INTRODUCTION

Student Conduct Code Revisions. The Student Conduct Code is reviewed annually and revised to improve its clarity and usefulness for students in the disciplinary process, incorporate changes in standard practice, and meet the needs of the AU community. The Conduct Advisory Board is integrally involved in this review. It members come from the Student Government, Residence Hall Association, Graduate Leadership Council, Student Advocacy Center, and the Conduct Council.

Conduct Code Revisions Related to Sexual Assault. The Sexual Assault Working Group (SAWG), convened in January 2009 by the Dean of Students, proposed revisions to the Student Conduct Code and sexual assault procedures for students. SAWG has representatives from the Counseling Center, Dean of Students, GLBTA Resource Center, faculty, Public Safety, Office of Student Conduct, Washington College of Law, Wellness Center and Women’s Initiative. SAWG consulted with the Conduct Advisory Board and the Women, Gender and Sexuality Studies Advisory Board; General Counsel’s staff served as resource persons. SAWG’s recommendations were informed by the December 2005 report, Sexual Assault on Campus: What Colleges and Universities Are Doing About It’ [U.S. Department of Justice, Office of Justice Programs, National Institute of Justice] <www.ojp.usdoj.gov/nij>

Other University Policy Revisions. Policies affecting student life also undergo annual review. Recommended revisions in the Drug Policy’s sanctioning language differentiate the sanctions associated with first time sale, distribution, or manufacture from those associated with first time use or possession of illegal drugs or illegal drug paraphernalia.

Approval Authority for Revisions. Proposed revisions to the Student Conduct Code and other student life policies are reviewed by the vice president of campus life and the university’s general counsel; revisions are approved by the president.

REVISIONS TO THE STUDENT CONDUCT CODE, EFFECTIVE JUNE 15, 2010

III. Jurisdiction

[Comment: Revisions expand the university’s authority, under specified conditions, to address alleged misconduct that occurs off campus. The revision is consistent with measures taken by other DC institutions at the insistence of their neighbors and Advisory Neighborhood Councils.]

Generally, the university will take disciplinary action for on-campus infractions of the Code. However, the university may take disciplinary action for off-campus infractions of the Code when a student’s behavior threatens or endangers the safety and well-being of the campus community; when the university may take action against a student who is the subject of a violation of local, state, or federal law; or when, in the judgment of university officials, a student’s alleged misconduct has a negative effect on the university’s pursuit of its mission or on the well being of the greater community.
V. Definitions

H. “Hearing Officer” — any student, staff, or faculty member who conducts disciplinary conferences or disciplinary hearings as set forth in Sections XIV and XV of this Code.

[Comment: “H.” and “I.” provide role clarification.]

H. “Hearing Administrator” — a staff member who conducts disciplinary hearings as set forth in section XV of this Code.

I. “Hearing Officer” — a staff member who conducts disciplinary conferences as set forth in Sections XIV of this Code.

[Comment: The definitions of “rape,” “stalking,” “sexual assault,” and “sexual harassment” differentiate forms of sexual misconduct and provide behavioral descriptions of the conduct.]

M. “Rape” — any act of sexual intercourse or sexual penetration of any orifice of the body with a body part or other object that takes place against a person’s will or without consent or that is accompanied by coercion or the threat of bodily harm. [Also see “consent”]

P. “Stalking” — repeated, unwanted contact with any person, including contact by electronic means or by proxy, or the credible threat of repeated contact with the intent to place a reasonable person in fear for his or her safety or the safety of his or her family or close acquaintances.

Q. “Sexual assault” - conduct of a sexual nature, including, but not limited to, sexual contact or physical exposure directed at another person without consent;

R. “Sexual harassment” — unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made explicitly or implicitly a term or condition of a person’s employment or academic advancement; submission to or rejection of such conduct by a person is used as the basis for employment decisions or academic decisions affecting such a person; or such conduct has the purpose or effect of unreasonably interfering with a person’s work or academic performance or creating an intimidating, hostile, or offensive working or academic environment. [Also see Sexual Discrimination and Harassment Policy]

VI. Prohibited Conduct

[Comment: “Attempting to engage in any prohibited conduct” is elevated from the last to the first position in the list to increase awareness of this provision. Forms of sexual misconduct are presented as separate offenses, replacing the more general prohibition against “conduct of a sexual nature... without consent.” Drug and alcohol violations are differentiated with respect to seriousness of the offenses, replacing the more general prohibitions against a range of alcohol related offenses and a range of drug related offenses, respectively. “Stalking” replaces
This Code is not written with the specificity of a criminal statute, nor is it intended to cover every instance of potentially prohibited conduct. American University expects its students, wherever they are, to adhere to high standards of honor and good citizenship and to conduct themselves in a responsible manner that brings credit to themselves and the university. The following misconduct is subject to disciplinary action:

A. Attempting to engage in any of the above prohibited conduct; (repositioned from “X” to “A”)

D. conduct of a sexual nature, including, but not limited to, sexual contact or physical exposure directed at another person(s) without consent;
D. sexual assault
E. sexual harassment
F. rape

unauthorized possession, use, manufacture, distribution, and/or sale of any controlled substance or illegal drug and illegal drug paraphernalia;
violation of university policies pertaining to the sale, distribution, use, or possession of alcohol;

I. violation of university policies pertaining to the use and/or possession of alcohol;
J. violation of university policies pertaining to the sale and/or distribution of alcohol;
K. unauthorized possession and/or use of any controlled substance, illegal drug or illegal drug paraphernalia;
L. manufacture, distribution and/or sale of any controlled substance or illegal drug and illegal drug paraphernalia;

P. harassment or intimidation stalking

XVI. Sanctions

[Comment: The introduction to this section has been amended to describe the factors that influence sanctioning, rather than indicating which sanctions will likely be imposed for certain violations. “Relocation in University Housing” is a sanction that has been imposed under “Other Sanctions.” Its increasing use as a sanction prompts this revision, listing it separately.]

Sanctions for violating provisions, including, but not limited to (a) through (l) in Section VI of this Code may result in removal from university housing, suspension, or dismissal from the university. Repeated or aggravated violations of any part of this Code may also result in removal from university housing, suspension, or dismissal. Significant mitigating or aggravating factors will be considered when sanctions are imposed, including the present demeanor and past disciplinary record of the
offender, the nature of the offense, and the severity of any damage, injury, or harm resulting from it. Repeated or aggravated violations of any part of this Code may also result in relocation in or removal from university housing, suspension, or dismissal. Sanctions which may be imposed in accordance with this Code include, but are not limited to:

A. “Warning” - …
B. “Censure” - …
C. “Disciplinary Probation” - …
D. “Restitution” - …
E. “Relocation in University Housing” – administrative reassignment to a different residence hall and/or room.
F. “Removal from University Housing – denial of housing privileges
G. “Suspension” - …
H. “Dismissal” - …
I. “Revocation of Degree” - …
J. “Other Sanctions” - …

XVII. Appeals

[Comment: This revision extends the right to appeal to a student who receives a sanction of removal from housing, suspension or dismissal from the university, regardless of whether the student has elected a disciplinary conference over a disciplinary hearing.]

Any disciplinary determination arrived at through a disciplinary hearing and resulting in removal from university housing, suspension, or dismissal may be appealed to the vice president of campus life by the respondent in keeping with the following provisions.

Disciplinary determinations resulting in removal from university housing, suspension, or dismissal may be appealed to the vice president of campus life by the respondent in keeping with the following provisions.

XVIII. Disciplinary Records

[Comment: This revision adopts the growing practice of terminating the release of a student’s disciplinary records to third parties upon a student’s graduation. The disciplinary records of students that are suspended, dismissed or otherwise withdraw for disciplinary reasons are exceptions.]

Disciplinary records maintained by Student Conduct and Conflict Resolution Services are expunged after five years from the date of the letter providing notice of final disciplinary action. Access to disciplinary records is provided in accordance with the Family Educational Rights and Privacy Act of 1974, as amended. See also the Confidentiality of Student Records policy for additional information. A student may request verification of disciplinary records by providing written authorization to release the records. Expunged records may be retained by the university for two (2) additional years solely to comply with federal law.

Except as noted below, disciplinary records are maintained by Student Conduct and Conflict Resolution Services for seven years from the date of the letter providing notice of final disciplinary action. Release of disciplinary records to third parties is provided in accordance with the Family
Educational Rights and Privacy Act of 1974, as amended, (FERPA) until a student has graduated from the university, or as required by law.

Records for a student who is suspended, dismissed, or who withdraws with a disciplinary case pending are maintained indefinitely; release of these categories of disciplinary records to third parties is provided in accordance with FERPA. [See also the Confidentiality of Student Records policy for additional information.]

XIII. Procedures for Case Resolution

[Comment: This revision extends the 15-day case filing period, on request, for students bringing complaints involving rape, sexual assault or stalking.]

B. Any American University student, faculty, or staff member may refer a student, student group, or organization suspected of violating this Code to the director of Student Conduct and Conflict Resolution Services. Those referring cases are normally expected to serve as the complainant and to present relevant evidence in hearings or disciplinary conferences. The complainant may request the assistance of an advisor, as set forth in Section XI of this Code. A written complaint must be filed with the director of Student Conduct and Conflict Resolution Services within 15 days (excluding weekends, official university holidays, winter and spring breaks) of the occurrence or discovery of the alleged infraction(s). Complainants filing cases after the 15-day filing period may request in writing an extension of the filing period from the director of Student Conduct and Conflict Resolution Services. Requests for waivers of the filing period may be made up to one major semester (fall or spring) after the date of discovery of the alleged incident. In such cases, the director will evaluate whether a reasonable person might be justified in filing after the 15-day period due to the nature of the charges alleged. The deadline for filing a case will also be extended if there is an alleged violation of the university’s discrimination and discriminatory harassment policy, sexual discrimination and harassment policy, whistleblower policy, or a Conduct Code violation involving rape, sexual assault or stalking. In such cases, the complainant will have one year from the date of discovery to file a complaint as set forth in these policies.

REVISIONS TO THE UNIVERSITY DRUG POLICY, EFFECTIVE JUNE 15, 2010

Drug Violations

[Comment: The revision differentiates sanctions for different forms of first time drug violations.]

A. First time sale, distribution, manufacture, use, or possession of illegal drugs and illegal drug paraphernalia may result in sanctions, including, but not limited to, disciplinary probation for a specified period, denial of visiting privileges in the residence halls, a drug education program, removal from the residence halls permanently or for a specified period, and suspension or dismissal from the university (Also see Parental Notification policy).
A. First time sale, distribution, or manufacture of illegal drugs and illegal drug paraphernalia may result in sanctions including, but not limited to, removal from housing, suspension, or dismissal from the university. First time use or possession of illegal drugs or illegal drug paraphernalia may result in sanctions including, but not limited to, disciplinary probation for a specified period, denial of visiting privileges in the residence halls, assignment to a drug education program, removal from the residence halls permanently or for a specified period, and suspension or dismissal from the university. (Also see Parental Notification policy).

REVISED STUDENT HANDBOOK SECTION: SEXUAL ASSAULT PROCEDURES FOR STUDENTS

The Sexual Assault Working Group (SAWG), convened in January 2009 by the Dean of Students, proposed revisions to the Student Conduct Code and sexual assault procedures for students. SAWG has representatives from the Counseling Center, Dean of Students, GLBTA Resource Center, faculty, Public Safety, Office of Student Conduct, Washington College of Law, Wellness Center and Women’s Initiative. SAWG consulted with the Conduct Advisory Board and the Women, Gender and Sexuality Studies Advisory Board; General Counsel’s staff served as resource persons. SAWG’s recommendations were informed by the December 2005 report, Sexual Assault on Campus: What Colleges and Universities Are Doing About It” [U.S. Department of Justice, Office of Justice Programs, National Institute of Justice] <www.ojp.usdoj.gov/nij>

Sexual Assault and Other Sexual Misconduct

American University is committed to creating a safe, healthy living and learning environment where students can grow and develop as individuals and as a community. The university does not tolerate sexual misconduct of any kind, in any context. Intimidating or forcing a person into sexual activity violates American University’s stated values and policies and is punishable with severe sanctions.

Sexual misconduct includes, but is not limited to, rape, sexual assault, and sexual harassment. It can occur by or against any person, regardless of their sex. Students who experience these crimes should not be blamed for the actions committed against them. Sexual assault and rape occur in a variety of situations; on a university campus most sexual assaults are between people who know each other, and they tend to involve the consumption of alcohol.

[See American University’s Statement of Common Purpose, Student Conduct Code and policies on sexual harassment and on disclosure statements for crimes of violence or non-forcible sex offenses.]

Student Conduct Code Provisions for Addressing Sexual Assault and Other Sexual Misconduct
American University’s Student Conduct Code prohibits non-consensual conduct of a sexual nature, including, but not limited to, sexual contact or physical exposure directed at another person without consent. Attempted misconduct is also prohibited under the Code.

The Student Conduct Code defines several forms of sexual misconduct:

“Rape” – “any act of sexual intercourse or sexual penetration of any orifice of the body with a body part or other object that takes place against a person’s will or without consent or that is accompanied by coercion or the threat of bodily harm.”

“Sexual assault” – “conduct of a sexual nature, including, but not limited to, sexual contact or physical exposure directed at another person without consent.”

“Sexual harassment” – “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: submission to such conduct is made explicitly or implicitly a term or condition of a person’s employment or academic advancement; submission to or rejection of such conduct by a person is used as the basis for employment decisions or academic decisions affecting such a person; or such conduct has the purpose or effect of unreasonably interfering with a person’s work or academic performance or creating an intimidating, hostile, or offensive working or academic environment.” [Also see Sexual Discrimination and Harassment Policy]

The Student Conduct Code also defines “consent” as “words or conduct that indicates a freely given agreement to have sexual intercourse or to participate in sexual activities. Sexual contact will be considered ‘without consent’ if no clear consent, verbal or nonverbal, is given; if inflicted through force, threat of force, or coercion; or if inflicted upon a person who is unconscious or who otherwise reasonably appears to be without the mental or physical capacity to consent.”

Things to think about. Consent takes different forms in different relationships. Some attributes generally associated with consent follow. They may help you think about your own and your partner’s behavior in intimate situations or situations that might become intimate. What they have in common is that they are grounded in an attitude of respect.

- Consent is informed and clear. Parties must be able to communicate effectively and agree on the type of sexual activities that will be shared. If a person has a sexually transmittable disease, that should be disclosed to a partner before engaging in sexual activity.
- Consent is essential each time sexual activity occurs and/or escalates. During or prior to any sexual activity, each partner has the right to withdraw consent at any time. Consent to one type of sexual activity does not imply consent to other forms of sexual activities.
- Consent is a free choice only if it has been granted without the use of force - real or perceived, threats, intimidation, or coercion.
- Consent cannot be construed from a partner’s silence.
- Consent cannot be assumed based on a previous or current sexual relationship with the person who initiates the sexual activity.
- Consent is not implicit in a person’s manner of dress or physical appearance.
- Consent is not implicit in acceptance of an invitation for a meal or date.
Consent is not achievable if a partner is or appears to be under the influence of a controlled or intoxicating substance, whether or not that substance was consumed willingly.

Sexual Misconduct Involving University Recognized Student Groups or Organizations

A student group or organization and its officers may be held collectively and individually responsible when violations of the Student Conduct Code by those associated with the group or organization have received the consent or encouragement of the group or organization or of its leaders or officers. (See Code VIII. Student Groups and Organizations.) Groups and organizations found responsible for any form of sexual misconduct may be subject to sanctions that include revocation or denial of registration or recognition. Individual sanctions may include removal from university housing, suspension, or dismissal from the university.

Filing a Sexual Misconduct Complaint

American University is committed to empowering students who experience sexual assault or other forms of sexual misconduct to pursue their options for disciplinary, criminal, and civil action, if they choose to do so. Reporting an incident to law enforcement, filing a complaint through the university disciplinary process, choosing to prosecute criminally, and filing a civil case are all separate actions.

Reports to Public Safety. If a student chooses to report an incident to Public Safety, Public Safety will not disclose any personally identifying information about the student without the student’s consent, unless the disclosure is required by law. The student may choose whether or not they want their case referred to Metropolitan Police, investigated by Public Safety, or neither. Public Safety can serve as the complainant in a Student Conduct case, if they and the student agree to that.

Campus Complaints. If the alleged perpetrator is a student, a complaint may be filed with the Office of Student Conduct and Conflict Resolution Services. A student may bring the case as the complainant or serve as a witness to someone else from the university community who brings the case on their behalf.

Filing a report of alleged sexual misconduct does not obligate a student to follow through with a student conduct case or to continue participating in a disciplinary hearing as the complainant or as a witness for a person acting as complainant on their behalf. However, if the university reasonably believes that pursuing a case is necessary to provide a safe, nondiscriminatory environment for all students, they may continue to pursue the case.

A finding of responsibility for sexual misconduct of any kind may result in serious sanctions for the respondent including, but not limited to, removal from university housing, suspension, or dismissal from the university. The student who alleged a sexual offense, including but not limited to sexual misconduct, will be informed of the final determination of the Student Conduct proceeding with respect to the alleged sex offense and any sanction that is imposed upon the respondent.

The university also provides procedures for students to file complaints against university faculty and staff members. In these instances the dean of students or designee may act as an advisor to the student and liaison to either Academic Affairs or Human Resources, as appropriate.
Additionally, filing an informal or formal complaint of discrimination or discriminatory harassment is a protected activity under the law. Retaliation against anyone who files a complaint, who supports or assists an individual in pursuing a complaint, or who participates in the resolution of a complaint is prohibited. Any retaliatory action may be the basis of another complaint under this policy. [Also see Discrimination and Discriminatory Harassment Policy.]

**Criminal or Civil Complaints.** A student also has legal recourse outside the university. For criminal complaints, Public Safety will assist the student in notifying proper law enforcement authorities. The student decides whether or not to file a criminal complaint. For civil complaints, the student should consult with a private attorney.

**For additional information about specific reporting options, please visit** [www.american.edu/sexual assault](http://www.american.edu/sexual assault).

**Resources Available to Victims and Survivors of Sexual Violence**

The university is committed to helping students who have experienced sexual violence to access a full complement of services for their physical health care and emotional support. Advisors are available in the Office of Campus Life to assist in reviewing the options for incident reporting, medical assistance, counseling, and other aids to physical and emotional recovery.

**Sexual Assault Medical Examination.** A student who wants a free medical exam to collect and preserve evidence can be seen by a Sexual Assault Nurse Examiner (SANE) at Washington Hospital Center. It is important not to bathe prior to this exam. The student should bring in a brown paper bag any clothes or articles worn when the assault occurred. It is important to preserve evidence for proof in a criminal sexual assault case; this evidence can be submitted in a Student Conduct case as well. Public Safety or members of the Housing and Dining Programs staff can help arrange transportation to the hospital.

**On Campus Resources include the following.** For more detailed information visit the offices’ web sites via [www.american.edu/sexual assault](http://www.american.edu/sexual assault).

**Counseling Center (202) 885-3500.** The Counseling Center: provides free and confidential mental health services. Students can arrange to see a counselor on an emergency basis during weekday business hours. Emergency appointments are available the same day. Meeting with a counselor is a chance to determine possible courses of action or resolution in a respectful and confidential setting.

**Sexual Assault Survivor Support Group.** This group, run by the AU Counseling Center, provides a safe environment for gaining support, sharing stories, coping with the aftermath of assault, and understanding how the sexual assault experience affects current functioning and relationships. For more information or to speak to one of the group leaders, contact the Counseling Center.

**Dean of Students (202) 885-3300.** The Dean of Student’s staff can provide assistance in housing relocation; academic schedule changes; filing a case with Human Resources, Academic Affairs or the Office of Student Conduct and Conflict Resolution Services; obtaining a barring of contact and related support.
Housing and Dining Programs (202) 885-3370. All resident staff members are trained to make appropriate referrals for students who have experienced sexual assault. A student is encouraged to contact their resident director to identify alternative housing options after an assault has occurred, if that will be helpful to them. Housing and Dining staff will work with the student based on their needs and choices.

Kay Spiritual Life Center (202) 885-3320. The Kay Center fosters a climate of interfaith understanding and openness in which matters of faith and values are recognized as an integral part of university life. Students may seek spiritual guidance as a part of the healing process.

Public Safety Emergencies (202) 885-3636. Public Safety responds to immediate threats to health and safety. Officers can facilitate filing a case with Student Conduct and Conflict Resolution Services and/or the Metropolitan Police.

Student Conduct and Conflict Resolution Services (202) 885-3328. The staff processes non-academic conduct violations alleged to have been committed by AU students.

Student Health Center (202) 885-3380. The Student Health Center can provide follow-up medical care, sexually transmitted disease testing, and emergency contraception. Healthcare providers can also share resource and referral information based on needs. Walk-in appointments are accepted and scheduled based on availability. All Student Health Center staff members have participated in sensitivity and resource training provided by the Washington Hospital Center Sexual Assault Nurse Examiners (SANE).

Wellness Center (202) 885-3276. The Wellness Center provides information, support and referral services on a wide variety of health, wellness, and safety issues. Local and national resources on sexual assault, intimate partner violence and stalking can be found in the Wellness Center.

Contact Information for Other Important Resources

Emergencies - 911

D.C. Rape Crisis Center Hotline
202-333-RAPE [7273]

Rape, Abuse, and Incest National Network Sexual Assault Hotline
800-656-HOPE [4673]
www.rainn.org – National 24-hour online hotline

MPD Second District Headquarters
202-282-0070

MPD Sex Offense Squad
202-727-3700

Policy Statement for Students Who Have Been Subject to Sex Offenses
The safety of AU students is among the university’s highest priorities. When a student becomes a victim of sex offense, as defined by the Campus Security Act of 1990, the university recognizes that expert assistance may be critical to helping the student manage the aftermath of the incident and recover physically and emotionally.

In the American University community a student who identifies themselves as a victim of a sex offense may rely on the following provisions in support of their recovery:

1. You do not have to identify the alleged perpetrator, unless the information is necessary to respond to your request for a specific form of assistance.
2. You can choose whether or not to file a complaint with the appropriate university department or with law enforcement. [If the alleged perpetrator is a student: Public Safety and/or Student Conduct and Conflict Resolution Services; if the alleged perpetrator is a faculty member: the Dean of Academic Affairs; if the alleged perpetrator is a staff member: Human Resources.]
3. Before making a report to a university official, you can request information about university policies and procedures for releasing personally identifiable information about you. For information about requirements to report non-identifying data, see www.american.edu/finance/publicsafety/asr.cfm.
4. You can request assistance from Public Safety in filing a report with Metropolitan Police and/or Public Safety.
5. You can access medical care without consenting to a crime investigation by Public Safety and/or Metropolitan Police.
6. You can access confidential physical and mental health care at the Student Health Center and the Counseling Center.
7. You can request a barring of personal contact between you and the alleged perpetrator through the Office of the Dean of Students.
8. You can request relocation in university housing.
9. You can request a change in your class schedule to avoid contact with the alleged perpetrator.
10. You can request a change in your e-mail address and server login.
11. You can request that a visual barrier be placed between you and the respondent during a disciplinary hearing.
12. You will be informed of the outcomes of the disciplinary case.
13. The Student Conduct Code guarantees the following rights if you serve as a complainant in a disciplinary proceeding:
   - To receive procedural information about disciplinary proceedings prior to and after submitting a case;
   - To have witnesses provide statements regarding the case;
   - To have an advisor present during the disciplinary process;
   - To challenge the persons conducting the hearing with regard to personal bias.