

Students' Rights and Responsibilities (cont.)

Responsibilities, Section V. Social Conduct Regulations L. and M.)

4. RESPONSIBILITY AND THE LAW

- a. Oberlin students shall accept full responsibility for their own actions under federal, state, and local laws. While reserving the right to criticize government policy and even, in the name of conscience, to resist government decree, they shall recognize the rule of law and expect no special immunity on account of their student status. Within the college community, students must acknowledge the duly constituted role of trustees, and the organized entities of the administration, faculty and students in the political processes of the college. Students shall abide by college regulations and the decisions of the college's judicial bodies.
- b. When students incur penalties prescribed by civil authorities, they may also be subject to further discipline by the college judicial systems if there are distinct and clear college community interests involved. The appropriate judicial body will rule as to its jurisdiction in the case.
- c. When students of the college are charged with a violation of federal, state, or local law, the college has no obligation to assist them.

IV. Judicial System

A. Preamble

The purpose of the Oberlin College Judicial System is to create an environment that is conducive to excellence within and outside of the classroom, that educates students about the relationship between their personal freedom and their responsibilities to their community, that promotes the orderly functioning of the community, that holds all members of the community accountable for their behavior, and that promotes habits of effective and engaged citizenship.

B. Definition of Terms

1. The term "college" means Oberlin College, including the College of Arts and Sciences and the Conservatory of Music.
2. For the purposes of the Oberlin College Judicial System, a "student" is defined as an individual who has been offered—and has accepted—the opportunity to enroll in regular credit-bearing Oberlin College courses. Students who are not officially enrolled for a particular term but are participating in study abroad or domestic exchange programs, or who are on leave from the college, remain subject to the College's Judicial System.
3. The term "faculty member" means any person hired by the college to conduct classroom activities and college officials who are eligible for appointment to

General Faculty committees according to the regular General Faculty appointment process.

4. The term "college official" includes any person employed by the college, performing assigned administrative or professional responsibilities.
5. The term "staff member" means any person employed by the college.
6. The term "member of the college community" includes any person who is a student, faculty or staff member, college official, or any other person employed by the college. A person's status in a particular situation shall be determined by the Office of the President, the Dean of the College, the Dean of the Conservatory, or the Dean of Students.
7. The term "business day" ordinarily refers to a weekday (Monday through Friday) during those weeks in which the college is in session, excluding vacations.
8. The term "college property" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by Oberlin College (including adjacent streets and sidewalks). This definition shall not be interpreted to infringe on any appropriately recognized jurisdiction of the Oberlin City Police or other law enforcement officials.
9. The term "organization" means any number of persons who have complied with the formal requirements for college recognition as a campus organization.
10. The term "Judicial Board" means the group of individuals appointed by the Student Senate and authorized by the college to determine whether a student has violated the rules and regulations and to impose sanctions.
11. The term "Community Board" means the group of individuals authorized by the college to hear defined categories of cases and to review cases heard by the Judicial Board.
12. The term "review" refers to the process of reviewing a hearing upon request, and determining if a new hearing shall be granted. The term "review" is synonymous to the term "appeal."
13. The term "advisor" refers to a person assisting the complainant or respondent at a formal hearing. This person must be a member of the Oberlin College community (staff, faculty member, or student).
14. The term "shall" is used in the imperative sense.
15. The term "may" is used in the permissive sense.
16. The term "judicial coordinator" is (a) person(s) designated by the Dean of Students to be responsible for the administration of the overall Judicial System and the rules and regulations thereof.

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17. The term “policy” is defined as a written regulation of the college as outlined in, but not limited to, the published rules and regulations.

18. The term “complainant” refers to the individual(s) initiating a complaint under the rules and regulations.

19. The term “charge” refers to formal action taken by the Judicial Coordinator on behalf of the college. A charge is made when alleged behavior constitutes a violation of the Code of Conduct.

20. The term “respondent” refers to the person(s) or group cited in the complaint who is (are) alleged to have violated the rules and regulations.

21. The term “victim” refers to the individual(s) who has been harmed by the alleged offense.

22. The term “complaint form” means a written statement of the provisions of the rules and regulations alleged to be violated and the factual circumstances surrounding the alleged violation.

23. The term “written” means any written material including electronic correspondence.

24. The term “complaint” refers to a formal allegation presented to the Judicial Coordinator by a member of the college.

C. Jurisdiction

Oberlin College holds its students accountable for their behavior on campus. The college may also choose to address off-campus behavior—whether that behavior constitutes a violation of local, state, federal law, or a violation of college regulations—if that behavior:

1. Occurs within public or private areas adjacent to the campus.
2. Occurs in connection with a college-sponsored event or when students are acting as representatives of the college.
3. Directly affects another member of the Oberlin community.

D. Code of Conduct

Students are expected to be responsible for their actions and to conduct themselves in accordance with the rules and regulations of the college. Violation of the Oberlin College Code of Conduct shall be grounds for disciplinary action. Violations include but are not limited to the following:

1. VIOLATIONS OF PUBLISHED REGULATIONS

a. Violations of the general rules and regulations of the institution, college policies, or faculty statements as published in *Student Regulations, Policies, and Procedures* or any other official institutional publication, except those that fall under the jurisdiction of the Honor Code or the Sexual Offense Policy.

b. Violations of local, state, and federal laws or regulations proscribing conduct or establishing offenses, which laws and regulations are incorporated herein by reference.

2. PHYSICAL VIOLENCE

Conduct that physically harms, or might reasonably be regarded as a threat to the physical safety, health, or well-being of another individual or individuals, including but not limited to the following examples:

a. Individual or group behavior that is violent or that unreasonably disturbs other groups or individuals.

b. Threats to cause harm or abuse.

c. Hazing of any member of the college community by campus organizations, clubs, intercollegiate or intramural athletic teams, students, employees and volunteers. The state of Ohio acknowledges hazing as a crime. The Ohio Revised Code defines hazing as “doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person.” (2307.31)

The college further defines hazing as any activity that is expected of someone to join or maintain membership in an organization, club, team and/or any other group that is affiliated with the college that humiliates, degrades, abuses or endangers him or her, regardless of intention or willingness to participate. (For more details about Oberlin College’s Policy on Hazing see Students’ Rights and Responsibilities section V., Social Conduct and Regulations EE.)

d. Acts of stalking, defined by the state of Ohio Stalking Law as knowingly engaging in a pattern of conduct, related in time, that causes another to believe that the offender will cause that other person physical or mental harm.

e. Acts of sexual offense as defined by law and/or defined by the Sexual Offense Policy. (See Students’ Rights and Responsibilities section V., Social Conduct and Regulations J.3.)

3. HARASSMENT

Any verbal, physical, or written act, directed at an individual, that might reasonably be construed to intimidate, coerce, or create a hostile environment for him or her and, in turn, prevent him or her from fully enjoying the educational benefits of the college. At the same time, proscriptions of verbal harassment must not have the effect of limiting the free exchange of ideas or opinions; rude or obnoxious behavior or speech—whether inside or outside the classroom—is not necessarily in itself adjudicable. (See Students’ Rights

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and Responsibilities section V., Social Conduct and Regulation H.).

Harassment includes, but is not limited to, the following examples:

- a. Defamation, libel, or slander.
- b. Forms of intimidation or harassment including patterned verbal (oral, written, or electronic communications, including: e-mail, text messages or other electronic media devices) acts or physical behavior related in time that deprive a reasonable person of the ability to enjoy the full benefits of his/her college education as a result of the perceived threat of physical harm or mental harm.
- c. Acts of stalking, defined by the state of Ohio Stalking Law as knowingly engaging in a pattern of conduct, related in time, that causes another to believe that the offender will cause that other person physical or mental harm.
- d. Forms of harassment as defined by the Sexual Offense Policy and the Faculty Statement on Racial Abuse and Harassment.
- e. Any unauthorized use of electronic or other devices to make an audio or video record of any person while on college premises without his or her prior knowledge, or without his or her effective consent when such a recording is likely to cause injury or distress. This example is adapted from Ed Stoner's Model Code of Student Conduct.

4. BEHAVIORS THAT INTERFERE WITH COMMUNITY FUNCTION

Oberlin forbids conduct that interferes with, impinges upon, or otherwise disrupts any legitimate function of the college or its representatives, including but not limited to the following examples:

- a. Unreasonable interference with or obstruction of any institutional activity, program, event, or facility, including the following: any unauthorized occupancy of the institution or institutionally controlled facilities or blockage of access to or from such facilities; interference with the right of any member of the college or other authorized person to gain access to any college or college-controlled activity, program, event, or facility.
- b. Failure to comply with directions or requests of college officials acting in the performance of their duties, including any obstruction or delay of a campus security officer or college official in the performance of their duty. Failure to show or surrender ID card to college official upon proper request.
- c. Unauthorized entry into or occupation of college facilities that are locked, closed to student activities, or otherwise restricted as to use.

d. Failure to comply with the provisions of the college parking and traffic regulations. Unlawfully blocking or impeding normal pedestrian or vehicular traffic on or adjacent to college property.

e. Misuse of disciplinary procedures, including the following: failure to respond to a request for an interview by the Judicial Coordinator during the investigation of a violation; knowingly falsifying or misrepresenting information before a hearing body; knowingly making a false statement; attempting to influence the impartiality of a member of a hearing body prior to, during, or after a hearing; harassing or intimidating a member of a hearing body or a witness; failing to comply with the sanction(s) imposed by the hearing body; and presenting false information or a false complaint.

f. Forgery, alteration, or unauthorized use of college documents, forms, records, or identification cards, including the giving of any false information or the withholding of necessary information, in connection with a student's admission, enrollment, or status in the college.

g. Unauthorized sales, solicitation, or door-to-door canvassing, as well as the unauthorized use of the Oberlin College name for commercial purposes.

h. Conduct that is disorderly, lewd, or indecent; breach of peace, or aiding and abetting, or procuring another person to breach the peace on college premises or at functions sponsored by, or participated in by the college, or members of the academic community. Adapted from Ed Stoner's Model Code for Student Conduct.

5. ABUSES PERTAINING TO COMMUNITY OR PERSONAL PROPERTY

Theft or misappropriation of college or individual property, including but not limited to the following examples:

- a. Acts of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring, or unauthorized use of property including, but not limited to, fire alarms, fire equipment, elevators, telephones, institution keys, library materials, safety devices, and/or other college property.
- b. Misappropriation or unauthorized possession or sale of college property.
- c. Making or causing to be made any key for a college facility without authorization.
- d. Acts of theft, misappropriation or malicious damage to the private property of other college community members.
- e. Embezzling, defrauding, or procuring any money, goods, or services under false pretense.

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6. NONADHERENCE TO COMMUNITY SAFETY REGULATIONS

Infractions include but are not limited to the following examples:

- a. Failure to evacuate college facilities or willfully disregarding any emergency or fire alarm signal.
- b. Unauthorized or illegal possession of or use of Firearms (including but not limited to BB guns and all other types of air or spring powered weapons), dangerous weapons (such as knives, swords, and martial arts weapons) or hazardous materials of any kind. With the exception of law enforcement officers, the possession of firearms on Oberlin College property or in Oberlin College buildings is forbidden.
- c. Unauthorized detonation of any object or substance, including but not limited to those considered being and used as fireworks (for example: firecrackers, or sparklers, gunpowder).
- d. Unauthorized ignition of flammable materials in or surrounding college facilities.

7. VIOLATIONS PERTAINING TO CONTROLLED AND UNLAWFUL SUBSTANCES

- a. Unlawful and unauthorized use or possession of alcoholic beverages. (See Students' Rights and Responsibilities, section V. Social Conduct and Regulations, N.)
- b. Unlawful use or possession of any illicit drug or controlled substance (including any stimulant, depressant, narcotic, or hallucinogenic drug or substance, or marijuana), or the sale or distribution of any illicit drug or controlled substance. (See Students' Rights and Responsibilities, section V. Social Conduct and Regulations, N.)
- c. Use or possession of equipment (examples include but are not limited to bongs, hookahs, and bowls), products, or material used or intended for use in manufacturing, growing, using (unless prescribed by a licensed medical provider), or distributing any illicit drug or controlled substance.

E. Judicial Authority

Within the Judicial System, there are a variety of individuals and groups who have responsibility for making decisions and resolving conflicts. Listed below are the decision-making bodies that have been given authority to serve within the system and a brief description of their roles.

1. JUDICIAL COORDINATOR

A Judicial Coordinator is an agent of the college and of the Dean of Students who acts on behalf of the college and the Dean of Students in carrying out all judicial functions. The Dean of Students retains the right to appoint Judicial Coordinators from among the deans

in the Division of Student Life and Services. The Dean of Students also retains the right to designate a member of her/his professional staff to serve in the absence of a Judicial Coordinator. While individuals of the college community are encouraged to bring complaints to the attention of a Judicial Coordinator, it is the responsibility of the Judicial Coordinators to:

- a. Determine if the alleged behavior is an infraction of the Code of Conduct.
- b. Determine if there is enough information to warrant bringing charges.
- c. Bring judicial charges against students on behalf of the college.

Responsibilities

- a. Interpreting policies and procedures within the Judicial System, in light of precedent and past practices.
- b. Training members of the Judicial and Community Boards.
- c. Training residential education staff members who hear cases.
- d. Maintaining judicial records and correspondence.
- e. Investigating reports of misconduct, determining if the alleged behavior is an infraction of the Code of Conduct, determining if there is enough information to warrant bringing charges, and initiating charges on behalf of the college when appropriate.
- f. Adjudicating alleged violations and determining appropriate sanctions only when 1) the violation does not warrant a sanction of suspension or dismissal, 2) adjudication by the Judicial Coordinator has been requested by the respondent, 3) the respondent admits responsibility, and 4) there is no fundamental disputation of facts.
- g. Attending (without a vote) Judicial and Community Board hearings, deliberations and appeals, and speaking in such meetings upon the invitation of the chair.
- h. Recommending that the Registrar withhold the degree of a graduating senior until the case has been heard and properly resolved.
- i. Possessing the authority—along with the Dean of Students and his or her designee – to impose a temporary stay-away, temporary housing relocation, or temporary suspension until a decision has been reached by the Judicial Board.
- j. Meeting with the Chair of the Judicial Board to approve the consistent format of the letter to the respondent and to advise when necessary.
- k. Meeting every other year with members of the Judicial Board and Community Board to recommend changes to the Judicial System and

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process. Changes to this document shall be approved by the Student Life Committee (SLC) and the General Faculty (GF).

l. Reporting a summary of all cases at the end of each semester to the Oberlin College community. These will be posted in the campus newspaper and on the Oberlin website. The summary will only include information about the charges and decisions of the boards. The summary will not contain confidential information, including the identity of the individuals.

2. JUDICIAL BOARD

Membership

a. Fifteen students will be appointed by the Student Senate to serve as members. Appointments will be made in the spring semester for the upcoming year and as vacancies arise. If fewer than five Judicial Board members will be on campus and available during the summer and winter term, the Student Senate will appoint interim members before the end of the preceding semester.

b. Members shall be appointed for a two-year term, and may be reappointed.

Responsibilities

a. Board members shall complete a training program prior to being assigned to a case.

b. Board members shall not participate in a hearing if they believe there is a conflict of interest, or if they feel that their participation may give the perception of an unfair or biased hearing.

c. Board members shall hold all information in confidence. Failure to do so will constitute grounds for immediate removal and judicial action.

3. COMMUNITY BOARD

Membership

a. Nine faculty members (appointed by the regular process for establishing General Faculty Committees) and six students (appointed by Student Senate) shall constitute the Community Board. Two students and two faculty members, plus the chair, will constitute a panel. The board is authorized to review appeals of judicial cases upon request and will authorize judicial board sanctions at the level of suspension or above.

b. One of the three faculty members shall be appointed as chair prior to the hearing.

c. Should it become necessary, student members of the Community Board may be used for Judicial Board panels, and Judicial Board members may be used as student members of Community Board, as long as the membership of hearing and appeal panels for a single case does not overlap.

Chair

a. The Chair of the Community Board shall be a nonvoting member unless there is a tie.

b. The chair shall maintain good order, recognize who is to speak, move the process along, and preside over the meeting.

Responsibilities

a. The Community Board will hear cases assigned to it by the Judicial Coordinator.

b. The Community Board reviews appeals of Judicial Board decisions and determines if a new hearing shall be granted. Additionally the Community Board may determine that the original sanction should be altered or set aside.

c. Judicial Board sanctions at the level of suspension or dismissal must be approved by the Community Board.

d. The Community Board will be the Board of original jurisdiction for cases judged by the Judicial Coordinator to involve a) obstruction or disruption of the essential operations of the college or b) non-academic disputes between faculty members and students. In addition, a Judicial Coordinator may elect to assign Community Board as the board of original jurisdiction for cases that he or she believes could result in a sanction of suspension or dismissal. This assignment may be made for incidents that follow multiple previous violations of college policies; allegations of violent behavior; illegal behavior such as drug possession, use, and/or sales; arson; weapons possession; or other acts that pose a credible threat to the individual or the community. (Approved by General Faculty in February 21, 2007.)

e. Board members shall treat all information with confidentiality. Violations of confidentiality are regarded as a serious matter.

4. RESIDENCE HALL STAFF

a. Under normal circumstances, the assistant and associate deans, designated resident directors, and graduate assistants are given the authority to adjudicate minor cases involving up to three low level violations that occur in combination, as long as that combination of violations does not warrant a sanction of probation or higher. Low-level violations include, but are not limited to, first and second instances of roommate problems, excessive noise, possession of pets, or other low-level conflicts having a bearing on the quality of life in the residence halls.

b. Under normal circumstances, the assistant and associate deans, designated resident directors, and graduate assistants are given the authority to adjudicate intermediate level cases involving first time instances of:

- Failure to evacuate a building in response to a fire alarm.

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- Smoking.
- Use of candles and/or incense.
- The possession and/or consumption of alcohol.

Authorized residential education staff members may adjudicate cases even when one of these four violations occurs in combination with up to three minor violations such as noise and/or guest policy violations as long as the combination of violations does not warrant a sanction of probation or higher. **Note:** Under normal circumstances, residential education staff members are authorized to hear such cases if the reported incident is the student's first involving a violation of college policy.

c. Under normal circumstances, the assistant and associate deans are given the authority to adjudicate intermediate level cases involving first instances of:

- Intoxication.
- Possession and/or use of an illegal substance.
- Possession of drug paraphernalia without residue.

If such violations occur in combination with each other, the case will be referred to the appropriate Judicial Coordinator in the Office of the Dean of Students. However, the assistant and associate deans are authorized to adjudicate cases if one of the three above violations occurs in combination with up to three minor policy violations.

d. Members of the residential education staff who are authorized to adjudicate the kinds of cases mentioned in section E. 4. c. above may impose sanctions that include verbal and written warnings, fines, community service, educational activities, and deferred probation.

e. The assistant and associate deans for residential education shall also have the authority to relocate a student (temporarily or permanently) to another hall or house or to remove a student (temporarily or permanently) from the residential system. Students have the right to request that their cases be heard by the Judicial Board or a Judicial Coordinator instead of a member of the residential education staff.

f. In extraordinary circumstances, the appropriate Judicial Coordinator in the Dean of Students Office may authorize an associate or assistant Dean, or a designated residential director or graduate assistant in the Office of Residential Education, to adjudicate a case that would ordinarily fall outside of his or her jurisdiction.

g. Sanctions imposed by the residential education staff may be appealed by scheduling an appointment with a Judicial Coordinator in the Office of the Dean of Students to arrange for a Judicial Board hearing.

h. Major or persistent violations shall be referred to a Judicial Coordinator. The Judicial Coordinator will communicate with the resident education staff members on a regular basis to discuss behavioral issues and to determine appropriate courses of action.

F. Filing a Complaint

1. PROCESS

a. Any member of the Oberlin College community may bring a complaint about student conduct to the attention of a Judicial Coordinator. Incident Reports from Safety and Security and written reports from members of the residential education staff may result in disciplinary charges.

(1) Students are not required to report violations of the Code of Conduct (with the exception of violations of the Sexual Offense Policy), but should consider the consequences of nonreported incidents for the community.

(2) It may not be possible to adjudicate anonymous complaints because of the need for reasonable evidentiary standards. Therefore, community members should take seriously their obligation to report violations and to participate in resulting judiciary procedures.

b. Complaints must ordinarily be filed within 10 business days from the date of the alleged incident. A Judicial Coordinator may determine exceptions on a case-by-case basis, up to a maximum of 12 months from the alleged incident.

c. Complainants are instructed to meet with a Judicial Coordinator, who informs individuals about their rights, responsibilities, and options, as well as the hearing and/or mediation process.

d. If a complainant wishes to file a formal complaint following a conference with a Judicial Coordinator, he or she must complete a complaint form (available in the Office of the Dean of Students) and indicate a preference for mediation or adjudication.

e. A Judicial Coordinator has the authority to determine whether an alleged behavior might reasonably have constituted an infraction of the Code of Conduct and whether there is sufficient information to proceed with a charge. A Judicial Coordinator also has the authority to proceed with a charge in the absence of a complaint (or in the event that a complaint is withdrawn) if there is sufficient information from a third source, such as a Safety and Security incident report.

f. A Judicial Coordinator may also refer students involved in judicial matters to the Oberlin College Dialogue Center (OCDC) for mediation when both of the following conditions are met:

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- (1) Both parties agree to mediation as the appropriate means for addressing their dispute; and
 - (2) Major violations of the rules and regulations (those likely, according to precedent, to result in suspension or dismissal) have not occurred, as determined by a Judicial Coordinator.
- g.** All charges are filed by a Judicial Coordinator, on behalf of the college.
- h.** In instances where there is a lack of clarity about whether a case falls under the jurisdiction of the Judicial or Honor System, the Dean of Students or his or her designee in consultation with the cochairs of the Student Honor Committee will determine which system (Judicial or Honor) shall hear the case.

G. Responding to a Complaint

1. PROCESS

- a.** The respondent shall normally receive written notice regarding a complaint within seven business days after it was reported to a Judicial Coordinator.
- b.** The respondent must meet with that Judicial Coordinator within three business days after receiving notification of the charge in order to discuss a) the nature of the charge, b) the rights and responsibilities of the respondent, c) the judicial process, and d) the slate of potential hearing board members. Respondents have the right to remain silent and exercising this right will not be used against them.
- c.** The respondent may bring an advisor to the meeting with the Judicial Coordinator. An advisor may be any member (student, faculty, or staff member) of the Oberlin College community.
- d.** If the respondent fails to arrange a conference with the Judicial Coordinator or return the completed form within three business days, the matter will be referred to the Judicial Board for adjudication.
- e.** If both parties to the dispute agree that mediation is appropriate, the matter may be referred to the Oberlin College Dialogue Center (OCDC). The Judicial Coordinator may also refer students involved in judicial matters to the Office of the Ombudsperson for mediation when both of the following conditions are met:
- Both parties agree to mediation as the appropriate means for addressing their dispute.
 - Major violations of the rules and regulations (those likely, according to precedent, to result in suspension or dismissal) have not occurred, as determined by the Judicial Coordinator. If they do not agree, the matter will be referred to the Judicial Board.
- f.** The Judicial Coordinator may determine whether mediation will be the sole means of conflict resolution. While the Judicial Coordinator may require the formal adjudication of a complaint regardless of mediation, the successful mediation of an incident prior to a Judicial Board hearing may be regarded as a mitigating factor in the Board's determination of sanction.
- g.** All relevant security reports, witness reports, complaint forms, respondents' statements, and other relevant written materials are to be shared with the respondent and complainant two business days prior to the hearing.
- h.** The respondent shall receive a written copy of the judicial process and hearing procedures.
- i.** The Judicial Coordinator will present a list of all 15 Judicial Board members to the respondent at the meeting. The respondent and the complainant have the opportunity to request in writing to the Judicial Coordinator, within 24 hours that a specific Board member (or members, up to five) not participate in the hearing due to a conflict of interest or perceived bias. The rationale for the request shall be included.
- j.** After the respondent has been contacted, the complainant will be kept informed of developments and will be advised of procedures.
- k.** The respondent and complainant must be properly informed of the date and time of the hearing in writing and must have at least five business days to prepare.
- l.** The respondent and complainant shall have the opportunity to request that witnesses testify on their behalf. The Judicial Coordinator retains the authority to admit witnesses, based on the relevance of their testimony.
- m.** The respondent and complainant must notify the Judicial Coordinator of any advisors and witnesses attending the hearing within three business days following their individual meeting. Any scheduling needs must be addressed at that time.
- n.** The respondent and the complainant will be notified of each other's witnesses at least 24 hours prior to the hearing.
- o.** The Judicial Coordinator will encourage respondents to notify their parents or guardians of pending deliberations, and in advance of any college notification of outcome.
- p.** If a judicial case is also being heard by a civil or criminal court, the college retains the right to hear the judicial case before, after, or during the same time as the civil or criminal case. However, the Judicial Coordinator will entertain a request from a respondent to postpone a hearing until after a civil

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or criminal case if the respondent believes that the admission of information in the college's judicial process could compromise her/his ability to a fair trial in the court.

q. The intimidation or harassment of witnesses and/or Board members is a violation of the Code of Conduct and will result in judicial action.

H. The Hearing

1. PROCESS

a. The Judicial Coordinator shall assemble a panel of four Judicial Board members (from among those available) for individual cases based upon their availability, overall caseload, and level of experience. Each available panelist must indicate to the Judicial Coordinator whether they have knowledge of the participants in the case that may impair—or may be perceived to impair—his/her ability to judge a case impartially, and recuse him/herself if his/her participation might reasonably compromise the integrity of the process.

b. Board members must be provided with all written documentation at least 24 hours prior to the hearing.

c. The respondent and complainant must have the opportunity to select an advisor from the Oberlin College community (current student, staff, or faculty member) and the opportunity to have that advisor present at both the meeting with the Judicial Coordinator and the hearing. The advisors are present not to act as legal counsel, but to assist and support the student and to give advice on procedural matters. The advisors do not have speaking privileges during the hearing. A hearing will not be canceled or postponed in the event a scheduled advisor does not attend.

d. Prior to the hearing, board members must appoint a nonvoting chair from among themselves. The chair is responsible for maintaining good order, recognizing who is to speak, moving the process along according to the hearing procedures, and presiding over the hearing and the deliberations.

e. The chair shall determine the relevance and admissibility of information in consultation with the Judicial Coordinator. Respondents and complainants may address questions of the witnesses and one another when recognized by the chair. Witnesses are to speak only when they are addressed.

f. Present at the hearing are a) the Judicial Board, b) the Judicial Coordinator, c) the respondent(s), d) the complainants, e) approved witnesses, f) advisors to the respondent and complainants (as previously defined). Parents, attorneys, or other observers (with

the following exception) are not permitted in the hearing.

g. Hearings may be open to the Oberlin College community if agreed upon by the respondent and the complainant.

h. If the respondent or complainant fails to appear at the hearing, the matter will be resolved in his or her absence.

i. Witnesses may be present at the hearing only as they are called to testify. A hearing will not be canceled or postponed if a scheduled witness does not attend.

j. Written statements of witnesses not in attendance due to extreme emergencies shall be considered and may be approved by the chair.

k. At the start of the hearing, the chair shall ask the respondent whether he/she is acquainted with the charges that have been filed, and whether he/she understands them. All written testimony previously made available to the respondent, complainant, and board members is relevant information at this time.

l. The remainder of the hearing shall customarily proceed in the following order with all of the elements occurring at least once:

- (1) Opening statement from respondent.
- (2) Opening statement from complainant, if appropriate.
- (3) Board questioning of respondent and complainant.
- (4) Board questioning of witnesses.
- (5) Respondent and complainant questioning of each other, and of witnesses.
- (6) Final questions from Board.
- (7) Complainant's closing statement, if appropriate.
- (8) Respondent's closing statement.

m. The respondent and complainant must have all information (upon which a decision may be based) introduced at the formal hearing.

n. All hearings will be audiotaped. A transcription of the tape will be made in the event a request for an appeal is filed.

o. These procedures also apply to the Community Board when it is functioning as the board of original jurisdiction.

2. DELIBERATIONS

a. Deliberations shall occur in closed session immediately following the hearing or as soon as practicably possible but not more than one business day after the hearing.

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- b.** During deliberations, board members must first review the hearing and determine the responsibility of the respondent based solely on the information presented at the hearing.
- c.** Once the level of responsibility has been determined, board members shall then determine the appropriate sanction(s), if necessary. Board members must not be apprised of a respondent's prior disciplinary record until the sanctioning stage of the deliberations.
- d.** A majority vote (from two of the three voting members) will be used when determining the level of responsibility and the appropriate sanctions, if any.
- e.** The standard of proof used for making a decision regarding the level of responsibility is: preponderance of evidence. This means there is belief that, on balance, it is more likely than not that the available facts support a particular outcome.
- f.** In the interest of fairness, sanctions must be determined with due regard for precedent. That is, the Judicial Coordinator should prepare in advance a log of similar infractions so that the board may be guided by precedent.
- g.** At the conclusion of the deliberations, the chair shall draft a letter to the respondent, to be sent by registered mail within 12 hours of the conclusion of the deliberations. This letter shall include a) the decision as to responsibility for infractions, b) any sanctions imposed, and c) information regarding the review process.
- h.** Complainants may be notified of the outcome by the Judicial Coordinator at the conclusion of the Judicial Board hearing and any subsequent appeals. While complainants may be informed of the respondent's culpability, they may not ordinarily be informed of sanctions imposed.
- i.** This deliberative process also applies to the Community Board when it is functioning as the board of original jurisdiction.

I. The Review

1. PROCESS

- a.** The respondent shall have the opportunity to request a review of a decision.
- b.** The complainant does not have the right to request a review of a decision.
- c.** A request for a review shall be based on one or more of the following criteria:
 - (1) New information not reasonably available at the time of the hearing.
 - (2) Procedural error which could reasonably be judged to have materially affected the outcome of the hearing.

- (3) Unreasonably or inappropriately severe sanctions.

d. A request for a review must be submitted in writing to the Judicial Coordinator within five business days from receipt of notification of the decision. The request for a review must include a detailed rationale that addresses one or all of the criteria. The respondent shall be notified in writing of the decision within 10 business days after it was submitted.

e. The review will be conducted by five members of the Community Board, including three faculty members (including the nonvoting chair) and two students. The two students shall not have been a part of the original hearing. If the Community Board was the board of original jurisdiction, an appeal will be made to a new panel.

f. The Community Board shall meet with the Judicial Coordinator in a closed session to review the case. The review will ordinarily include, but not be limited to, a review of the taped proceedings of the original case and the written request of the respondent. While copies of a written transcript may be made available, deliberations should ordinarily be based upon a review of the tape itself.

g. The Judicial Coordinator does not have a vote, but is there primarily to assist with the process and to provide any information relevant to the criteria.

h. In the event that the Judicial Coordinator adjudicated the case that is in question, he/she will not be present at the meeting to determine if there should be a new hearing.

i. The Community Board shall meet, reach a decision, and notify the respondent of the decision within 10 business days from the time a review has been requested.

j. The Community Board shall decide if there is sufficient reason to grant a new hearing of the Judicial or Community Board. The Board may also determine that the original sanction should be altered or set aside.

k. The Community Board shall meet with members of the original hearing board in the event additional clarification is needed.

l. In the event that a new hearing is granted, it will be conducted by the board of original jurisdiction (Judicial or Community). Members of the original hearing panel may not be involved with the new hearing. The decision from a new hearing is final and is only appealable to the President.

m. The chair shall draft a letter immediately to the respondent once a decision is reached. The letter shall outline the decision of the Community

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Board and the rationale. If there is no additional appeal, the Judicial Coordinator may acquaint the complainant (in such cases as there is one) with the final determination.

n. In the event that a request for an appeal is denied by the Community Board, an ultimate appeal may be made to the President (or his or her designee) in writing within 10 days of the Community Board's decision. The determination of the President (or his or her designee) is final.

J. Mediation

1. BACKGROUND

Because some conflicts between two or more individuals may be better resolved through mediation, college community members are encouraged to consider mediation as a means of resolving disputes as often as possible.

2. DEFINITION

Mediation is an avenue by which people in conflict can attempt to state their views, express their feelings, work through their issues, and arrive at a solution that is agreeable to all parties. Mediation is facilitated by impartial mediators who help the parties identify needs and interests in a situation as well as possible solutions for the future. The Judicial Coordinator may refer students involved in judicial matters to the Oberlin College Dialogue Center (OCDC) through the Office of the Ombudsperson.

3. PROCESS

a. Mediation is made available by the Oberlin Campus Dialogue Center through the Ombuds Office when both of the following conditions are met:

- (1) Both parties agree to mediation as the appropriate means for addressing their dispute.
- (2) When the violation is sufficiently minor that it would not likely result in suspension or dismissal, as suggested by precedent.

b. Requests for mediation should be filed with OCDC through the Office of the Ombudsperson.

c. Because the parties must voluntarily enter into mediation, the Ombudsperson will work with the parties to determine their willingness to participate in mediation and to verify that mediation is their choice among the alternatives provided by the college's student disciplinary system.

d. Once the parties have agreed to mediation, the Ombudsperson will assign two mediators agreed upon by the parties to mediate the dispute and set up a date, time, and location for the session(s).

e. The only parties who will be present at the mediation session(s) will be the persons directly

involved in the dispute and the mediators. During the mediation process, the mediators will:

- (1) Ask the parties to relate their respective versions of the incident in question, including both factual information and feelings.
- (2) Identify key issues that emerge in the first step and make these known to the parties.
- (3) Seek the agreement of the parties on the issues as they have been identified or as they need to be modified.
- (4) Facilitate discussion between the parties to consider each issue more completely and generate solutions for each.
- (5) Work with both parties to develop a written document that will include a statement of agreement on each issue.
- (6) Request that participants adhere to ground rules.

f. A statement of agreement shall become a part of the contract drawn up and signed by the parties at the completion of the mediation process. Any activity or behavior that a party has agreed to perform following the mediation shall be included in the contract. Any outcome of mediation must be agreed to by all parties.

g. In cases referred by the Judicial Coordinator, the parties must give permission to have the Judicial Coordinator informed whether or not mediation has resulted in a mutually satisfactory resolution. In cases in which there is NOT a mutually satisfactory resolution, the case may be remanded to the Judicial System.

h. If an unsuccessfully mediated case is remanded to the Judicial System, no information that has come to light during the mediation process may be used as evidence by either party.

i. A copy of the contract will not be kept by the Ombudsperson and cannot be used for any formal judicial process.

j. If a party is dissatisfied with the mediation process at any stage, prior to the signing of a written agreement, that party may request that the mediation process cease.

k. Because participation in the mediation process is entirely voluntary and the final result is a product of mutual agreement, the individuals participating in the mediation own the outcome.

K. Sanctions

This nonexhaustive list of sanctions should serve to alert students to the range of possible sanctions. A record of all educational interventions and sanctions, including verbal warnings, becomes a part of a student's permanent

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disciplinary record that is stored in the Office of the Dean of Students for a minimum of seven years.

1. WARNING

A written or verbal (i.e., spoken) admonition may be issued in situations involving minor violations. Though only issued in person, verbal warnings are documented in a student's judicial record.

2. FINES

Fines may be used in cases of damage to the college or personal property. In cases of serious and/or repeated acts of destruction or vandalism, the imposition of fines may likely be combined with other disciplinary penalties.

3. LIMITATIONS ON PARTICIPATION

A student may be barred from participating in campus and/or other college activities. A clear rationale for this decision will be presented by the Board/Judicial Coordinator including an assessment of the impact on the student's educational career.

4. COUNSELING

A student may be required to receive a psychological/psychiatric assessment and to seriously consider any recommendations that may follow from it.

5. CAMPUS/COMMUNITY WORK AND EDUCATIONAL WORKSHOPS

The Judicial Coordinator or Judicial Board can impose particular forms of community work, on or off campus, and a specified number of hours to be worked, and will monitor the student's fulfillment of the requirement. The Judicial Board or Judicial Coordinator may also require attendance at educational workshops or other similar alternatives suitable to the nature of the infraction.

6. RESIDENCE HALL ROOM CHANGE

A student may be required to move to another room or residence hall.

7. RESTITUTION

Compensation for loss, damage, or injury may be required. This may take the form of appropriate service and/or monetary or material replacement.

8. DENIAL OF RESIDENCE ON CAMPUS

A student who violates standards of conduct associated with residential and/or social life at the college or those involving respect for persons, or who is found to have engaged in assault, stalking, or harassment, may be required to vacate his/her residence and denied permission to live on campus, either for a specified time or permanently. In the event that a student is suspended or expelled from a campus residence, he/she will be entitled to a refund only of that portion of the housing bill that is consistent with the established refund policy. Other penalties may be imposed as well, but if this

is the only penalty, the student will continue to be enrolled as a degree candidate and will be allowed to attend all academic exercises.

9. PROBATION

A warning in writing which specifies that further infractions of the code during a student's time at Oberlin will, in most instances, lead to suspension or dismissal from the college. A student on disciplinary probation may be barred from some or all extracurricular activities for a defined period of time. This penalty will become part of a student's permanent disciplinary record and may be disclosed in response to requests for information with the permission of the student. It will not be a part of a student's academic record.

10. DEFERRED PROBATION

A notation on a student's permanent judicial record stating that the student will be placed on probation automatically for a period of time determined by a Judicial Coordinator in the Office of the Dean of Students if (1) all sanctions imposed are not completed satisfactorily and by a specified date, and/or (2) the student is found responsible for another violation during the deferred probation period.

11. SUSPENSION

The rights and privileges of being a student at Oberlin College may be suspended for a specific period of time, the minimum of which will be to the end of the current semester. The student must leave the campus and may return at the end of the period of suspension without petitioning for re-admission. The following will normally accompany this sanction:

- a. Parental notification.
- b. Restriction from college property for duration of suspension.

This penalty will be a part of a student's permanent disciplinary record, and the student's academic record and transcript for a specific amount of time to be determined by the Judicial Board. In the event a student leaves the college prior to graduation, the penalty will remain on both the academic and disciplinary records.

Note: Normally, suspended students may not earn credits toward their Oberlin degree until after they have been reinstated at Oberlin College. Under special circumstances, a suspended student may be permitted to transfer a maximum of six credits for academic work done at another school—during the period of suspension—toward his or her Oberlin degree. However, the student must receive permission in advance of taking coursework at another school, and must make arrangements for the transfer of credit prior to enrolling in the courses to be transferred. Students seeking transfer credit must apply in writing to the Dean of Studies providing the following information:

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title and description of each course; number of credit hours; name and location of institution; an explanation of how each course fits into the student's Oberlin program; why it is more appropriate to the course(s) while suspended than upon return to Oberlin. For more detailed information consult with staff in the Office of the Dean of Studies, Peters Hall 205, (440) 775-8540.

ANY RECOMMENDATION FOR SUSPENSION MUST BE APPROVED BY THE COMMUNITY BOARD.

12. DEFERRED SUSPENSION

A notation in the student's permanent judicial record stating that if all sanctions imposed by a Community Board are not completed satisfactorily and by a specified date the student will be placed on suspension automatically for a period of time predetermined by the Community Board that heard the case.

13. WITHHOLDING OF DEGREE

In disciplinary cases involving second-semester seniors when probation or suspension might otherwise be imposed, the college may withhold the student's Oberlin College degree for a specified period of time. When this occurs, the student may be permitted to remain on campus to complete the requirements for the degree, although its award will be delayed. Any recommendation for withholding a degree must be approved by the Community Board.

14. DISMISSAL

This means the permanent termination of student and degree-candidate status at Oberlin College. It may be imposed only in the most serious of cases, or when a student has been suspended previously and commits another offense judged to be worthy of a second suspension. This penalty will permanently remain on a student's academic record.

ANY RECOMMENDATION FOR DISMISSAL MUST BE APPROVED BY THE COMMUNITY BOARD.

A Note About the Release of Information Pertaining to Disciplinary Records

The Office of the Dean of Students will only release information regarding a current or former student's disciplinary record to third parties (including, but not limited to law schools, medical schools, and military branches) after receiving a written request from that individual and a signed waiver for the third party. As a rule, the college only reports information pertaining to cases that have resulted in probation, suspension, or dismissal alone or in combination with other lesser sanctions.

Current and former students desiring the Office of the Dean of Students to report disciplinary history that it does not customarily report (such as cases that resulted in deferred probation, deferred suspension, or other lesser sanctions not combined with probation,

suspension, or dismissal) may authorize the office to share such information by making a specific written request. Individuals wishing to speak with someone about a dean's letter or dean's certification, may contact the Office of the Dean of Students at (440) 775-8462.

L. Revisions and Modification

The Judicial System will be reviewed every other year by the Judicial Coordinator and a subcommittee of the Judicial and Community Boards. Changes to this document will be approved by the Student Life Committee (SLC) and the General Faculty.

Copies of the *Oberlin College Student Code of Conduct and the Judicial System Charter* are available online and in the Dean of Students Office.

V. Social Conduct and Regulations

A. Statement of Social Responsibility

The following statement was adopted by the Student Senate on October 2, 1966, and remains in effect.

We, the students of Oberlin College, recognize that social responsibility inheres with membership in the college community. Because we have the right to establish our own rules, each student will create and adhere to a set of individual values consistent with the rights of other members of the community. Collectively, we will establish a framework of rules that leaves a wide area of free choice, while building a tradition of respect for responsible behavior. Individually, we commit ourselves to govern our actions within this framework, not only by our own personal needs and desires, but also by a concern for the welfare of others. A social system that encourages individual choice and responsibility goes hand in hand with the fostering of intellectual freedom and academic excellence. We value highly that freedom which is rooted in the willingness to enforce and administer our own rules, and in the willingness of all students to cooperate with the entire community. We believe that not only the ability to make decisions, but also the development of a respect for the decisions of others is essential to the education process and the working of a viable community.

B. Faculty Statement on Freedom of Speech and Expression

The following resolution was adopted by the General Faculty on May 20, 1986, and remains in effect.

The General Faculty has observed with grave concern recent incidents at Oberlin College in which members of the college have appeared to interfere with the efforts of other members and guests of the college to freely express their views. The General Faculty urges aggrieved persons or groups to make use of established judicial procedures to resolve specific instances in which rights may have