

ATLANTA METROPOLITAN STATE COLLEGE

STUDENT CONDUCT POLICY



University System of Georgia

Revised: July 2019

AMSC STUDENT CONDUCT POLICY

The College has the responsibility to furnish students with academic knowledge while helping them develop into mature and responsible citizens of the community. All students are entitled to learn in a safe environment conducive to personal and professional growth. Therefore, all individuals enrolled at Atlanta Metropolitan State College must adhere to the College's conduct policy. These procedures apply to matters relating to student misconduct, except matters relating to sexual misconduct or academic dishonesty which are covered under separate institution policies.

I. REPORTS OF STUDENT MISCONDUCT

Student misconduct by members of the College community should be immediately reported to one of the following Atlanta Metropolitan State College campus officials described below:

- (1) Student misconduct involving students should be reported to the Vice President for Student Affairs, Office of Student Affairs, Suite 217, Student Center Building, (404) 756-4585; and/or

If an emergency and/or involves a criminal act;

- (2) Student misconduct involving a criminal act should be reported to the AMSC Department of Public Safety, Academic Building, 2nd Floor, (404) 756-4040.

A. FILING A FORMAL COMPLAINT OF STUDENT MISCONDUCT

A Complainant of student misconduct can choose from the following reporting options within the institution to file a complaint of student misconduct at Atlanta Metropolitan State College:

- (1) File a student misconduct complaint with the Office of Student Affairs;
- (2) File a criminal complaint with AMSC law enforcement officials; and
- (3) File an anonymous complaint.

Listed below are the details on how to file a student misconduct complaint using each of the above listed options:

(1) How to File a Student Misconduct Complaint

All complaints of alleged AMSC student conduct violation by a student shall be made in writing to the Office of Student Affairs. The complaint can be submitted by completing an online complaint intake form labeled as "Incident and Complaint Report Form" located on the homepage of the AMSC website at www.atlm.edu, or by completing a hardcopy complaint form obtained from the Office of Student Affairs.

Complaints should contain as much information as possible – such as: (1) the type of misconduct alleged; (2) the name and contact information of the individual(s) accused of the misconduct; (3) the date(s), time(s), and place(s) of the misconduct; (4) the name(s) and contact information of any individual(s) with knowledge of the incident; (5) whether any tangible evidence has been preserved; and (6) whether a criminal complaint has been made.

Information from complaints will be shared only as necessary to investigate and to resolve the alleged student misconduct. Complaints will be investigated and resolved as outlined below. The Vice President for Student Affairs (VPSA) or VPSA appointee in conjunction with the AMSC Judicial Officer will assess the need for institutional interim measures as described below as appropriate and where reasonable, as well as work with the appropriate institutional department to determine the need to issue a broader warning to the community in compliance with the Clery Act or to report activity to the authorities.

Student misconduct reports will be investigated and adjudicated separately from any criminal complaints.

1. *Confidentiality*: Where a complainant or alleged victim requests that his or her identity be withheld or the allegation(s) not be investigated, AMSC will consider, through the Vice President for Student Affairs, whether this request can be honored while still providing a safe and nondiscriminatory environment for the institution and conducting an effective review of the allegations. Therefore, AMSC cannot guarantee confidentiality to the requesting party.
2. *Retaliation*: Anyone who, in good faith, reports what she or he believes to be misconduct under this Policy, or who participates or cooperates in, or is otherwise associated with any investigation, shall not be subjected to retaliation. Anyone who believes he or she has been the target of retaliation for reporting, participating or cooperating in, or otherwise being associated with an investigation should immediately contact the Vice President for Student Affairs or the AMSC Judicial Officer. Any person found to have engaged in retaliation in violation of this Policy shall be subject to disciplinary action pursuant to AMSC policy.
3. *False Complaints/Statements*: Individuals are prohibited from intentionally giving false statements to an institution official. Any person found to have intentionally submitted false complaints, accusations, or statements, including during a hearing, in violation of this policy shall be subject to disciplinary action (up to and including suspension or expulsion) and adjudicated under the student conduct policy.
4. *Amnesty*: Students are encouraged to come forward and report violations of the law and/or student code of conduct notwithstanding their own improper use of alcohol or drugs. Any student(s) who voluntarily and in good faith reports information to college staff members prior to any investigation concerning use of drugs or alcohol will not be voluntarily reported to law enforcement nor will information he or she provides be used against them for purposes of conduct violations. Nevertheless, these students may be required to meet with staff members in regard to the incident and may be required to participate in appropriate educational program(s).

The required participation in an educational program under this amnesty procedure will not be considered a sanction, and since the student will not have been found responsible for a violation, the student will not have a student conduct "record" based on any incident related to the amnesty procedure. The documentation of the incident(s) will be treated as if the student were charged and then found not responsible for a violation.

(2) How to File a Student Misconduct Complaint through AMSC Law Enforcement

Because some student misconduct may constitute criminal activity, a complainant also has the option, should he or she so choose, of filing a report with AMSC Public Safety Department or local police, for his or her own protection and that of the surrounding community.

(3) How to File an Anonymous Student Misconduct Complaint

Persons who wish to report an anonymous complaint of student misconduct may do so by completing the online complaint intake form labeled as "Incident and Complaint Report Form" located on the homepage of the AMSC website at www.atlm.edu.

It should be noted that a complainant may not always be the alleged victim but instead may be a third-party witness. The institution may also respond to issues raised by third-party complaints (such as referrals by police) or discovered by staff or through its own investigations.

B. PROCESS FOR INVESTIGATING AND RESOLVING DISPUTED REPORTS

Jurisdiction: AMSC shall take necessary and appropriate action to protect the safety and well-being of its community. Accordingly, AMSC shall address student conduct when such acts occur on institution property, at institution-sponsored or affiliated events, or otherwise violate the institution's student conduct policies, regardless as to where such conduct occurs. If the student has admitted responsibility and has voluntarily decided to participate in the informal process, the procedures outlined in this section will not apply.

Access to Advisors: The respondent and alleged victim (where applicable), as parties to these proceedings, shall have the right to have an advisor (who may or may not be an attorney) of his or her choosing, and at his or her own expense, for the express purpose of providing advice and counsel. The advisor may be present during meetings and proceedings during the investigatory and/or resolution process at which his or her advisee is present. The advisor may advise his or her advisee in any manner, including providing questions, suggestions, and guidance on responses to any questions posed to the advisee, but shall not participate directly during the investigation or hearing process. The institution shall not prohibit family members of a party from attending if the party requests such attendance, but may limit each participant to two family members.

Initial Evaluation of Student Conduct Reports:

Upon receipt of student conduct complaint, AMSC will conduct a prompt, fair, and impartial review and resolution of complaints alleging student misconduct. The Student Affairs Conduct Officer, who will be the Vice President for Student Affairs or his/her designee, shall review the complaint to determine whether the allegation(s) describes conduct in violation of the institution's policies and/or code of conduct. This initial review includes a preliminary inquiry into the nature of the incident, complaint or notice, the evidence available, and the parties involved. The preliminary inquiry may lead to a determination that there is insufficient evidence to pursue the investigation because the behavior alleged, even if proven, would not violate the Codes of Student Conduct, (e.g.: for reasons such as mistaken identity or allegations of behavior that falls outside the code). If the reported conduct is not a violation of the institution's policies and/or Student Conduct Policy then the report will be dismissed. In addition, the Student Affairs Conduct Officer has the discretion to choose not to pursue codes of conduct charges or to refer a complaint elsewhere for resolution based on the totality of the circumstances involved.

During the initial review, if there is sufficient information to pursue the investigation, the Vice President for Student Affairs or designee must promptly decide if the allegation is higher level in nature, i.e. a lower level allegation or a higher level allegation. An allegation is higher level in nature if, in the judgment of the administrator conducting the preliminary review, the appropriate sanction(s) if the student is found responsible for the violation may include retraction of a degree or previously awarded course credit, suspension from school, and/or expulsion from school. Or, if the allegation is against an organization, it is considered higher level in nature if, in the judgment of the administrator conducting the preliminary review, the appropriate sanction(s) if the organization is found responsible for the violation may include a sanction of suspension or revocation of the organization's registration with the College. Repeated violations may be considered in making this determination. If the allegation is not deemed higher level, then the Student Affairs Conduct Officer may conduct an informal educational (disciplinary) meeting to resolve the matter, as it is deemed a lower level allegation.

Investigative Oversight:

If the Vice President for Student Affairs or designee deems the allegation is higher level in nature, then s/he shall forward it to the AMSC Office of Judicial Affairs for additional investigation and adjudication. Any report that involves allegation(s) of conduct that could lead to the suspension or expulsion of the respondent(s) in an initial violation shall then be reported to the USG System Director by the Office of Judicial Affairs. The System Director will work with the institution in the assignment of an investigator. The assigned investigator will work under the direction of the System Director or her designee. If an allegation is not initially identified as one that could lead to suspension or expulsion of the respondent(s), but facts arise during the course of the investigation that would require transfer to the System Director, AMSC shall then report the violation to the System Director or his/her designee for possible transfer oversight. The System Director shall have the discretion to retain oversight or transfer oversight back to AMSC.

Sexual Misconduct Allegations:

Where a report of student misconduct alleges sexual misconduct or other forms of harassment and/or discrimination, the report shall be referred to the AMSC Title IX Coordinator in the Office of Title IX Compliance and the investigation will be conducted in accordance with AMSC's Sexual Misconduct Policy.

Process for Lower Level Conduct Allegation

1. A notice of conduct charges and of an informal educational/disciplinary conference will be sent by College email to the responding student or, if the allegation is against an organization, the notice letter will be sent to the College email of an officer of the organization.
2. Notice will include the date, time, and place of the informal educational/disciplinary conference.
3. Notice will include the section(s) of the Student Code of Conduct allegedly violated and information about the evidence and circumstances of the allegation.
4. The administrator conducting the informal educational/disciplinary conference will allow the responding student or organizational representative to give an explanation of the incident and present witnesses if they have information relevant to the issue of whether or not the student or organization violated the Student Codes of Conduct. If the student admits responsibility, the process may proceed to the sanctioning phase or may be informally resolved through mediation, if appropriate.
5. No student or organizational representative is required to respond to this notice of conduct charges and a lack of response or lack of attendance at an educational/disciplinary conference will not be considered an admission of responsibility for a violation. Nevertheless, the lack of response or non-appearance at the educational/disciplinary conference after notice to the appropriate AMSC email address will not stop the administrator from holding the educational/disciplinary conference, considering the evidence and information available, and making a determination of responsibility if sufficient evidence/information is available.
6. Every decision as to whether the responding student or organization violated the Student Codes of Conduct will be based on a preponderance of the evidence/information available. This means that if the administrator finds the responding student or organization responsible for violations s/he must have determined that there is evidence/information available and it is more likely than not that the responding student or organization is in violation.
7. The administrator will select appropriate sanctions if the responding student or organization is found responsible for violations and will inform the student or organization in writing sent to his or her College email of the result of the educational/disciplinary conference.

8. There is no appeal of either the findings or sanctions after an informal educational/disciplinary conference based on lower level allegations. There is one exception: if a student or organization is found responsible for a violation and removed from AMSC affiliated student housing then that sanction may be appealed in accordance with the guidelines in Section VI of this document (Appeals).

Process for Higher Level Conduct Allegation

Upon receipt of a forwarded higher level complaint case from the Office of Student Affairs to the Office of Judicial Affairs, any report that involves allegation(s) of conduct that could lead to the suspension or expulsion of the respondent(s) in an initial violation shall then be reported to the USG System Director by the Office of Judicial Affairs. The System Director will work with the institution in the assignment of an investigator. The assigned investigator will work under the direction of the System Director or her designee. If an allegation is not initially identified as one that could lead to suspension or expulsion of the respondent(s), but facts arise during the course of the investigation that would require transfer to the System Director, AMSC shall then report the violation to the System Director or his/her designee for possible transfer oversight. The System Director shall have the discretion to retain oversight or transfer oversight back to AMSC. The assigned Investigator to the complaint case shall conduct a prompt, thorough, and impartial investigation and review into each complaint received to determine whether charges against the respondent should be brought.

Investigation

Throughout the investigation and resolution proceedings, the respondent party shall receive notice of the alleged misconduct, shall be provided an opportunity to respond, and shall be allowed to remain silent during the investigation and resolution process, without an adverse inference resulting. If the respondent party chooses to remain silent, the investigation may still proceed and policy violation charges may still result, and may be resolved.

Where the potential sanctions for the alleged misconduct may involve a suspension or expulsion (even if such sanctions were to be held “in abeyance,” such as probationary suspension or expulsion) AMSC’s investigation and resolution procedures provides the following:

1. The alleged victim and respondent shall be provided with written notice of the complaint/allegations, pending investigation, possible charges, possible sanctions, and available support services. The notice shall also include the identity of any investigator(s) involved. Notice should be provided via institution email and/o certified mail to the address on file.
2. Upon receipt of the written notice, the respondent shall be given at least three (3) business days to respond in writing. In that response, the respondent shall have the right to admit or to deny the allegations, and to set forth a defense with facts, witnesses, and supporting materials. A non-response will be considered a general denial of the alleged misconduct. Any alleged victim shall also be provided three (3) business days to respond to or to supplement the notice.
3. If the student admits responsibility, the process may proceed to the sanctioning phase or may be informally resolved through mediation, if appropriate.4. If at any point the investigator determines there is insufficient evidence to support a charge or to warrant further consideration of discipline, then the complaint shall be dismissed
5. The investigator shall conduct a thorough investigation and will retain written notes and/or obtain written or recorded statements from each interview. The investigator shall also keep a record of any party offered witnesses not interviewed, along with a brief, written explanation of why the witnesses were not interviewed.
6. The investigation report shall be provided to the respondent and the alleged victim (where applicable). This report will indicate any resulting charges (or alternatively, a determination of no charges), as

well as the facts and evidence in support thereof, witness statements, and possible sanctions.

7. The final investigation report will be provided to the student misconduct panel or hearing officer for consideration in adjudicating the charges brought against the respondent. A copy shall also be provided to the respondent and alleged victim (where applicable) before any hearing. The investigator may testify as a witness regarding the investigation and findings, but shall otherwise have no part in the hearing process and shall not attempt to otherwise influence the proceedings outside of providing testimony during the hearing.

Interim Measures:

In an effort to maintain a safe environment during the investigation and adjudication process, the College through the Vice President for Student Affairs may take interim action as appropriate. An interim suspension shall only occur when necessary to maintain safety, and shall be limited to those situations where the respondent poses a serious and immediate danger or threat to persons or property of the campus community. In making such an assessment, AMSC will consider the existence of a significant risk to the health or safety of the campus community; the nature, duration, and severity of the risk; the probability of potential injury; and whether less restrictive means can be used to significantly mitigate the risk.

Before an interim suspension is issued, AMSC will make all reasonable efforts to give the respondent the opportunity to be heard on whether his or her presence on campus poses a danger. If an interim suspension is issued, the terms of the suspension will take effect immediately. Upon request, the respondent will have the opportunity to be heard by the Executive Director of Judicial Affairs or System Director, as appropriate, within three (3) business days in order to determine whether the interim suspension should continue.

Imposing interim protective measures does not indicate that a violation of this Policy has occurred, and is designed to maintain the safety of the persons of the campus and not to harm the respondent. Interim measures may include, but are not limited to:

1. Issuance of a “no contact” directive (to include face to face, social media, or through third party);
2. Restrictions or bars to entering certain institution property;
3. Changes to academic or employment arrangements, schedules, or supervision;
4. Interim suspension; and
5. Other measures designed to promote the safety and well-being of the parties and the institution’s community.

II. CONDUCT VIOLATIONS

1. Alcoholic Beverages Violations

Possession, sale, furnishing, or consumption of alcoholic beverages on College property or events.

2. Bullying/ Cyberbullying

Aggressive speech or behavior directed towards another with the intention to intimidate, harm, and/or diminish.

3. Coercion

Use of pressure tactics, force, or intimidation to make another do something against his or her will.

4. Collusion

Any attempt with another or others to violate the Student Code of Conduct.

5. Damage to Property

Malicious or unauthorized intentional damage or destruction of property or materials owned or controlled by Atlanta Metropolitan College, or belonging to a member of the College community or to a visitor.

6. Discrimination

The unjust or prejudicial treatment of different categories of people, especially on the grounds of race, age, sex, or socio-economic status.

7. Dishonesty/Misrepresentation

Including but not limited to the following

8. Disorderly Conduct

Physically assaulting any member of the faculty, administration, staff or student body or any visitor to the campus. Also includes, but not limited to, lewd, indecent, and obscene conduct and/or expressions which provoke or offend others.

9. Disruptive and Obstructive Behavior

Inappropriate behavior that is considered abusive, profane, belligerent, and/or threatening.

10. Drugs and Drug Use

Possession, sale, furnishing, or use of drugs controlled by federal or Georgia law without valid medical or dental prescription.

11. Explosives

Possession, sale, or use of explosives of any kind on College property or at events.

12. Failure to Comply

Failure to comply with College Official directive or instruction.

13. Falsification of Records

Illegally alter, counterfeit, and/or forge any record, form or document used by the College.

14. Fire Safety

Possession, sale, or furnishing of an explosive or explosive device on College property or at College-sponsored events.

15. Gambling

The playing of games of skill or chance for money or other items on College property or at college sponsored events.

16. Harassment

An intention to intimidate, annoy, or alarm another through repeated dialogues or gestures.

17. Hazing

Orientation ceremonies which involve initiations or inductions that causes mental or physical suffering.

18. Incitement or Participation

Incitement or participation in a riot, disturbance, or other unruly acts or behaviors.

19. Intimidation

Producing in another reasonable fear of bodily harm or emotional distress through the use of threatening words and/or conduct.

20. Obscene Behavior

Engage in or encourage lewd, indecent, or obscene behavior or speech while on campus grounds or sanctioned campus events.

21. Parking and Traffic Violations

Violations of campus parking and traffic regulations.

22. Physical Abuse/Violence

Infliction of bodily harm, injury, or pain.

23. Public Exposure in a Public Forum

Recklessly or maliciously exposing one's intimate body parts or engaging in public urination, defecation, or sexual acts.

24. Public Intoxication

Public intoxication on College grounds.

25. Repeated Violation

Repeated violations of published rules or regulations of the College cumulatively indicating an unwillingness or inability to conform to the standards of the College for student's life.

26. Retaliation

An act of revenge against another in response to an act of harm or perceived injustice.

27. Sanction Non-Compliance

Failure to adhere to, abide by, or complete a College sanction in a timely or satisfactory manner.

28. Sexual Assault

The penetration of the vagina, anus, or mouth by a body part or an object without consent.

29. Sexual Contact

Intentional contact of an individual's private areas - breast, genitals, buttocks, or groin - without consent.

30. Smoking

Atlanta Metropolitan College is a smoke-free environment. Smoking is not allowed in any building on campus.

31. Stalking

Illegitimate behavior directed at another that seriously alarms, annoys, or intimidates that person.

32. Theft

Take, or attempt to take, or keep in his/her possession items belonging to the College or someone else.

33. Threat

The expressed intention to inflict bodily harm, injury, or pain.

34. Unauthorized Entry or Use of College Facilities

Unauthorized entry into any College building, office, or other facility.

35. Unauthorized Use of College Computers and Networks

Any violation of policies governing use of AMSC computers and networks.

(a) **Common courtesy and respect for rights of others** Students are responsible to all other members of the campus community in many ways, including respecting and valuing the rights of privacy for all, to recognize and respect the diversity of the population and opinion in the community, to behave ethically, and to comply with all legal restrictions regarding the use of information that is the property of others.

(b) **Privacy of information**

Files of personal information, including programs, no matter on what medium they are stored or transmitted, may be subject to the Georgia Open Records Act if stored on Atlanta Metropolitan State College's computers. That fact notwithstanding, no one should look at, copy, alter, or destroy anyone else's personal files without explicit permission (unless authorized or required to do so by law or regulation)

(c) **Intellectual property**

Students are responsible for recognizing (attributing) and honoring the intellectual property rights of others.

(d) **Harassment**

No member of the community may, under any circumstances, use Atlanta Metropolitan State College's computers or networks to libel, slander, or harass any other person.

The following shall constitute Computer Harassment:

- Intentionally using the computer to annoy, harass, terrify, intimidate, threaten, offend or bother another person by conveying obscene language, pictures, or other materials or threats of bodily harm to the recipient or the recipient's family;
- Intentionally using the computer to contact another person repeatedly with the intent to annoy, harass, or bother, whether or not any actual message is communicated, and/or where no purpose of legitimate communication exists, and where the recipient has expressed a desire for the communication to cease;
- Intentionally using the computer to contact another person repeatedly regarding a matter for which one does not have a legal right to communicate, once the recipient has provided reasonable notice that he or she desires such communication to cease (such as debt collection);
- Intentionally using the computer to disrupt or damage the academic, research, administrative, or related pursuits of another;

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- Intentionally using the computer to contact another person repeatedly regarding a matter for which one does not have a legal right to communicate, once the recipient has provided reasonable notice that he or she desires such communication to cease (such as debt collection);
- Intentionally using the computer to disrupt or damage the academic, research, administrative, or related pursuits of another;
- Intentionally using the computer to invade the privacy, academic or otherwise, of another or the threatened invasion of the privacy of another.

(f) **Responsible use of resources**

Students are responsible for knowing what information resources (including networks) are available. Students should remember that resources are shared, and refrain from all acts that waste or prevent others from using these resources or from using them in whatever ways have been proscribed by the College and the laws of the State and Federal governments.

(g) **Game playing**

Limited recreational game playing that is not part of an authorized and assigned research or instructional activity is tolerated (within the parameters of each department's rules). College computing and network services are not to be used for extensive or competitive recreational game playing.

(h) **Information integrity**

It is the responsibility of the student to be aware of the potential for and possible effects of manipulating information, especially in electronic form, to understand the changeable nature of electronically stored information, and to verify the integrity and completeness of information that compiled or used.

(i) **Use of desktop systems**

Students are responsible, in coordination with the Management Information Systems department, for the security and integrity of College information stored on personal desktop systems.

(j) **Sharing of access**

Computer accounts, password, and other types of authorization are assigned to individual users and must not be shared with others. Students are responsible for any use of their account.

(k) **Permitting unauthorized access**

Students may not run or otherwise configure software or hardware to intentionally allow access by unauthorized users.

(l) **Use of privileged access**

Special access to information or other special computing privileges are to be used in performance of official duties only. Information obtained through special privileges is to be treated as private.

(m) **Termination of access**

When students cease being a member of the campus community (graduate or terminate employment), or if they are assigned a new position and/or responsibilities within the College, their access authorization must be reviewed. Students must not use facilities, accounts, access codes, privileges, or information for which they are not authorized.

(n) **Attempts to circumvent security**

Users are prohibited from attempting to circumvent or subvert any system's security measures.

This section does not prohibit use of security tools by system administration personnel.

(o) **Decoding access control information**

Students are prohibited from using any computer program or device to intercept or decode passwords or similar access control information.

(p) **Denial of service**

Deliberate attempts to degrade the performance of a computer system or network or to deprive authorized personnel of resources or access to any College computer system or network is prohibited.

(q) **Harmful activities**

- The following harmful activities are prohibited:
- Creating or propagating viruses;
- Disrupting services;
- Damaging files;
- Intentional destruction of or damage to equipment, software, or data belonging to Atlanta Metropolitan State College or other users, etc.

(r) **Unauthorized access**

- Damage computer systems;
- Obtain unauthorized extra resources;
- Deprive another user of authorized resources;
- Gain unauthorized access to systems.
- By using knowledge of:
 - A special password;
 - Back doors in computer security systems
 - Another user's password
 - Access abilities used during a previous position at the College

(s) **Unauthorized monitoring**

Students may not use computing resources for unauthorized monitoring of electronic communications.

(t) **Academic dishonesty**

Students should always use computing resources in accordance with the high ethical standards of the College community. Academic dishonesty (plagiarism, cheating) is a violation of those standards.

(u) **Use of copyrighted information and materials** Students are prohibited from using, inspecting, copying, and storing copyrighted computer programs and other material, in violation of copyright.

(v) **Use of licensed software**

No software may be installed, copied, or used on College resources except as permitted by the owner of the software. Software subject to licensing must be properly licensed and all license provisions (installation, use, copying, and number of simultaneous users, term of license, etc.) must be strictly adhered to.

(w) **Political campaigning commercial advertising**

Board of Regents policy (section 914.01) states that "The use of System materials, supplies, equipment, machinery, or vehicles in political campaigns is forbidden." The use of College computers and networks shall conform to these policies.

(x) **Personal business**

Computing facilities, services, and networks may not be used in connection with compensated outside work nor for the benefit of organizations not related to Atlanta Metropolitan State College, except in connection with scholarly pursuits (such as faculty publishing activities); or in a purely incidental way. This and any other incidental use (such as electronic communications or storing data on single-user machines) must not interfere with other users' access to resources (computer cycles, network bandwidth, disk space, printers, etc.) and must not be excessive. State law restricts the use of State facilities for personal gain or benefit.

36. Verbal/Nonverbal Abuse

Offensive or demeaning language or gestures.

37. Violation of Local, State, or Federal Law

Violation of local, state or federal law on or off the campus, which constitutes a clear and present danger of material interference with normal, orderly operation and processes of the College.

38. Hoverboards

Atlanta Metropolitan State College (AMSC) will prohibit self-balancing scooters, battery operated scooters, and hands-free segways, more popularly known as hover boards, because of recent concerns by the Consumer Product Safety Commission (CPSC) and the potential impact these devices may have on campus safety. Beyond the risk of collisions and falls, the National Association of State Fire Marshals recently issued a warning after several incidents of scooters catching fire. These items will not be permitted on the AMSC campus or in any AMSC owned building. This action is being taken as part of the college's efforts to maintain a safe campus environment.

39. Weapons

Possession or use of a weapon on College property.

40. Willful Violation

Willful violation of disciplinary sanctions imposed in accordance with the Student Code of Conduct.

41. Title IX

Comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity, inclusive of sexual harassment and/or sexual assault.

III. RIGHTS OF STUDENT DEFENDANT BEFORE THE JUDICIAL HEARING PANEL

At hearings of the Judicial Hearing Panel, the student defendant shall be afforded all rights required of his/her process including:

- A. The right to a advisor of his/her choice.
- B. The right to question the complainant.
- C. The right to present evidence on his/her behalf.
- D. The right to call witnesses on his/her behalf.
- E. The right to remain silent and have no inference of guilt drawn from such silence.
- F. The right to cross-examination through the submission of questions to the hearing officer or panel.
- G. The right to appeal if the Judicial Hearing Panel imposes suspension or expulsion.
- H. A tape recording and/or summary transcription of the proceedings shall be kept and made available at the student's request for the sole purpose of appeal from a decision for expulsion. The student may also have a verbatim transcript made at his/her own expense. The College shall also have this option at its expense.
- I. The right to be advised of his/her right to appeal the decision of the Judicial Hearing Panel.
- J. The right to attend classes and required College functions until a hearing is held and a decision is rendered. Exceptions to this would be made when the student's presence would create a substantial likelihood of material interference with the normal operation and processes of the requirements of appropriate discipline at the College.

Resolution /Hearing

AMSC's policy and procedures provides for having a hearing to resolve charges of student misconduct. A hearing to resolve charge(s) of student misconduct will not take place before the investigative report has been finalized or before the respondent has had an opportunity to respond in writing, unless the respondent has chosen to go through an informal process or otherwise has provided a written waiver of rights to these procedures, Further, unrelated charges and/or cases shall be heard separately unless the respondent voluntarily consents to the charges/cases being heard jointly.

Where the respondent indicates that he or she contests the charges, and once the investigative report has been finalized and copies provided to the respondent and alleged victim (where applicable,) the case shall be set for

hearing; however, the alleged victim (where applicable) and respondent may have the option of selecting mediation as a possible resolution in certain student misconduct cases where they mutually agree, except where deemed inappropriate by the Vice President for Student Affairs, or his/her designee and/or the Executive Director of Judicial Affairs..

Where a case is not resolved through mediation, or mediation is not available due to the nature of the charges, the respondent shall have the option of having the charges heard either by an administrator (hearing officer) or a student conduct panel. However, cases involving charges of sexual misconduct that go to a hearing shall be heard by a panel of staff and/or faculty. Notice of the date, time, and location of the hearing, shall be provided to the respondent and alleged victim (where applicable) at least three (3) business days prior to the hearing. Notice shall be provided via institution email where applicable. Additionally, the following standards will apply to any such hearing:

The respondent shall have the right to present witnesses and evidence to the hearing officer or panel. Both parties shall have the right to confront any witnesses, including the other party, by submitting written questions to the hearing officer for consideration. Witness testimony, if provided, shall pertain to knowledge and facts directly associated with the case being heard. Advisors may actively assist in drafting questions. The Panel shall ask the questions as written, and will limit questions only if they are unrelated to determining the veracity of the charge leveled against the respondent(s). In any event, the Panel shall err on the side of asking all submitted questions, and must document the reason for not asking any particular questions.

1. Where the hearing officer or panel determines that a party or witness is unavailable and unable to be present due to extenuating circumstances, the hearing officer or panel may establish special procedures for providing testimony from a separate location. In doing so, the hearing officer or panel must determine there is a valid basis for the unavailability, ensure proper sequestration in a manner that ensures testimony has not been tainted, and make a determination that such an arrangement will not unfairly disadvantage any party. Should it be reasonably believed that a party or witness who is not physically present has presented tainted testimony, the hearing officer or panel will disregard or discount the testimony.
2. Formal civil rules of evidence do not apply to the investigatory or resolution process.
3. The standard of review shall be a preponderance of the evidence; however, any decision to suspend or to expel a student must also be supported by substantial evidence at the hearing.
4. AMSC shall maintain documentation of the proceedings, which may include written findings of fact, transcripts, audio recordings and/or video recordings.
5. Following a hearing, both the respondent and alleged victim (where applicable) shall be provided a written decision via certified mail and/or institution email of the outcome and any resulting sanctions. The decision should include details on how to appeal, as outlined below. Additionally, the written decision must summarize the evidence in support of the sanction. The same form will be completed, regardless of whether the student opts for a student panel or an administrative hearing.

IV. THE JUDICIAL HEARING PANEL

1. The Judicial Hearing Panel of the College conduct hearing shall consist of four to six members; half of the hearing panel shall be members of the faculty/staff appointed by the Executive Director of Judicial Affairs and half of the hearing panel shall be three regularly enrolled students recommended by the Student Government Association.
2. The Panel Chairperson shall be appointed by the Executive Director of Judicial Affairs. The Office of Judicial Affairs shall be responsible for providing assistance to the Judicial Hearing Panel when necessary to perform recording functions.
3. The Judicial Hearing Panel shall hear cases involving alleged violations of the Student Conduct Policy.
4. Preliminary investigations of charges against students shall be made by the Office of Student Conduct and/or

the Office of Judicial of Judicial Affairs and submitted to the Hearing Panel. The Executive Director of Judicial Affairs shall set the time and place for a hearing and notify the hearing panel members.

5. Decisions of the Judicial Hearing Panel shall be by majority vote.
6. Any member of the Judicial Hearing Panel shall disqualify himself/herself if personal involvement in the case is detrimental to the interest of the case.
7. The Judicial Hearing Panel shall make a tape recording and summary transcription of the proceedings.

V. POSSIBLE DISCIPLINARY SANCTIONS

The severity of sanctions or corrective actions may depend on the severity, frequency and/or nature of the offense, history of past discriminatory, harassing, or retaliatory conduct, the respondent's willingness to accept responsibility, previous institutional response to similar conduct; strength of the evidence; and the institution's interests. The Panel or hearing officer that found that a policy violation occurred will determine sanctions and issue notice of the same.

The broad range of sanctions includes but is not limited to: expulsion; suspension for an identified time frame or until satisfaction of certain conditions, or both; temporary or permanent separation of the parties (e.g., change in classes, reassignment of residence, no contact orders, limiting geography of where parties can go on campus) with additional sanctions for violating orders; required participation in sexual or relationship sensitivity training/awareness education programs; required participation in alcohol and other drug awareness and abuse prevention programs; counseling or mentoring; volunteering/community service; loss of institutional privileges; delays in obtaining administrative services and benefits from the institution (e.g., holding transcripts, delaying registration, graduation, diplomas); additional academic requirements relating to scholarly work or research on sexual misconduct; financial restitution; or any other discretionary sanctions directly related to the violation or conduct.

VI. MISCONDUCT APPEALS

Where the sanction imposed includes a suspension or expulsion (even for one held in abeyance), the following appellate procedures will be provided to the respondent. The alleged offender (and in cases involving sexual misconduct or other forms of discrimination and/or harassment, the alleged victim) shall have the right to appeal the outcome on any of the following grounds: (1) to consider new information, sufficient to alter the decision, or other relevant facts not brought out in the original hearing, because such information was not known or knowable to the person appealing during the time of the hearing; (2) to allege a procedural error within the hearing process that may have substantially impacted the fairness of the hearing, including but not limited to whether any hearing questions were improperly excluded or whether the decision was tainted by bias; or (3) to allege that the finding was inconsistent with the weight of the information. Appeals may be made by the alleged offender for the above reasons in any case where sanctions are issued – even those in which such sanctions are held “in abeyance,” such as probationary suspension or expulsion.

The appeal must be made in writing, and must set forth one or more of the bases outlined above, and must be submitted within five (5) business days of the date of the final written decision.

The appeal should be made to the Vice President for Student Affairs or his/her designee. The appeal shall be a review of the record only, and no new meeting with the respondent or any alleged victim will be held. The Vice President, or his/her designee, may affirm the original finding and sanction; affirm the original finding but issue a new sanction lesser severity; remand the case back to the decision-maker to correct a procedural or factual defect; or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The Vice President or his/her designee shall then issue a decision in writing to the respondent within a reasonable time period.

The decision of the Vice President or his/her designee may be appealed in writing within five (5) business days (as determined by the date of the decision letter) to the President of the institution solely on the four grounds

set forth above.

The President may affirm the original finding and sanction; affirm the original finding but issue a new sanction of greater or lesser severity, remand the case back to the decision maker to correct a procedural or factual defect; or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The President's decision shall be issued in writing to both the respondent within a reasonable time period. The President's decision shall be the final decision of the institution.

Should the respondent or alleged victim, where applicable, wish to appeal the President's decision, he or she may appeal to the Board of Regents in accordance with the Board of Regents Policy 8.6.

VII. Recusal / Challenge for Bias

Any party may challenge the participation of any institution official or employee in the process on the grounds of personal bias by submitting a written statement to the institution's designee setting forth the basis for the challenge. The written challenge should be submitted within a reasonable time after the individual reasonably should have known of the existence of the bias. The institution's designee will determine whether to sustain or deny the challenge, and if sustained, the replacement to be appointed.