determine an appropriate sanction(s).
4. Accept responsibility for the charge(s) and elect for the Associate Dean of Students or designee to determine an appropriate sanction(s).

D. Student Conduct Conference – If the student elects a hearing, the Student Conduct Conference is also to insure that the accused will be sufficiently familiar with the disciplinary process in order to adequately prepare and present a response at the hearing. At this conference, the accused:

1. Will be advised immediately of the right to decline to make any statements to avoid the possibility of self-incrimination. Refusal to speak or to answer questions shall not be interpreted as evidence of responsibility.
2. Will be advised of the alleged violations and an explanation of the prohibited conduct will be provided. The student will be advised if suspension or expulsion is possible as a result of the hearing.
3. Will be advised of the identity of witnesses or others who will testify, the general content of their testimony, and the content of any written material or physical exhibit which will be presented at the hearing. If additional information or new witnesses are to be presented at the hearing, the accused student will be informed at least three days prior to the hearing date and the information will be made available for the student's review.
4. Will be advised that a list of those witnesses requested by the accused student must be provided and any written statements by those witnesses must be included in the case file three days prior to the hearing. Any additional written information must be available to the Office of Student Affairs at least three days prior to the hearing date, for a determination of relevancy, and to be included in the case file for the hearing authority to review.
5. Will be advised that an advisor may be present at the hearing. The advisor may not address the hearing officer, panel or other persons at the hearing unless permitted by the hearing officer or panel. The role of the advisor will be to consult with the accused at reasonable intervals during the course of the hearing.

NOTE: Advisors are not permitted to participate directly in the hearing process or to speak for the charged student. Advisors must be members of the Newberry College community. At no point, are outside the community advisors, including attorneys, allowed to participate in the process.

6. Will be advised to consult further with the Associate Dean of Students or designee concerning any questions or interpretations of procedure.
7. Will be advised that hearings are scheduled to provide the accused student a minimum of three days from the date of notification of charges (excluding weekends and holidays) during which to prepare a response.
8. Will be advised that any request for a delay of the hearing must be in the form of a written petition to the Office of Student Affairs, which schedules hearings and determines whether a delay will be granted. When granted, a delay will not exceed ten (10) days in the absence of extraordinary circumstances, to be determined by the Associate Dean of Students. Such a delay will not affect the student's status.
9. Will be advised that the Office of Student Affairs may choose to delay the hearing for good cause. Such a delay will not affect the student's status.
10. Will be advised of options for resolution of disciplinary charges.

E. Failure to Respond - If the charged student or student organization has been properly notified of the charges and hearing date, and still does not attend the scheduled hearing, the hearing will be conducted by the Dean of Students or designee and a determination will be made based upon the available information. The accused will be considered properly notified when the formal charge letter has been delivered to the student's address as indicated in the most current Student Directory compiled by the Registrar's Office.

F. Dismissal of Charges – If the Associate Dean of Students or designee determines as a result of the Student Conduct Conference that insufficient information exists to justify a hearing, the charge will be dismissed.

#### Hearing Procedures

1. During a hearing, the accused student is entitled to:

- a. Appear in person, hear all information presented and present any relevant information, call witnesses, and ask questions of witnesses present at the hearing.
- b. Elect not to appear at the hearing, in which case the hearing may be conducted in the accused's absence.
- c. Refuse to answer any questions or make a statement; the hearing authority shall make its decision solely on the basis of information presented at the hearing.
- d. Challenge the presence of a Campus Disciplinary Board member for cause. Cause is defined as personal bias, prior involvement, or inappropriate access to information concerning the incident. The removal of a Campus Disciplinary Board member for cause will be at the discretion of the remaining board members as determined by majority vote.
- e. Confidentiality. All hearings shall be conducted in private session. All statements, information, or comments given during hearings will be held in the strictest confidence by members of the Campus Disciplinary Board, College staff, witnesses and advisors before, during, and after deliberation. Video, audio, stenographic, or photographic recording of hearing proceedings are prohibited, except as authorized by the Office of Student Affairs.

2. The hearing authority will exercise control over the hearing to avoid needless consumption of time, repetition of information, and/or prevent the harassment or intimidation of participants. The hearing can be recessed at any time.

3. All hearings shall be conducted in an informal manner and technical rules of evidence will not be applied. The taking of statements of witnesses may be done by discussion, though the testimony of each witness may be subject to question and rebuttal. While written statements are admissible, the accused shall have the opportunity to question and rebut the testimony, unless extenuating circumstances preclude this option. Any written witness statements must be available in the file for review three days prior to the hearing date.

4. Witnesses shall be present during a hearing only during the time they are testifying unless the violation is one in which there is a specific individual victim.

5. Cases in which there is a specific victim include but are not limited to violations of sexual misconduct or physical assault. In such cases, the victim may be present throughout the hearing and may also have an advisor present. Questioning of the victim by the accused student will be directed to the Board and the chair of the Board will direct the question to the victim.

6. The Dean of Students or designee is responsible for scheduling, coordinating, and presenting all cases.

7. The Dean of Students or designee will make a tape recording of all hearings, where a student pleads not responsible or when a charged student requests it. The accused shall have the right, upon request, to listen to the recording in the presence of a staff member of the Office of Student Affairs. The accused may request a duplicate copy of the recording within a period of six months from the date of the hearing and must assume the cost of this expense.

## **VI. Hearing Decisions**

1. Upon completion of the hearing, the hearing authority shall in private session consider the information presented to determine responsibility or to drop the charges due to insufficient information.

2. The hearing authority shall consider only the information presented at the hearing, and make determinations of responsibility by a clear and convincing standard. The outcome of a Campus Disciplinary Board hearing will be one of the following:

- **Responsible:** Campus Disciplinary Board, Dean of Students or designee determined beyond a preponderance of the evidence (“...more likely than not”) that a violation of the Student Code of Conduct occurred.
- **Not Responsible:** Insufficient evidence exists to warrant a responsible finding.

In compliance with Title IX of the Education Amendments of 1972, a preponderance of the evidence standard will be used when determining responsibility for allegations of sexual assault, sexual misconduct and sexual harassment.

3. In a Campus Disciplinary Board hearing, a majority vote of Board members shall be required to find the accused responsible and to assign a sanction. Four members constitute a quorum. The Dean of Students or designee may offer an opinion regarding appropriate sanctions.

4. If responsibility is acknowledged or determined, prior to the determination of the sanction(s), the hearing authority shall allow the introduction of information concerning the past conduct record of the accused and a victim impact statement which details the impact on the victim, if any, the violation caused. The statement may be written or oral. These will be provided by the Dean of Students or designee in the presence of the accused.

5. If the student found responsible does not choose to be present, the student’s prior record and victim impact statement will be introduced in his or her absence.

## **Notification of the Decision**

1. Upon completion of all deliberations, the hearing authority will notify the Dean of Students or designee of the full decision.

2. The written decision from the hearing authority shall consist of written confirmation of the decision including the findings, the determination of responsibility, the complete description of any sanction imposed or the decision to drop the charge(s) due to insufficient information. The hearing authority will generally send the letter to the Dean of Students or designee within 24 hours after completion of the hearing.

## **VII. Disciplinary Sanctions**

The purpose of imposing sanctions are twofold: to protect the College community from behaviors that are detrimental to the educational process of the community; and to assist students in identifying acceptable parameters of their activities and consequences of future behaviors. The severity of the sanctions imposed is intended to correspond with the severity or frequency of violation, as well as the student's willingness to recommit himself or herself to good citizenship through behaviors that fall within the conduct regulations of the College. The following disciplinary sanctions may be imposed upon a student responsible for a violation either singly and/or in combination:

A. Expulsion — Expulsion is permanent disciplinary separation from the College involving denial of all student privileges. Expulsion shall be effective on the date of notice of the expulsion, or later if so stated in the notice; and shall be entered into the student's permanent record (transcript).

Students separated from the College by expulsion may not enter College premises or College-related premises without securing prior approval from the Dean of Student Affairs.

B. Suspension — Suspension is temporary disciplinary separation from the College involving denial of all student privileges. Suspension shall be effective on the date of notice of the suspension or later if so stated in the notice; shall be entered into the student's permanent record (transcript); and shall prescribe the date and conditions upon which the student may petition for readmission. Conditions for readmission may include, but are not limited to, disciplinary probation for a specified length of time; non-residence on campus; restricted visitation to specified campus facilities; and written statement from an accredited mental health professional or medical doctor verifying the capability of the student to function successfully at the College.

Students separated from the College by suspension may not enter College premises or College-related premises without securing prior approval from the Dean of Student Affairs.

The suspension notation will be removed from the student's permanent record, by the Registrar, upon the student's graduation. The suspension notation may also possibly be removed earlier by petitioning the Dean of Student Affairs.

C. Residence Hall Separation — Residence Hall Separation involves removal from the campus residence hall community for conduct which clearly demonstrated an inability to function appropriately in the residence hall living situation. Such separation may be permanent or for a specified number of semesters. Such separation prohibits accessibility to all or designated residence halls and associated dining facilities. Visitation will not be permitted without securing prior approval from Associate Dean of Students or Dean of Student Affairs. In no case will separation be less than the remainder of the semester in which it takes place.

D. Disciplinary Probation - A period of review and observation during which a student has been officially notified that his/her conduct, although not serious enough to warrant suspension, was very inappropriate. Subsequent violations of College rules, regulations or policies (even after a particular probationary period expires) could result in a more severe sanction.

Disciplinary Probation is a status which may involve restrictions, conditions or terms imposed for a definite period of time. Restrictions, conditions, or terms of probation may include but are not limited to: ineligibility to participate in all campus activities, events and/or sports; periodic contact with a designated member of the campus community; restrictions on accessibility to College facilities and/or housing areas; and change of housing assignment. Restrictions, conditions, and terms will be imposed for a specific length of time not to exceed the length of the probationary period. Failure to comply

with the terms and conditions of the probation or additional behavior in violation of this code during the probationary period will likely result in more serious disciplinary action.

E. Conduct Probation — A period of review and observation during which a student has been officially notified that his/her conduct, although not serious enough to warrant suspension, was very inappropriate. Subsequent violations of College rules, regulations or policies (even after a particular probationary period expires) could result in a more severe sanction.

Conduct Probation is a status which may involve restrictions, conditions or terms imposed for a definite period of time. Restrictions, conditions, or terms of probation may include but are not limited to: periodic contact with a designated member of the campus community; restrictions on accessibility to College facilities and/or housing areas; and change of housing assignment. Restrictions, conditions, and terms will be imposed for a specific length of time not to exceed the length of the probationary period. Failure to comply with the terms and conditions of the probation or additional behavior in violation of this code during the probationary period will likely result in more serious disciplinary action.

F. Disciplinary Warning – Disciplinary Warning involves written notice to the student indicating that specific behavior or activity was in violation of this code and that repetition of similar or other unsatisfactory behavior would likely result in more serious disciplinary action. Disciplinary Warning may also involve conditions, such as those listed above, that are intended to be educational in nature.

G. Restitution – Restitution is not a fine; it is reimbursement for actual damage to, destruction of, or misappropriation of College property or property of any person which results from conduct in violation of this code; or is compensation for services provided such as alcohol education. The conduct officer or hearing panel will determine the appropriate reimbursement.

H. Termination of the Privileges of a Registered Student Organization — Termination of the Privileges of a Registered Student Organization is the loss of any or all privileges of a registered student organization. Imposition of this sanction does not preclude disciplinary charges against individual members of the organization.

I. Termination of the Registration of a Registered Student Organization — Termination of the Registration of a Registered Student Organization is the discontinuation of the registration of the registered student organization. This means the organization can no longer function. Imposition of this sanction does not preclude disciplinary charges against individual members of the organization.

J. Creative Sanctions- As deemed appropriate by the hearing officer, sanctions such as reflective papers, fines, work projects or other creative sanctions.

K. Parental Notification for Violating the College's Drug or Alcoholic Beverage Policy- When found responsible for violations of these conduct standards, the hearing authority may decide to notify the responsible students' parents or legal guardians of these violations as allowed by Federal law. This will only occur after the hearing authority has discussed this possible notification with the student and the student is under 21.

## **VIII. Appeals**

Appeals must be presented, specifically described in writing to the next level of authority in the disciplinary chain of command. An appeal is not a new hearing. It is a review of the record of the original hearing. The accused student and his/her advisor has the right to review the accused student's disciplinary file, including any tape recording of the hearing. An appeal may be dismissed if not sought on proper grounds. If an appeal is upheld, the case with procedural specifications shall be referred to the original hearing officer/panel. Any sanction imposed as a result of a hearing shall remain in effect during the process of appeal. The appeal officer has the authority, under extenuating circumstances, to defer the imposed sanction while an appeal is in process.

In any event, sanctions may not be increased as a result of an appeal.

An appeal may be sought on two grounds:

A. On a claim of error in the hearing procedure. Appeals on such grounds must be presented, specifically described, in writing within five days (excluding weekends and holidays) of the announcement of the decision.

B. On a claim of new evidence or information material to the case which was not available at the time of the hearing. Appeals on such grounds must be presented, specifically described, in writing within five days (excluding weekends and holidays) of the new evidence having been discovered.

The following is the disciplinary chain of command:

Hearing Officer

Associate Dean of Students

Dean of Student Affairs/Campus Disciplinary Board

President

## **IX. Summary Action**

A. Summary action requires a student to immediately leave College property, and not return during the suspension period, and/or comply with other stated conditions for a specified period. Summary suspension may also be imposed upon a student by the Dean of Student Affairs or a designee when there is reason to believe, based on available facts, that the student represents an immediate threat to the safety, health, or welfare of herself/himself, other persons, or property. This summary action is warranted by potential or threatened danger or disruption, but is utilized only when the serious nature or immediacy of the threat makes it impractical to follow normal disciplinary procedures. Students charged with violations of the student conduct code and are not currently registered, are subject to summary action.

Summary actions authorized by this policy include:

1. Temporary suspension of a student's eligibility for enrollment or attendance, as well as denial of the student's access to College facilities or property. A student may be summarily suspended for a specified period of time or the suspension may be scheduled contingent upon certain events or conditions.

2. Temporary suspension or limitation of a student's eligibility to enjoy certain privileges, or participate in or attend certain events (or certain kinds of events) without the suspension of enrollment status. This summary action may prohibit a student's presence on College property or certain facilities, or impose conditions which must be met in order for that student to enjoy certain privileges, participate in activities, or attend events.

3. Temporary suspension or limitation of a student's eligibility to communicate (verbal, written, or electronic, or through another individual) with identified students, staff or faculty members.

4. Temporary suspension or limitation of a student organization's eligibility to enjoy certain privileges, participation in or attendance at certain events (or certain kinds of events), access to College facilities or property, or College recognition.

B. When a student is subject to summary action, she or he is given a copy of this policy and notice explaining the reason for, and duration of the action, as well as any conditions that may apply. A student notified of such summary action shall, upon written request, be given an opportunity to meet with the Dean of Student Affairs or a designee within five business days from the date of the request. This meeting shall be held to consider only the following issues related to the summary action:

1. The reliability of information alleging a student's misconduct, and

2. Whether the conduct or surrounding circumstances reasonably indicate the student's presence on campus or continued unrestricted participation in campus affairs would pose an immediate threat to the safety, health, or welfare of persons or property.

NOTE: It is not the purpose of the meeting to hear information concerning responsibility of pending or possible charges against the student.

C. Following the imposition of summary action, standard College disciplinary procedures shall be provided as expeditiously as possible. Unless circumstances render the implementation of standard disciplinary procedures impossible or unreasonably difficult, these procedures shall be initiated within 10 College business days from the effective date of the summary action.

D. Any student who is summarily suspended and returns to the campus or College property and/or violates other stated conditions during the specified period shall be subject to further separate action and may be treated as a trespasser. Permission to be on campus for a specific purpose (e.g., to take an exam, to consult with the Dean of Student Affairs or designee, or to participate in disciplinary procedures) must be requested and obtained in writing or by telephone prior to any conduct contrary to the suspension or conditions, and may be granted by the Dean of Student Affairs or designee.

## **X. Disciplinary Files-Retention and Access**

Disciplinary files are retained by the Office of Student Affairs and are considered part of the educational record. A student's disciplinary file is not released outside the College without written consent of the student. Disciplinary information will be provided within the College to individuals who are determined to have a legitimate, educational interest in obtaining this information in accord with the Family Educational Rights and Privacy Act of 1974 (as amended). A student's disciplinary file is retained for a specified length of time. The maximum sanction imposed determines how long a file is retained before being destroyed.

- Permanently Maintained: Expulsion, Termination of Registration of a Registered Student Organization

- Maintained Three Years After Graduation: Suspension

- Maintained Until Graduation: Residence Hall Separation, Academic Misconduct

- Maintained Until Graduation or Seven Years from Date of Hearing (whichever is earlier): Disciplinary Probation, Conduct Probation, Disciplinary Warning, Restitution

- Maintained Three Years from Date of Hearing: Termination of the Privileges of a Registered Student Organization

The sanctions of Expulsion and Suspension are the only disciplinary sanctions that are entered into a student's permanent record (transcript). A student's disciplinary file is maintained separately from any other academic or official file at the College. In cases where the accused is found not responsible, no official disciplinary file will be retained. When charges are dropped, due to insufficient information, an official disciplinary file will be maintained until graduation or seven years from the date of the hearing.

## **XI. Campus Disciplinary Board**

A. The Campus Disciplinary Board in addition to being a hearing authority shall serve as an advisory board with regard to formulating and implementing appropriate policies and procedures in discharging responsibility for the total operation of the Student Code of Conduct.

B. Recommendations of the Campus Disciplinary Board shall be forwarded to the Dean of Student Affairs. The Dean will consult with the President of Newberry College who retains the right to make final decisions in accordance with the governance policy of the institution.

C. The Campus Disciplinary Board shall consist of five to seven members composed of faculty, staff, and students. Each case brought before the Campus Disciplinary Board will be heard by at least a five member panel. A four person panel may hear a case when deemed necessary and approved by the Dean of Student Affairs.

It shall be the prerogative of the President of the College to appoint alternate members of the faculty to serve during holidays and the summer months.

# Academic Integrity

## Policies and Procedures Governing Issues of Academic Integrity

### General Provision and Definitions

The Newberrian Creed is a code of honor that applies to all students of Newberry College and expects ethical behavior in all academic and social life. The Office of Academic Affairs is the academic arm of the College that investigates alleged academic violations of the Creed and sets policy regarding incidents involving academic integrity.

A “**Student**” is defined as any person who is admitted, enrolled or registered for study at Newberry College for any academic period. A person shall also be considered a student when the person is attending or participating in any activity preparatory to the beginning of school including, but not limited to, orientation, placement testing, and residence hall move-in.

An “**Instructor of Record**” is defined as the person officially responsible for the evaluation of academic performance in a course or educational program of the College.

“**Dean**” is defined as the Dean of the College charged with overseeing the academic program.

The “**Office of Academic Affairs**” is responsible for considering all complaints of academic misconduct or allegations of anyone violating the Creed.

An “**Academic Integrity Committee**” is defined as the group of faculty and students who hear cases of alleged academic violations of the Newberrian Creed, and is composed of faculty members and students as designated by the Dean of the College. Faculty members are appointed annually by the Dean, and student members are appointed by the Dean of the College. This committee consists of three faculty members, two undergraduate students. See *Newberry College Faculty Policies Manual*.

“**Faculty Council**” is an elected body of faculty that will consider appeals cases decided by the Academic Integrity Committee when any party to the case formally appeals on grounds set forth in the College’s Academic Disciplinary Procedures.

An “**Academic Program**” is defined as any undergraduate course, independent study or research for academic credit, internship, externship, clinical program, practicum, field placement, or other form of study or work offered in furtherance of the academic mission of the College. Academic work includes a work performed or assigned or to be performed in connection with any academic program.

The Creed is intended to prohibit all forms of academic dishonesty and should therefore be interpreted broadly toward that end. The following examples illustrate conduct that violated this Creed, but this list is not intended to be an exhaustive compilation of conduct prohibited by the Creed:

- Cheating, i.e., giving or receiving unauthorized assistance, or attempting to give or receive such assistance, in connection with the performance of any academic work.
- Unauthorized use of materials or information of any type or the unauthorized use of any electronic or mechanical device in connection with the completion of any academic work.
- Access to the contents of any test or examination or the purchase, sale, theft of any test or examination prior to its administration.
- Plagiarism, i.e., use of another person’s work or ideas without proper acknowledgement of source, intentional omission of material fact, so as to mislead any person in connection with any academic work (including, without limitation, the scheduling, completion, performance, or submission of any such work).
- Offering or giving any favor or thing of value for the purpose of influencing improperly a grade or other evaluation of a student in an academic program.
- Conduct intended to interfere with an instructor’s ability to evaluate accurately a student’s competency or performance in an academic program.

Whenever a student is uncertain as to whether conduct would violate the creed, it is the responsibility of the student to seek clarification from the appropriate faculty member or instructor of record prior to engaging in such conduct.

## **STUDENT'S RIGHTS IN THE ACADEMIC INTEGRITY PROCESS:**

1.1 The following provisions apply to participants in all hearing processes conducted by the College or conducted by the College's delegated authority.

1.1.1 Each individual charged with Creed violations has the following rights that are protected throughout the hearing process.

1.1.1.1 The right to be notified in writing of the charges against him/her with sufficient time to prepare for a hearing. In the event that additional charges are brought forward, a further written notice, must be forwarded to the student.

1.1.1.2. The right to be notified of the date, time, and place of formal hearings at least five (5) College business days prior to the hearing.

1.1.1.3. The right to know the nature and source of the evidence used in a hearing process. This includes the right upon the student's request to review all documents and exhibits to be introduced at a hearing as well as a list of witnesses asked to testify at the hearing.

1.1.1.4. The right to present evidence on his or her own behalf. A person's knowledge or intent may be inferred from the circumstances of an alleged violation.

1.1.1.5. The right to refuse to answer any questions or to make a statement. However, the hearing authority may draw inferences from this refusal.

1.1.1.6. The right to question witnesses. The Committee may rule on the relevance of these questions.

1.1.1.7. The right to be accompanied by an advisor throughout the hearing process. The advisor, with the written permission of the charged student, may:

- advise the charged regarding preparation for the hearing;
- accompany the charged to all proceedings

NOTE: Advisors are not permitted to participate directly in the hearing process or to speak for the charged student. Advisors must be members of the Newberry College community. At no point, are outside the community advisors, including attorneys, allowed to participate in the process.

## **2.1 Procedures for Resolution of Allegations of Violations of the Newberrian Creed:**

### **2.1.1. Academic Resolution.**

- When an instructor of record suspects a student has violated the Newberrian Creed, the instructor must notify the student in writing of his/her suspicion within 10 days of discovery.
  - The instructor shall set up a meeting with the student to resolve the issue as quickly as possible.
  - The instructor will make inquiry of the Office of Academic Affairs concerning any other possible violations of academic integrity.
- The student should meet with the instructor of record to discuss the possible academic integrity violation.
  - The instructor should have a faculty witness of the conversation
  - The student may have a witness of the conversation if they desire.
- If the student accepts responsibility, the instructor of record will impose one of the following academic penalties.
  - Enter a letter grade of "F" for the assignment (first offense only); complete the Academic Integrity Violation Form and return it to the Office of Academic Affairs.
  - Enter a letter grade of "F" for the course (for second offenses or particularly egregious offenses); complete the Academic Integrity Violation Form and return it to the Office of Academic Affairs; recommend to the Dean that a Non-Academic Sanction be levied.
- If the student does not accept responsibility, or fails to show up for the meeting with the instructor of record, then based on the preponderance of evidence, the instructor of record will determine the academic penalty

and follow the steps above.

- The student retains the right to appeal the sanction imposed by the instructor, through the Office of Academic Affairs.

**2.1.2. Non-Academic Resolution.** A non-academic resolution is the disciplinary punishment imposed by the college, which may be in addition to any grade penalty.

- All allegations must be referred to the Office of Academic affairs.
- The instructor of record may make a **recommendation** to the Office of Academic Affairs regarding **non-academic sanctions** (see Section 5).
- The student will have the opportunity to meet with the Dean (or designee) to determine the nature of the recommended non-academic penalty, if any.
- At the conclusion of the meeting between the charged student and the Dean (or designee), the Dean (or designee) will choose one of the following options:
  - to dismiss the charges if they are unsupported by evidence, OR
  - to recommend one of the options below to resolve the charges.
  - If a charge is warranted, the Office of Academic Affairs will send written notification to the charged student indicating what sections of the Newberrian Creed were allegedly violated.

If the charged student fails to meet with the Dean, a hold may be placed on the student's registration preventing him/her from registering for future classes until the matter is resolved. Any student who has an outstanding allegation of Creed violation cannot graduate until the matter has been resolved.

## **OPTIONS AND RESOLUTION PROCEDURES FOR ALLEGATIONS OF VIOLATIONS OF THE NEWBERRIAN CREED**

Students who have violated the Newberrian Creed are subject to both academic and non-academic penalties.

**3.1 Outcomes of the initial meeting with the student.** When the Dean (or designee), meets initially with a student regarding an allegation of a violation of the Creed, there are four possible outcomes of that meeting:

- Student does not contest the allegation(s) or sanctions.
- Student does not contest the allegation(s), but contests the sanctions. If a student only contests the sanctions of a Creed violation, please see section 3.2 for procedures for resolution.
- Student contests allegations. If a student contests the allegation(s), please see section 3.2 for procedures for resolution.
- Allegation is dismissed by the Dean.

### **3.2 Academic Integrity Committee Hearing -**

A case can be referred to the Academic Integrity Committee for one of two reasons:

- There is a material question of fact that cannot be resolved by the Dean of the College or his/her designee.
- The charged student may appeal (see section 7). The charged student must be informed that sanctions can increase.

Within five (5) business days of the hearing, barring special circumstances requiring an extension of this time limit, the Academic Integrity Committee or designee will send the charged student a letter, via campus mailbox, which indicates the findings of "Responsible" or "Not Responsible" for the charges and any sanctions imposed.

NOTE: Should a charged student fail to appear for an Academic Integrity Committee Hearing, that student will be considered to have waived his/her right to represent themselves in the hearing and a decision will be made in their absence.

## **Composition of Academic Integrity Committee**

**4.1** The Dean of the College annually appoints three (3) faculty and two (2) students to comprise the Academic Integrity Committee. One of the three (3) serving faculty members shall serve as chair of the Committee and shall vote only in cases of a tie.

A quorum of the members of the Academic Integrity Committee is required for a judicial proceeding to take place and for the actions of that body to be authoritative and binding. A quorum of this body consists of a minimum of two (2) faculty and one (1) student.

## FINDINGS

**5.1** The outcome of an Academic Integrity Committee hearing will be one of the following:

- **Responsible:** The Academic Integrity Committee or Dean determined beyond a preponderance of the evidence (“...more likely than not”) that a violation of the Creed occurred.
- **Not Responsible:** Insufficient evidence exists to warrant a responsible finding.

## SANCTIONS

**6.1 The scholastic evaluation of all academic work remains within the purview of the instructor of record.**

However, an instructor of record who issues an academic penalty when an informal administrative hearing or Academic Integrity Committee hearing issues a finding of “not responsible: should be aware that such penalty may be subject to the College grievance policy. All academic penalties are separate from, but may be taken into account in determining non-academic sanctions.

**6.2** The Academic Integrity Committee serves as the final authority for the imposition of sanctions for violations of the Creed. The following sanctions may be imposed upon a student found to have violated the Creed:

- **Expulsion from the College.** Expulsion is permanent dismissal from the College and can only be imposed by the Academic Integrity Committee. The student must leave the college within 24 hours of notification of the final decision. An expelled student is not allowed on College property without prior approval of the Academic Dean (or Dean of Student Affairs). An expulsion is noted on the student’s official transcript and a copy of the letter stating the penalty will be forwarded to the student’s parents or legal guardians if a waiver has been signed.
- **Suspension.** The student’s registration shall be terminated for a period of time specified by the Academic Integrity Committee. A suspended student may not attend classes, live in College housing facilities, eat in the cafeteria, be on College property, or attend College-related activities. A suspension is noted on the student’s official transcript and a copy of the letter stating the penalty will be forwarded to the student’s parents or legal guardians if a waiver has been signed. At the end of the suspension period, a student may reapply for admission to the Office of Admissions. The Academic Appeals Committee will act on the application and has the right to impose provisions on the student’s admission. Readmission is not guaranteed. If readmission occurs, the student will be informed by the Executive Vice President for Academic Affairs.
- **Probation.** A period of review and observation as specified by the Academic Dean, during which a student is under an official warning that subsequent violations of the Creed are likely to result in a more severe sanction including suspension or expulsion from the College. During this time, the student shall not represent the College as an official delegate, representative, athlete, or performer, and she/he may not hold any elected office or committee chairmanship in College groups of any kind. A copy of the letter stating the penalty will be forwarded to the student’s parents or legal guardians if a waiver has been signed. The letter of warning becomes a permanent record in the student’s Academic File.
- **A Letter of Warning (first offense only).** A letter of warning indicates that any additional violations may result in immediate suspension from the College. A copy of the letter stating the penalty will be forwarded to the student’s parents or legal guardians if a waiver has been signed. The letter of warning becomes a permanent record in the student’s Academic File.
- A combination of the above sanctions.
- Any sanction deemed appropriate by the Committee, including educational sanctions.

## APPEALS

**7.1** All sanctions determined by the Academic Integrity Committee shall remain in place during the appeals process.

All exceptions to this policy shall be at the discretion of the Dean or his/her designee.

Grounds for Appeal. The charged student may appeal the decision Academic Integrity Committee to the Faculty Council on any or all of the following grounds:

- That deviations from procedural rules had *significantly prejudiced* the findings of the College Committee;
- That there is new evidence, which was not available at the time of the hearing and which would *significantly impact* the finding of the original hearing.
- That the sanctions are inappropriate or too harsh.

Notice of Appeal. A student appealing the finding of the Academic Integrity Committee must notify the Office of Academic Affairs in writing no later than five (5) business days after the receipt of the letter indicating the findings of the Academic Integrity Committee. The student should set forth the specific ground(s) of the appeal. The Office of Academic Affairs will notify all relevant parties, including the Chair of the Faculty Council, regarding the appeal within five (5) business days and will compose a response memorandum.

Consideration of Appeal. Faculty Council shall meet to consider the matter of appeal within fifteen (15) business days of receiving the appeal. Faculty Council shall issue a written decision that either:

- The decision of the Academic Integrity Committee has been affirmed in its entirety; or
- The case is remanded to the Academic Integrity Committee with a clear statement of specific reasons for further proceedings and with directives to attend to procedural errors or new evidence.

The Chair of the Faculty Council, or his/her designee, shall send copies of the written decision to the appealing student and the Office of Academic Affairs within five (5) business days (barring exigent circumstances) of the Council meeting. The Office of Academic Affairs will forward copies to the appropriate parties within five (5) business days (barring exigent circumstances).

## **PROCEDURES FOR ACADEMIC INTEGRITY COMMITTEE HEARINGS**

**8.1** When a case is referred to the Academic Integrity Committee for a hearing, the Office of Academic Affairs shall set a date and a location for the hearing and notify the charged student, the Committee, and relevant witnesses and participants.

### **8.2 Rules Governing Committee Hearings**

8.2.1 Hearings shall be considered closed and confidential and are subject to FERPA regulations. All statements, information, or comments given during hearings shall be held in strictest confidence by Committee members, College staff, witnesses, advisors, and observers before, during, and after deliberation in keeping with relevant law and policy. The Office of Academic Affairs will record the hearing. The recording remains the sole property of Newberry College.

8.2.2 If any material facts are in dispute, relevant testimony of witnesses and other evidence shall be heard. The Dean, or designee and the Academic Integrity Committee may call and question witnesses. Character witnesses and/or testimony of character not directly relevant to the incident are not permitted.

8.2.3 A student charged with a violation of the Creed is responsible for presenting his/her own case.

- Students may have an advisor, approved by the Dean, who is a member of the Newberry College community.
- Students may not have advisors who are not members of the Newberry College community.
- Advisors cannot speak to the Committee or participate beyond advising the student in a quiet and dignified manner.
- Advisors or students who are disruptive, in the opinion of the Committee Chair, will be asked to leave and the hearing will proceed without their being present.

8.2.4 The Chair of the Committee, with the assistance of the Dean, or designee, will exercise control over the hearing to avoid needless consumption of time through repetition of information and/or to prevent the

harassment or intimidation of participants. Any member of the Committee may require the Committee to go into private session to discuss and decide a matter by majority vote. The Chair can recess the hearing at any time. The Chair of the Committee shall ensure that all procedures are appropriately followed.

8.2.5 The charged student, and the Committee members shall have the right, within reasonable time limits set by the Chair, to present questions for witnesses who testify orally.

8.2.6 All hearings shall be conducted in an informal manner, and technical rules of evidence will not be applied. Witnesses (except for the charged student) shall be present during a hearing only during the time they are testifying.

8.2.7 The charged student

- shall have access to examine any evidence and has a right to review documentary evidence at least three (3) days before the hearing, barring exigent circumstances. The student must view the evidence in the Office of Academic Affairs.
- shall provide the Office of Academic Affairs with copies of relative evidence, statements, and a list of witnesses no less than three (3) days prior to the date of the hearing. A statement summarizing the relevant testimony of all witnesses must accompany the witness list.
- The Office of Academic Affairs reserves the right to limit the witness list. The Office of Academic Affairs reserves the right to prohibit the presentation of any witness testimony not submitted within these guidelines.

8.2.8 If the charged student fails to attend the committee hearing, the Committee will proceed with the hearing without the student's participation.

8.2.9 A tape recording of the hearing shall be kept by the Office of Academic Affairs until any appeal has been concluded, or ninety (90) days from the date of the hearing, whichever is longer. No typed record shall be required. The tape recording is the sole property of Newberry College.

8.2.10 The charged student may request a duplicate copy of the recording at his/her own expense within a period of ninety (90) days from the date of the hearing.

8.2.11 After all information has been presented, the Committee shall meet in private to deliberate the case and reach its decision regarding responsibility. Decisions of the Committee must be by majority vote. If the student is found "Responsible" of violating the Creed, the Committee will hear any information concerning any past infractions by the student, which will be provided by the Dean. The Committee will then deliberate in private to determine appropriate sanctions.

8.2.12 The Dean shall be responsible for forwarding the decision of the Academic Integrity Committee to the charged student in writing. The letter from the Academic Integrity Committee shall consist of:

1. Findings of the College Committee;
2. Sanction(s);
3. Statement regarding the right to appeal and the appeal procedures.

## **RETENTION OF RECORDS**

**9.1** Records pertaining to violations of the Creed will be retained by the Office of Academic Affairs and the Registrar. Should the Office of Student Affairs conduct an investigation into non-academic behavioral misconduct, decisions of the Academic Integrity Committee or the Dean concerning violations of the Creed will be shared.

**9.2** Records of violations of the Creed will be kept in the same manner as academic records retained by the Registrar.

**9.3** Disciplinary records are kept confidential to the extent permitted by law.

9.3.1. Records of disciplinary actions resulting in a finding of "not responsible" will be removed from the student's file in the Office of Academic Affairs and the Registrar's office.

9.3.2. Records of disciplinary actions resulting in a finding of "responsible" and sanctions other than suspension or expulsion are maintained by the Office of Academic Affairs and the Registrar's office for five years following the date

the finding is made at which time they are destroyed.

9.3.3. Records of disciplinary actions resulting in a finding of “responsible” and a sanction of suspension or expulsion are maintained by the Office of Academic Affairs and the Registrar’s office in perpetuity. A notation of suspension or expulsion is reflected on the student’s official College academic record (transcript) maintained by the Office of the Registrar.

9.3.4. A request to expunge a record may be made to the Dean of the College, with a right to appeal to the President, during the last semester of a student’s attendance before graduation.

9.3.5. Records of disciplinary actions resulting in a sanction of suspension or expulsion cannot be expunged.

9.3.6. Academic credits earned elsewhere during a period of suspension will **not** be accepted in transfer. Incomplete grades may not be removed during periods of suspension.

# Title IX Nondiscrimination Statement

Newberry College does not engage in unlawful discrimination based on gender/gender identity, sexual orientation, race, color, national origin, religion, age, marital status or disability, in the execution of its educational programs, activities, employment, daily operations or admission policies, in accordance with all applicable federal, state and local laws. Newberry College also prohibits harassment and/or sexual assault.

The term harassment is defined by Newberry College as any verbal, written, or physical conduct that a person knows or has reasonable grounds to know would disrespect, intimidate, demean or degrade an individual's or group's human or civil rights and that may result in his or her mental, emotional or physical discomfort, ridicule or harm. Examples of harassment include, but are not limited to the following: Physical or verbal attacks upon a person which hinder the person from conducting customary or usual college-related affairs; conduct or expressive behavior that puts a person in fear of his/her safety and/or causes a person to suffer actual physical or mental injury or harm; intentionally or inadvertently creating an intimidating, hostile or demeaning living or educational environment; physical aggression intended for one individual by another, related to the individual's dating relationship or association with a person or persons different from oneself. Furthermore, sexual harassment is defined as an attempt to coerce an unwilling person into a sexual relationship, to subject a person to unwanted sexual attention, to punish a refusal to comply, or to create a sexually intimidating, hostile or offensive working, living, or educational environment.

Sexual assault is defined as forced, manipulated or coerced sexual activity. It is a violent crime using sexual means. When the act involves unwanted penetration, it is rape. In these events, the college urges the victim to get immediate medical attention and report the sexual assault or rape to the proper civil as well as college authorities. For further information regarding Title IX and your rights under the law, please visit the following website:

<http://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html>).

Newberry College has designated a "Title IX Coordinator" to investigate all claims of violations of Newberry College's policy of non-discrimination and prohibition of sexual harassment and assault. Reports of or inquiries about policy violations involving employees, students and student athletes should be directed to:

Dr. Sid Parrish, Executive Director of Institutional Research and Effectiveness, Office of the President  
[Sid.parrish@newberry.edu](mailto:Sid.parrish@newberry.edu)

Work: 803-321-5263 (If no answer, leave a message and it will be forwarded to cell phone)

Reports or inquiries of incidents involving faculty, staff, or are related to on campus employment, may also be directed to:

Peggy Shuler, Director of Human Resources  
Work: 803-947-2114  
[Peggy.Shuler@newberry.edu](mailto:Peggy.Shuler@newberry.edu)

Reports or inquiries of incidents involving students may also be directed to:

Dean Jane Willis, Dean of Student Affairs  
[Jane.willis@newberry.edu](mailto:Jane.willis@newberry.edu)  
803-321-5664

Reports or inquiries of incidents involving student athletes, may also be directed to:

Emily Bikowski, Senior Women's Administrator

Work: 803-321-5199

[Emily.Bikowski@newberry.edu](mailto:Emily.Bikowski@newberry.edu)

-OR-

Matthew Finley, Associate Athletic Director & Athletic Compliance Officer

Work: 803-947-2064

[Matthew.Finley@newberry.edu](mailto:Matthew.Finley@newberry.edu)

-OR-

Sid Parrish

Work: 803-321-5263

[Sid.parrish@newberry.edu](mailto:Sid.parrish@newberry.edu)

A copy of Newberry College's discrimination and harassment policy, including a more detailed policy statement and procedures for filing formal complaints, can be obtained at the following campus locations:

- Office of the President: Holland Hall 100
- Office of Institutional Effectiveness: Holland Hall 201
- Office of Academic Affairs: Holland Hall 5110
- Office of Student Affairs: Derrick Hall 002
- Office of Human Resources: Holland Hall 107
- Office of Intercollegiate Athletics: OL Casey 007

# Discrimination and Harassment Policy & Procedures

## I. Discrimination and Harassment Policy

Newberry College affirms that all men and women are to be treated fairly and equally, with dignity and respect. This policy applies to all faculty, students, staff, visitors, guests and agents, and representatives and employees of vendors while on the College campus or work sites and while participating in College sponsored activities located off-campus. Newberry College will not tolerate discrimination and/or harassment on the basis of gender/gender identity, sexual orientation, race, color, national origin, religion, age, marital status or disability (protected characteristics).

## II. Prohibited Conduct

Discrimination and harassment includes many forms of offensive behavior. Any form of discrimination or harassment contradicts the policies of Newberry College and will not be condoned or tolerated.

Discrimination and/or harassment on the basis of any protected characteristic is strictly prohibited. Under this policy, discrimination and/or harassment is any conduct (verbal, non-verbal, or physical) that is hostile or adverse toward any individual because of his/her gender/gender identity, sexual orientation, race, color, national origin, religion, age, marital status or disability or any other characteristic protected by law, or that of his/her relatives, friends or associates and that: (A) creates an intimidating, hostile or offensive work or learning environment; or, (B) unreasonably interferes with an individual's work or academic performance; or, (C) otherwise adversely affects an individual's employment or academic opportunities.

### A. Sexual Harassment

Sexual harassment is defined by Newberry College to be any unwanted or unwelcome sexual conduct, including but not limited to comments, suggestions, physical contact or propositions backed by implied threats of losing, raising or lowering work or academic status, and/or forced sexual relations.

Sexual harassment is considered a form of sex discrimination and is prohibited under Title VII of the 1964 Civil Rights Acts as amended and Title IX of the 1972 Amendment to the Higher Education Act.

### B. Faculty/Student Relationships

#### 1. Policy.

As a matter of sound judgment and professional ethics, faculty members have a responsibility to avoid any apparent or actual conflict between their professional responsibilities and personal relationships with students.

Romantic and/or sexual relationships between a faculty member and a student have the potential to pose risks to the student, faculty member, third parties and the College. In such relationships, voluntary consent by the student is suspect because of the inherently unequal nature of the relationship. A romantic and/or sexual relationship between a faculty member and a student can lead to a complaint of sexual harassment when the student feels that he or she has been exploited. In addition, other faculty members, staff members or students may express concerns about undue access or advantage, favoritism, restricted opportunities or unfavorable treatment as a result of a relationship.

## **2. Definition.**

"Supervisory responsibility" includes, but is not limited to, teaching, research, academic advising, coaching, service on evaluation committees, grading, recommending in an institutional capacity for employment, fellowships or awards. This supervision can occur on or off campus.

## **3. Regulation.**

- a. Prohibited: If a faculty member has a supervisory responsibility over a student, the faculty member is prohibited from having a romantic and/or sexual relationship with the student.
- b. Strongly discouraged: If the faculty member does not have supervisory responsibility over the student, the College strongly discourages any romantic and/or sexual relationship between the faculty member and student.
  1. If the faculty member and the student are married or in a domestic partnership as defined by College policy, they may make a written application to the Vice President of Academic Affairs to be released from this policy; however, the faculty member in this situation, to the extent reasonably possible, should avoid having "supervisory responsibility" over the student.

## **C. Staff/Student Relationships.**

### **1. Policy.**

As a matter of sound judgment and professional ethics, staff members have a responsibility to avoid any apparent or actual conflict between their professional responsibilities and personal relationships with students.

Romantic and/or sexual relationships between a staff member and a student have a potential to pose risk to the student, staff member, third parties and the College. In such relationships, voluntary consent by the student is suspect because of the inherently unequal nature of the relationship. Romantic and/or sexual relationships between a staff member and a student can lead to a complaint of sexual harassment when the student feels that he or she has been exploited. In addition, other staff members, faculty members or students may express concerns about undue access or advantage, favoritism, restricted opportunities, or unfavorable treatment as a result of a relationship.

### **2. Definition.**

"Supervisory responsibility" includes, but is not limited to, working for, mentoring, coaching, recommending in an institutional capacity for employment, fellowships or awards. This supervision can occur on or off campus.

### **3. Regulation.**

- a. Prohibited: If a staff member has a supervisory responsibility over a student, the staff member is prohibited from having a romantic and/or sexual relationship with the student.
- b. Strongly discouraged: If a staff member does not have supervisory responsibility over the student, the College strongly discourages any romantic and/or sexual relationship between the staff member and student.
  1. If the staff member and the student are married or in a domestic partnership as defined by College policy, they may make a written

application to the Vice Presidents of Academic Affairs and Business Affairs to be released from this policy; however, the staff member in this situation, to the extent reasonably possible, should avoid having “supervisory responsibility” over the student.

### **III. Enforcement Procedures**

#### **A. Initial Reporting**

An individual who feels he/she has been the object of discrimination and/or Harassment, or has witnessed the same, should first advise any of the following:

- Office of the President
- Office of Institutional Effectiveness
- Office of Academic Affairs
- Office of Student Affairs
- Office of Human Resources
- Office of Intercollegiate Athletics

The individual charging the discrimination and/or harassment (complainant) will be given a copy of this policy and advised to make a written complaint to the “Title IX Coordinator” (see College website for contact information for the person currently designated as Title IX Coordinator).

The written complaint should set forth the discriminatory and/or harassing conduct complained of and identify the alleged perpetrator (respondent). Where possible, it should set forth dates, identify other individuals who have knowledge of the conduct, and set forth the relief sought by the complainant.

The written complaint should normally be filed within thirty (30) calendar days of the alleged discriminatory and/or harassing conduct. This deadline will be waived for good cause.

Anonymous reporting is allowed where special circumstances exist, as determined by Human Resources, but is discouraged.

#### **B. Initial Investigation**

The Title IX Coordinator, upon receiving the written complaint, will assign an appropriate individual to investigate. Care should be taken that the individual assigned to investigate the complaint does not have any conflict with the complainant or the subject of the investigation (respondent). The individual assigned to investigate the complaint will begin an investigation of the charges, contacting witnesses and gathering materials, and developing a confidential file. Within ten (10) working days of the filing of the written complaint, the person assigned to investigate will provide the Respondent with a copy of this policy and discuss the complaint confidentially with him/her. During this phase, the identity of the complainant should be kept confidential to the extent reasonably possible.

Upon completion of the investigation, the investigator will submit a report to the Title IX Coordinator, with recommendations, who shall make a determination as to whether or not grounds for the complaint exist. At this stage, the standard for making that determination shall be that the evidence presented establishes a prima facie case. If the Title IX Coordinator determines that a prima facie case for the complaint does not exist, the complaint shall be dismissed and the complainant and respondent shall be so advised in writing. If the Title IX Coordinator determines the grounds for the complaint exist, the Title IX Coordinator must provide the complainant with a full explanation of available enforcement options for satisfaction or resolution of the complaint. This discussion should normally be completed within ten (10) working days of the Title IX Coordinator making a determination that grounds for the complaint exist and in any case not later than thirty (30) days after the complaint is submitted. The Title IX Coordinator shall also advise appropriate campus officials of the determination with due consideration to confidentiality and privacy requirements.

### **C. Enforcement Options**

Enforcement options include the following:

1. Where the goal of the claimant is to stop the discriminating and/or harassing conduct and avoid formal procedures and charges, the Title IX Coordinator will proceed to mediation and conciliation. In any mediation/conciliation meetings, the Title IX Coordinator will be accompanied by at least one other staff or faculty member of appropriate gender.
2. Where the goal of the claimant is a vindication of rights and application of formal sanctions, the Title IX Coordinator will forward the complaint and investigation file to the appropriate individual(s) and initiate the procedure for formal charges.

### **D. Mediation and Conciliation**

Discrimination and harassment are not always clearly identifiable acts that are known to be offensive by all parties. This can be the subtle accumulation of behaviors that create an unwelcome climate in a classroom, office or campus area. The formal charge of discrimination and/or harassment is also accompanied by considerable emotional and career injury to all parties involved. In an effort to prevent behaviors which individually may not constitute an illegal act from developing into grounds for formal complaint, Newberry College encourages persons subjected to perceived discriminatory and/or harassing behavior to consider pursuing mediation and conciliation when appropriate. When the goal of the complainant is to stop the behavior rather than seek a vindication of his/her rights, mediation and conciliation is the appropriate outcome. With the permission of the complainant, the Title IX Coordinator should speak to the alleged perpetrator (respondent) to achieve the following outcomes:

- Make the respondent aware that his/her behavior is being perceived as discriminating and/or harassing and make clear that the behavior is prohibited by law and institutional policy.
- Make the respondent aware that the purpose of this discussion is to achieve a change in behavior, not to pursue formal charges of disciplinary action.
- Make clear that law and policy forbid any retaliation against the complainant by the respondent.
- Suggest possible resolutions of the problem, including but not limited to; a change in the offensive behavior, an apology to the offended party, a reevaluation of a grade, a change in the relationship between the complainant and respondent (i.e., changed advisor, class enrollment, or housing unit).
- Make the respondent aware that the file of this complaint and its outcome will be kept in the appropriate office.
- Should mediation and conciliation fail to satisfactorily resolve the matter, the complainant may proceed to file a formal complaint.

### **E. Filing of Formal Complaint**

Should the complainant choose to file a formal complaint or should the mediation and conciliation fail to resolve the matter, the written complaint and the confidential investigation file with the Title IX Coordinator's written findings and conclusions will be reported to the appropriate individuals. The

reporting relationships include: faculty complaints are reported to the VP of Academic Affairs, complaints against staff are reported to the VP for Business Affairs, complaints against students are reported to the Dean of Student Affairs, complaints against coaches or athletic staff are reported to the VP of Intercollegiate Athletics. Should the charges be made against a VP, the President should appoint a President's Council member to consider the matter. Should the charges be made against the President, the Chairman of the Board of Trustees shall appoint a President's Council member to consider the matter. The respondent must be provided a copy of the complaint and given an opportunity to respond in writing to the charges. This written response to the complaint should be completed within ten (10) days of the respondent receiving the complaint.

The individual charged with considering the matter may conduct an investigation, the scope and nature of which shall be appropriate to the circumstances as determined by the person charged with considering the matter.

Upon completing their consideration of the matter, the person so charged shall make a determination as to whether or not the grounds for the complaint exist. At this stage, the standard for making the determination shall be by a preponderance of the evidence. If the person charged with considering the matter determines that sufficient grounds for the complaint do not exist, the complaint shall be dismissed and the parties shall be so advised in writing. If the person charged with considering the matter determines that grounds for the complaint exist, the person shall impose the appropriate disciplinary action to be taken. Such disciplinary action may include, but is not limited to: a written warning; letter of reprimand; suspension, probation or expulsion; suspension of salary raises for a specified time; change of job (removing the person from being in a position to retaliate or further affect the victim); required counseling; requiring attendance at discrimination/harassment training program; termination of employment. The findings and recommended discipline shall be in writing.

It is expected that this determination shall take place within twenty (20) working days of the formal complaint having been filed.

Both the complainant and the respondent will be notified in writing as to the decision regarding disciplinary action.

#### **IV. Appeal Procedure**

##### **A. Appeal**

The respondent may appeal a formal disciplinary finding or disciplinary sanction. An appeal may be based on denial of fairness, new evidence, or disciplinary recommendation. Appeals must state the reason for the appeal and must be presented in writing within seven (7) working days after receiving the decision on the formal complaint. A written appeal should be delivered to the office of the President. The disciplinary sanction will remain in place during the appeal.

##### **B. Final Appeal**

The President may conduct an investigation, the scope and nature of which shall be appropriate to the circumstances determined by the President in considering the appeal.

The President, upon completing consideration of the appeal, will make a written finding either upholding, reversing, or modifying the formal disciplinary finding and/or disciplinary sanction. The President's decision shall be in writing and shall be final.

It is expected that the appeal determination shall take place within twenty (20) working days of the appeal having been filed.

Both the complainant and the respondent will be notified in writing as to the President's decision regarding the appeal.

Should the charges be made against the President, the appeal should be to the Chairman of the Board of Trustees, who shall appoint a President's Council member to consider the appeal.

## **V. General Guiding Principles**

### **A. Confidentiality**

All communications from the time the complaint is filed shall be kept confidential to the extent reasonably possible.

### **B. Retaliation**

Retaliation against the person bringing the complaint is forbidden by Newberry College; however, the persons charging discrimination and/or harassment need to be aware that false claims may subject them to legal consequences.

### **C. Confrontation**

At no time during the initial investigation will the complainant and/or respondent be brought together.

### **D. Timeliness**

All complaints, investigation, disciplinary action and appeals shall be conducted promptly within the stated guidelines, unless good cause is shown requiring an extension.

### **E. Tenured Faculty**

In the case of a tenured faculty member who is recommended for termination, the case must then proceed through the procedures for termination of tenure specified in the Faculty Policies Manual.

## **VI. HAZING**

Newberry College students as individuals or members of registered student organizations are expressly prohibited from engaging in "hazing". Hazing is defined as "subjecting student(s) to abusive or humiliating actions, tricks or ridicule." Newberry College prohibits hazing in all its forms. Students, fraternity or sorority members who feel they have been physically hazed, advisors, or faculty advisors who have information regarding a hazing incident should report this activity to the Office of Student Activities. Investigations of complaints involving physical hazing will be taken to resolve complaints without fear of reprisal against the individual filing such a complaint. Corrective action will be taken in accordance with established College policies and procedures should evidence be produced to support the claim during the investigation.

Members who feel they have been mentally hazed, harassed, ridiculed, or asked to participate in any activity which violates their religious or moral beliefs should express their concerns to their Big Brother/Sister or Officer. Once notified, the fraternity or sorority must submit a written report of the incident to the Office of Student Activities, along with any disciplinary action taken against members found violating the College hazing policy.

Organizations are responsible for and will be held accountable for the actions of one or more of their members involved in a hazing incident. The degree of responsibility of organizations may be lessened or heightened by the manner and actions taken by an organization following an incident. Greek organizations found in violation of the College hazing policy will be disciplined by the College. Sanctions levied against an organization may include a

warning, reprimand, disciplinary probation, suspension, and forfeiture. In addition, the organization may face criminal charges, as defined under the South Carolina Code, and civil action.

## **VII. MISSING STUDENT NOTIFICATION POLICY AND PROCEDURE**

*Under the Higher Education Opportunity Act, Newberry College is required to establish the following policy and procedures for student living on campus in the residence halls or college owned or operated houses.*

Each student living in an on-campus student housing facility has the option to register a confidential contact person to be notified in the case the student is determined to be missing and the only authorized campus officials and law enforcement officers in furtherance of a missing person investigation may have access to this information. Please note that even if the student does not register a contact person, Newberry College will contact the local law enforcement that the student is missing. The College will notify a parent or guardian of student who is less than 18 years of age and not emancipated.

### **General Procedure**

The Newberry College official receiving the report will collect and document the following information at the time of the report:

- a. The name and relationship of the person making the report.
- b. The date, time and location the missing student was last seen.
- c. The general routine or habits of the suspected missing student (e.g. –visiting friends who live off-campus, working a job away from campus) including any recent changes in behavior or demeanor.
- d. The missing student’s cell phone number (if known by the reporter).

The Newberry College official receiving the report will contact the Resident Life staff member on duty and the Dean of Students in order to update them on the situation and to receive additional consultation. The Dean of Students will ascertain if/when other members of the college’s administration need to be contacted. Upon notification from any entity that a student may be missing, Newberry College may use any or all of the following resources to assist in locating the student:

- a. Go to the student’s residence hall room,
- b. Talk to the student’s RA, roommate, and floor mates to see if anyone can confirm the missing student’s whereabouts and/or confirm the date, time, and location the student was last seen.
- c. Secure a current student ID from the Office of Student Affairs or other photo of the student from a friend.
- d. Call and text the student’s cell phone and call any other numbers on record.
- e. Send the student an email.
- f. Check all possible locations mentioned by the parties above including, but not limited to, library, residence hall lounges, Kaufmann Hall, etc. The Campus Security Department and the Office of Residence Life may be asked to assist in order to expedite the search process.
- g. Contact or call any other on-campus or off-campus friends or contacts that are made known.
- h. Ascertain the student’s car make, model and license plate number. A member of Campus Security will also check all college parking lots for the presence of the student’s vehicle.

The Newberry College Campus Technology Staff may be asked to obtain email logs in order to determine the last log in and/or access of the Newberry network. Once all information is collected and documented and the Dean of Students (or her designee) is consulted, Newberry College staff may contact the local police to report the information. (Note: If in the course of gathering information as described above, foul play is evident or strongly indicated, the police can be contacted immediately.)

# What To Do If You Have Been Sexually Assaulted

1. Contact the Director of Security on campus at 803-321-5602 or go to the Newberry County Memorial Hospital Emergency Room (located down Evans Street from the College) immediately following the incident or as soon as possible. If you cannot get there on your own, contact 911 for an ambulance. You will receive confidential treatment and information regarding your rights at the Emergency Room. You will also be able to preserve evidence for the future, if deciding to press legal charges.
2. If you do not desire to go to the emergency room it is recommended that you contact Sexual Trauma Services of the Midlands@ 800-491-7273 accessible 24-7. Sexual Trauma Services provides confidential counseling and legal advocacy free of charge.
3. Contact the licensed mental health counselor on campus following either of the above or in cases where neither of the above recommendations are followed. The contact person for counseling services on campus is Martha Dorrell LISW-CP who can be reached at 803-321-5373 or e-mail [martha.dorrell@newberry.edu](mailto:martha.dorrell@newberry.edu). Through the Newberry College Counseling Services office, students are able to explore options, receive confidential treatment, and referrals for additional support services as desired.
4. If you desire to report and/or press charges, with permission from you, the counselor will contact the Director of Security and the Dean of Students. If you desires to speak only to the Newberry County Police, with your permission, the counselor will assist you in contacting the Newberry County Police Department. You will also meet with the sexual assault advocate within the Newberry County Police Department and be referred to Sexual Trauma Services of the Midlands for additional assistance. If you do not desire to report or press charges, but would like more information on additional counseling beyond the Newberry College campus, and/or legal advocacy, the Newberry College Counselor will refer you to Sexual Trauma Services of the Midlands at 803-790-8208.

## **FURTHER REPORTING GUIDELINES**

If the student reports a sexual assault to other College faculty or staff, including student staff members, that person is obligated by federal legislation, including the Campus Security Act, to report the incident to Public Safety. We strongly recommend reporting a sexual assault to a College representative. Reporting is the only way the College can take action against the alleged perpetrator. A College representative is any faculty or staff member, including student staff, RA, professor, coach or work study supervisor. These individuals can refer you to the counseling, personal and legal resources available to you, and are obligated by federal legislation under the Campus Security Act to report an assault to Campus Security. You may also choose to contact Public Safety or the City of Newberry Police Department directly.

Once a sexual assault is reported, Campus Security is obligated to contact the victim for a statement and possibly to conduct an investigation. Because sexual assault is a crime under South Carolina law, Campus Security may notify the City of Newberry Police Department to assist with subsequent investigation. However, the victim has the right to make a handwritten statement to Campus Security stating that they choose not to have the police involved.

In cases of perceived danger, the College is obligated to make a public statement to alert the campus community. Any public statement to the campus to alert and protect the community from imminent danger. Anyone who has been sexually assaulted has the right to pursue legal and disciplinary remedies and to secure counseling services. This includes the right to pursue College judicial action, criminal prosecution and/or civil litigation. Please see the Code of Student Conduct section in this handbook for details on the campus judicial process. Electing to pursue judicial action through the College does not commit the victim to pursue criminal or civil action, or vice versa. A victim also has the right to take no action. Should a victim wish to pursue criminal prosecution and/or civil litigation, the Department of Campus Security can provide assistance and information.