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# **EFFECTIVE MANAGEMENT OF STUDENT CONDUCT**



# INTRODUCTION

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- In today's world, students may exhibit behaviors that were once considered just immature, but now require us to consider the potential seriousness or possible threat of the speech or action. This training module provides information that will guide you, as faculty and staff, through relevant policies, good practice, and discussion questions to deal with disruptive student behavior.
- Due to the serious nature of potential threats to maintaining a safe and secure campus community, TBR Guideline B-100, Institutional Emergency Preparedness Plan, you are required to complete this training module and certify that your participation in the training program. An understanding of policies and practices is not enough; therefore, all faculty and staff are obliged to strengthen knowledge and skills relating to student conduct. Professional judgment is required.

Please contact your dean or chief academic officer if you have questions or suggestions regarding this program.



# TRAINING OUTLINE

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- I. Training Objectives
- II. Categories of Behaviors of Concern
- III. Classroom Management Guidelines
- IV. Student Conduct Rules / Misconduct  
Hearing Procedures
- V. Legal Matters



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# **I. Training Objectives**

II. Categories of Behaviors of Concern

III. Classroom Management Guidelines

IV. Student Conduct Rules / Misconduct Hearing  
Procedures

V. Legal Matters



# I. TRAINING OBJECTIVES

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- Understand Student Behaviors of Concern
- Identify Students in Need of Assistance
- Manage Classroom Conduct
- Recognize The Need to Report Certain Students to the Office of Student Affairs, Counselors, Student Assistance Coordinating Committee, or Law Enforcement
- Understand Student Conduct Rules & Misconduct Hearing Procedures
- Understand Legal Matters Related to Managing Student Conduct



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I. Training Objectives

**II. Categories of Behaviors of Concern**

III. Classroom Management Guidelines

IV. Student Conduct Rules / Misconduct Hearing  
Procedures

V. Legal Matters



## II. BEHAVIORS OF CONCERN

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- A. Definitions of Behaviors of Concern
- B. Understanding Behaviors of Concern
- C. Distressed Students
- D. Disturbed Students
- E. Disruptive Students
- F. Dangerous Students

# A. Definitions of Behaviors of Concern

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- **Distressed Students** - the behavior of the distressed student causes concern solely for the personal well-being of that student
- **Disturbed Students** -the behavior of the disturbed student often makes those around him/her feel vaguely uncomfortable and it seems that the student is acting irrationally
- **Disruptive Students** - the behavior of the disruptive student may or may not include elements of disturbed behavior, but always negatively impacts those around him/her and the behavior makes it difficult for routine work or instruction to occur
- **Dangerous Students** - The behavior of the dangerous student threatens the health and well-being of those around him/her.



## B. Understanding Behaviors of Concern

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- As a faculty or staff member, you are in an excellent position to recognize behavior changes that may characterize an emotionally troubled student.
- A student's concerning behavior, especially if it is inconsistent with your previous observations, could reflect a need for intervention or be a “cry for help.”



# Potential Causes of Behavior

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- ❑ Confusion about class expectations or material
- ❑ Difficult transition to college (e.g., exhibition of “high school” behaviors)
- ❑ Cultural values, norms and behaviors that are appropriate in the student’s cultural environment, but clash with classroom setting
- ❑ Erosion of civility in society
- ❑ Underlying psychological problems



## C. Distressed Students

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- Generally, the behavior of the distressed student causes concern for the personal well-being of that student, rather than creating a worry for their impact on others or on the classroom.



# Signs of Distressed Students

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- ❑ Excessive procrastination and very poorly prepared work, especially if inconsistent with previous work
- ❑ Infrequent class attendance with little or no work completed
- ❑ Dependency (e.g., the student who makes excessive appointments during office hours, sends frequent e-mail messages)
- ❑ Listlessness, lack of energy, or frequently falling asleep in class



# Signs of Distressed Students, continued

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- ❑ Marked changes in personal hygiene
- ❑ Students who appear overly nervous, tense or tearful
- ❑ Repeated requests for special consideration (e.g., deadline extensions)
- ❑ Report of sexual or physical assault, or the recent death of a friend or family member
- ❑ Overt inattentiveness

# Distressed Students – Reflective

## Question No. 1

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QUESTION: Three weeks into the semester a student who had been regularly attending begins missing class, his performance on assignments drops, and he appears listless in class. In journal entries he makes references to a significant life event (e.g., death, illness, divorce, etc.).

WHAT IS YOUR RESPONSE?: What actions should you take to address this student's behavior?

# Distressed Students – Reflective

## Question No. 2

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QUESTION: A student in your class expresses concern to her instructor that she has been receiving threatening e-mail messages. She informs you that at the end of the term, she knows that she will have to see the sender of the threatening messages in her hometown.

WHAT IS YOUR RESPONSE?: Is she best seen as fitting the distressed, disturbed, disruptive, or dangerous category? How would you manage the situation?

# Managing Distressed Students

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- Speak with the student privately. Document all conversations. As you deem necessary or as required by institutional policy, forward the documentation to the appropriate office or the Student Assistance Coordinating Committee (SACC). At MTSU, students of concern may be reported to the SACC by contacting Dr. Jane Tipps, Director of Counseling Services, at x. 2670.
- Let the student know that you think that they may be feeling down and, if possible, that you would like to help.
- Encourage the student to seek help through institutional or private counseling services.
- **Report to a counselor or the Student Assistance Coordinating Committee any instance in which a student confides in you that s/he is considering suicide. Also contact a counselor for consultation and assistance if the student shares other information that is of concern to you (e.g., self harm, harm to others, withdrawing from school, etc.)**



## D. Disturbed Students

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- The behavior of the disturbed student often makes those around him/her feel vaguely uncomfortable on some level. Generally, it seems that the disturbed student is acting irrationally or out of synch with the reality that is perceived by others.



# Signs of Disturbed Students

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- ❑ Impaired speech and disjointed thoughts
- ❑ Emotional responses that may be incongruent and/or inappropriate
- ❑ Expressed suicidal thoughts (e.g., referring to suicide as a current option)
- ❑ Self-mutilating behaviors, including cutting or burning of the self
- ❑ Frequent or high levels of irritable or abrasive behavior

# Signs of Disturbed Students, continued

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- ❑ Unable to make decisions despite your repeated efforts to clarify or encourage
- ❑ Bizarre behavior that is obviously inappropriate for the situation (e.g., talking to something/someone that is not present)
- ❑ Report of sexual or physical assault, or the recent death of a friend or family member
- ❑ Disclosing suspicious and/or paranoid thoughts

# Disturbed Students – Reflective

## Question No. 3

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QUESTION: A student in your class does not seem to fit in with anyone. Other students seem to avoid interaction with this student. The student acts “strange” with off-the-wall comments and actions. There is no information from Disability Services regarding this student. At times you have noted scratches or cuts on the student’s arms.

WHAT IS YOUR RESPONSE?: What action, if any, should you take?

# Disturbed Students – Reflective

## Question No. 4

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QUESTION: A student is showing actions that do not fit societal norms (e.g., abnormal clothing, straying from discussion topic, etc.), but there is no realization from the student that he is not adaptable to classroom or campus rules.

WHAT IS YOUR RESPONSE?: How would you manage this student situation?

# Managing Disturbed Students

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- If there is no immediate threat, speak with the student privately. Document all conversations. As required by institutional policy or as you deem necessary, forward the documentation to the appropriate office or the Student Assistance Coordinating Committee (SACC). At MTSU, students of concern may be reported to the SACC by contacting Dr. Jane Tipps, Director of Counseling Services, at x. 2670.
- Express your concern for their behavior, and set appropriate limits for their interactions with you in and out of the classroom.
- It is generally not helpful to argue with such student or try to convince them of their irrationality. It is also generally not helpful to “play along” and reinforce any delusions.
- It may be helpful to acknowledge the student’s feelings without supporting the misperception (e.g., “I understand that you think you are hearing voices, but I cannot hear them, and I believe you are safe.”)

# Managing Disturbed Students, continued

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- Document each incident of inappropriate behavior.
- **Contact a counselor, senior administrator, or the Student Assistance Coordinating Committee for consultation and assistance in responding to the student.**
- If the student is disruptive in class, s/he may be asked to leave the classroom for the remainder of the period. In such a case, the faculty member should contact Judicial Affairs at extension 2750 for further instructions regarding the student's potential return to the classroom. **If the student is to be removed for longer than the remainder of the class period, faculty must contact Judicial Affairs to file the appropriate forms so that the incident can be addressed in accordance with required institutional due process procedures.**

*NOTE: RODP Administrators to insert a link to the Student Due Process Section (Slides 52-61)*

## E. Disruptive Students

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- **The behavior of the disruptive student** may or may not include elements of disturbed behavior, but **always negatively impacts those around him/her**. The disruptive student makes it difficult for routine work or teaching to occur.
- Disruptive behavior includes any intentional interference with the normal classroom procedure or the presentation of the instructor and/or other students.



# Signs of Disruptive Students

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- ❑ Behavior which persistently interferes with effective class management
- ❑ Frequent or high levels of irritable, unruly, abrasive, or aggressive behavior, including argumentative questioning or monopolizing of classroom discussion.
- ❑ Bizarre behavior that is obviously inappropriate for the situation (e.g., talking to something/someone that is not present).
- ❑ Questioning an instructor's authority in front of the class.

# Disruptive Students – Reflective

## Question No. 5

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QUESTION: A student comes to class late on a regular basis and “makes an entrance” when she arrives. She brings food and drink to class and when she finishes her snack, she arbitrarily gets up to throw the food containers away while making a commotion. During a lecture, she will often say “that’s dumb” in response to others’ comments. Other students give her “looks” that indicate “straighten up”, but to no avail.

WHAT IS YOUR RESPONSE?: How would you manage this student and her impact on your classroom?

# Disruptive Students – Reflective

## Question No. 6

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QUESTION: A student speaks loudly and has a comment after almost every sentence made by the instructor. The instructor tries to continue with the lecture and questioning of other students in the class and ignores the disruptions. The student continually asks the instructor the same question repeatedly (over ten times) in one class session.

WHAT IS YOUR RESPONSE?: How would you manage this situation?

# Managing Disruptive Students

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- If there is no immediate threat, speak with the student privately. Document all conversations.
- Express your concern for their behavior, and set appropriate limits for their interactions with you in and out of the classroom.
- Document each incident of inappropriate behavior and any witnesses to each incident.
- If the student is disruptive in class, s/he may be asked to leave the classroom for the remainder of the period. In such a case, the faculty member should contact Judicial Affairs at x-2750 for further instructions regarding the student's potential return to the classroom. **If the student is to be removed for longer than the remainder of the class period, faculty must contact Judicial Affairs to file the appropriate forms so that the incident can be addressed in accordance with required due process procedures.**

# Managing Disruptive Students, continued

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- ❑ Avoid escalating the situation; speak calmly and with concern. Avoid physical contact.
- ❑ If the student is uncooperative in leaving the classroom, contact MTSU Campus Police at x-2424. Your first call should be to MTSU Campus Police, prior to calling your academic administrator or other designated personnel.
- ❑ If the student poses an immediate danger to others, you may choose to dismiss the class while waiting for police intervention. Use good judgment to protect your safety and the safety of others.

# F. Dangerous Students

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- The behavior of the dangerous student threatens the health and well-being of those around him/her. Examples include:
  - Conduct dangerous to others. Any conduct which constitutes a serious danger to any person's health, safety or personal well-being, including any physical abuse or immediate threat of abuse (e.g., fighting, threats of violence, use of weapons, etc.)
  - Disorderly conduct. Any individual or group behavior which is abusive, obscene, lewd, indecent, violent, excessively noisy, disorderly, or which unreasonably disturbs other groups or individuals (e.g., violent protests)

# Signs of Dangerous Students

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- ❑ Verbal or written expressed suicidal thoughts, threats, or the making of suicidal gestures.
- ❑ Self-mutilating behaviors, including cutting or burning of the self.
- ❑ Threats to others.
- ❑ Carrying or brandishing a weapon.
- ❑ Intimidating behaviors, including inappropriate touching, verbal or written threats, standing too close to others, harassment or stalking.

# Dangerous Students – Reflective

## Question No. 7

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QUESTION: A student writes a paper that clearly indicates violence against individuals who are homosexual which includes the following statement: “[I]f it’s the last thing I do, I will kill my homosexual classmates.”

WHAT IS YOUR RESPONSE?: How would you handle this situation? Would you report the matter and forward the paper to any other institutional office (e.g., counseling, student affairs, law enforcement, student assistance coordinating team, etc.).

# Dangerous Students – Reflective

## Question No. 8

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QUESTION: A student continually makes “power” comments to others and becomes threatening when others don’t comply with the threats by saying “I’ll beat you up!” The student brags about the weapons he has and how “nobody’s going to tell me what to do!”

WHAT IS YOUR RESPONSE?: How would you manage the situation?



# Managing Dangerous Students


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- ❑ **Contact Campus Police at extension 2424 immediately.**
- ❑ Do not delay assistance by calling counselors or other administrators for assistance. The first call should be to law enforcement.
- ❑ Avoid escalating the situation; speak calmly and with concern.
- ❑ Avoid physical contact.

# Managing Dangerous Students, continued

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- If the student poses an immediate danger to others, you may choose to dismiss the class while waiting for police intervention.
- Use good judgment to protect your safety and the safety of others. Do not attempt to keep the student from leaving the classroom.
- Document the incident including any witnesses that were present and forward the documents to the appropriate office (e.g., MTSU Judicial Affairs at MTSU Box 17, Student Assistance Coordinating Committee at x. 2670).

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- I. Training Objectives
  - II. Categories of Behaviors of Concern
  - III. Classroom Management Guidelines**
  - IV. Student Conduct Rules / Misconduct Hearing Procedures
  - V. Legal Matters



# III. CLASSROOM MANAGEMENT GUIDELINES

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- A. Establish Classroom Standards
- B. Become Acquainted With Students
- C. Lead By Example
- D. General Guidelines
- E. Report Student Behavior of Concern to the Student Assistance Coordinating Committee

# A. Classroom Standards

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- **Standards of appropriate classroom behavior and a brief rationale of the standards should be included in the class syllabus and should be discussed at the first class meeting to explain the instructor's expectations for classroom behavior.**
- Communicating classroom standards in a syllabus will promote student retention by preventing confusion and misinterpretation of conduct expected by the instructor and provides the basis for disciplinary action, should it become necessary.
- Demonstrate professionalism through ensuring that you adhere to standards of appropriate attire, language, and respectful conduct in compliance with Title VI (race discrimination) and Title IX (sex / gender discrimination).

# A. Classroom Standards: SYLLABI

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## Suggested items for inclusion on each syllabus:

- ❑ Policy regarding attendance, punctuality and tardiness, including consequences.
- ❑ Statement regarding appropriate behavior between student and instructor and/or classmates.
- ❑ Appropriate expectations for instructor time and attention inside and outside of classroom. General policies regarding communication with instructor, including instructor office hours and location, appointments and drop-in policy, phone number / e-mail address and policy regarding returning telephone calls and e-mail communication.
- ❑ Statement regarding conflict resolution in the classroom (e.g., how to discuss differences/disagreements with the instructor and other students).

# A. Classroom Standards: SYLLABI,

continued

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- General policy on eating, drinking, smoking in class.
- General policy regarding children and visitors in class.
- General policy regarding breaks and leaving and entering class at other than break time(s).
- General policy on plagiarism.
- General policy regarding cell phones, pagers, laptop computers, PDAs

**Statement regarding reasonable accommodation  
for documented students with:**

**“If you have a disability that may require assistance or accommodations, or if you have any questions related to any accommodation for testing, note taking, reading, etc., please speak with me as soon as possible. You must contact the Disability Services Office or appropriate institutional office to officially request such accommodations / services.”**



## B. Become Acquainted With Students

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- Be available during your posted office hours
- Encourage students to discuss their issues related to the course during your office hours, as opposed to addressing them while class is in progress

# C. Lead By Example

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## If Student Challenges Authority:

- Stay calm and do not internalize
- Respond with honesty, explaining not defending your position
- Avoid arguing
- Listen carefully to student's position
- If the student continues, discuss with him/her privately

## C. Lead By Example, continued

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### **If Student Dominates the Discussion:**

- Thank student for participating, but ask student to hold comments, so others can get involved
- Terminate the lecture and ask students to write briefly on the topic and discuss later
- Talk with student after class if behavior persists
- In rare cases, limit student to two (2) comments per class

## C. Lead By Example, continued

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### If Student Threatens Anyone:

- ❑ Remain Calm
- ❑ **If student threatens you or others with violent acts and/or weapons, contact MTSU Campus Police at extension 2424 immediately**
- ❑ If possible, remove the threatening student from the classroom
- ❑ Dismiss class early
- ❑ **Document the incident and file the report with the MTSU Judicial Affairs office, extension 2750, MTSU Box 17.**

# D. General Guidelines

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## **Possible reasons why faculty and staff do not address misconduct:**

- ❑ Perception that if ignored, behavior will cease
- ❑ Fear of receiving inadequate support from administration
- ❑ Fear of harming a psychologically fragile student
- ❑ Fear of physical or legal reprisals
- ❑ Lack of information regarding the disciplinary process

## **Misconduct must be addressed because failure to address it may result in:**

- ❑ A disarrayed classroom environment that is not conducive for learning
- ❑ Encouraging the student to continue a pattern of misbehavior that may escalate to severe acts of violence

## **Additional Resources Regarding Management of Specific Dangerous or Disruptive Student Behavior:**

*NOTE: RODP Administrators to insert a link to the MTSU Student Management Resources website ( <http://www.mtsu.edu/~countest/resources.htm> )*

## D. General Guidelines, continued

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- Address misconduct problems immediately and consistently.
  
- Provide students with written and/or verbal warnings that if inappropriate behaviors persist other disciplinary action may be taken by the institution.
  
- Document misconduct and ensure that a copy of any such records is immediately sent to the institution's central location for such files (e.g., judicial infractions should be forwarded to the MTSU Judicial Affairs office, x-2750, MTSU Box 17; mental health concerns should be forwarded to the Student Assistance Coordinating Committee by contacting Dr. Jane Tipps at x-2670., etc.). Inform the student that the matter will be referred to the appropriate institutional office.

## D. General Guidelines, continued

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- ❑ Remember that instructors are not permitted to lower a student's grade based solely on the student engaging in disruptive conduct.
- ❑ Remember that disciplinary sanctions, including a student's permanent removal from a class may be imposed only through standard institutional disciplinary procedures conducted in the appropriate institutional office (e.g., Office of Student Affairs, Judicial Affairs, etc.).
- ❑ Call law enforcement personnel if you fear student or personal safety or if you are concerned that a student's removal from class may escalate to a into volatile situation.

## E. Report Student Behavior of Concern to the Student Assistance Coordinating Committee

*(TBR Guideline B-100, Institutional Emergency Preparedness Plan)*

- TBR Guideline B-100, Institutional Emergency Preparedness Plan, Section III. 15, requires all TBR institutions to establish a Student Assistance Coordinating Committee / Threat Assessment Team that meets regularly to discuss the needs of distressed, disturbed, disruptive, or dangerous students. Institutions have the sole discretion to determine which administrators to appoint to the Committee. At MTSU, Dr. Jane Tipps, Director of Counseling Services, is the central contact for the Student Assistance Coordinating Committee (x-2670).
  
- **Reporting Code of Conduct Violations**
  - Any student who engages in behavior prohibited by the Code of Conduct should be reported to the MTSU Judicial Affairs Office at x-2750.
  
  - The reports must outline the specific facts about the incident including the name(s) of those student(s) involved. The person submitting the information should also include his/her contact information.

## E. Report Student Behavior of Concern to the Student Assistance Coordinating Committee, continued

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### □ Reporting Behavior of Concern

- Faculty and staff **must** contact MTSU Counseling Services (x-2670), MTSU Judicial Affairs (x-2750) and/or the Student Assistance Coordinating Committee (Dr. Jane Tipps, x-2670), to report a student of concern and to seek advice about referral and/or intervention.
- Faculty **must** report any concerns that they have regarding a student's submission of a class assignment which includes content that the faculty member finds to be disturbing or threatening to the appropriate office. **If a specific threat has been made, MTSU Police (x-2424) should be contacted immediately.**
- Faculty **may** inform an academic advisor or appropriate administrator of a potential academic performance or personal issue in the life of a student with whom they are working.

# Classroom Management – Reflective

## Question No. 9

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QUESTION: A female student comes into class short of breath and quickly reports to her instructor that she is being stalked and was followed to class. She tells the instructor that she is afraid that she may be in danger. The instructor quickly realizes that this could be a dangerous situation for the student and the entire class.

WHAT IS YOUR RESPONSE?: How would you handle the situation?

# Classroom Management – Reflective

## Question No. 10

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QUESTION: An instructor informs a disruptive student that the student must leave the classroom for the remainder of the class session. The student immediately becomes belligerent and informs the instructor that he [the student] pays the instructor's salary and threatens to file a civil lawsuit because he has a right to be in class.

WHAT IS YOUR RESPONSE?: How would you handle the situation?

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- I. Training Objectives
  - II. Categories of Behaviors of Concern
  - III. Classroom Management Guidelines
  - IV. **Student Conduct Rules / Misconduct  
Hearing Procedures** *(NOTE: RODP Administrators  
to insert a link to the Student Due Process Section (Slides 52-61))*
  - V. Legal Matters



## **IV. STUDENT CONDUCT RULES / MISCONDUCT HEARING PROCEDURES**

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- A.** Student Code of Conduct
- B.** Disciplinary Offenses
- C.** Misconduct Hearing Procedures
  - Institutional Hearing
  - TUAPA Hearing
  - Disciplinary Sanctions
- D.** Disciplinary Records

# A. Student Code of Conduct

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## TBR System- wide Student Disciplinary Rules provide that:

- Students enrolled in TBR institutions are citizens of the state, local and national governments, and of the academic community, and are expected to conduct themselves as law-abiding members of each community at all times.
  
- Students are subject to institutional policies and all national, state and local laws and ordinances. TBR institutions have the right to enforce internal rules and regulations regardless of any proceedings instituted by other authorities.

## B. Disciplinary Offenses

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- TBR System- wide Student Disciplinary Rules include the following disciplinary offenses. A student's violation of any TBR and/or institutional disciplinary offense may result in the imposition of official disciplinary charges against him/her.
- **Disciplinary Offenses** - conduct which adversely affects the institution's pursuit of educational objectives, which violates or shows a disregard for the rights of others, or which endangers property or persons at the institution. Such offenses include, but are not limited to:
  - Conduct dangerous to others
  - Disorderly conduct
  - Harassment
  - Academic dishonesty
  - Obstruction or interference with institutional activities or facilities
  - Misuse of or damage to property
  - Unacceptable conduct in hearings
  - Failure to cooperate with institutional officials
  - Violations of state or federal laws
  - Violation of imposed disciplinary sanctions

# C. Disciplinary Misconduct Hearing Procedures - Institutional

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**Students who are charged with a violation of the Student Disciplinary Rules and receive any official sanction other than suspension or expulsion may elect to appeal the sanction in an institutional hearing. The following minimal procedures are required for institutional hearings:**

- The student shall be advised of the time and place of the hearing.
- The student shall be advised of the breach of regulations of which s/he is charged.
- The student shall be advised of the following rights:
  - The right to **present his or her case**
  - The right to be **accompanied by an advisor**
  - The right to **call witnesses in his or her behalf**
  - The right to **confront witnesses against him or her**
- The student shall be advised of the method of appeal.

# C. Disciplinary Misconduct Hearing Procedures – TUAPA

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**Students who are charged with a violation of the Student Disciplinary Rules and receive an official sanction of suspension or expulsion may elect to appeal the sanction in an institutional hearing or a TUAPA hearing. The following procedures are applicable to hearings under the Tennessee Uniform Administrative Procedures Act (TUAPA), Tennessee Code Annotated 4-5-301, et seq.**

- Institutional legal counsel will represent the institution in an administrative hearing before a hearing officer / administrative law judge or hearing committee
- The student has a right to representation by private lawyer
- The hearing procedure must comply with the provisions of the TUAPA statute (Tennessee Code Annotated 4-5-301, et seq.)

# C. Disciplinary Misconduct Hearing Procedures - Sanctions

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TBR System-wide Student Disciplinary Rules include the following disciplinary sanctions. A student who is deemed to have violated a TBR and/or institutional disciplinary offense, by his/her own admission, an administrative decision based on sufficient evidence, or the result of a disciplinary misconduct hearing, may receive one or more of the following disciplinary sanctions\*:

- Apology
- Warning
- Reprimand
- Special educational program
- Probation
- Interim or summary suspension
- *Suspension*
- *Expulsion*

**\*Note: Institutional disciplinary rules may include additional sanctions.**

# C. Disciplinary Misconduct Hearing Procedures – Sanction Implementation

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Official disciplinary sanctions that are imposed as the result of a disciplinary misconduct charge are implemented through the institutional Student Affairs Office, Judicial Affairs Office, or the appropriate office. Designated personnel will:

- ❑ Immediately conduct a disciplinary conference with the student to explain the stipulations of the sanction
- ❑ Provide a written notification to the student regarding the sanction
- ❑ Monitor the student's progress with regard to compliance with the sanction
- ❑ Follow up & document satisfactory completion of sanction
- ❑ Maintain a thorough record of the disciplinary finding, sanction, and compliance with the sanction

## D. Disciplinary Records

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- The management of student disciplinary records is governed by the Family Educational Rights & Privacy Act (FERPA) and applicable state public records law
  
- Guidelines
  - Void disciplinary files if the student is ultimately deemed to not be in violation of institutional conduct rules
  - Do not reference the suspension or expulsion in the student's transcript (unless the sanction so specifies)
  - Comply with applicable records retention policies / guidelines and state law (TBR Guideline G-070)

# D. Disciplinary Record Retention Policy

*(TBR Guideline G-070, Disposal of Records)*

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- Records of matters resulting in expulsion or suspension – Retain Permanently
  - Records of matters resulting in a finding of a disciplinary violation resulting in any sanction *other than* expulsion or suspension – Retain 1 year after graduation or 4 years after the date of action
  - Records of matters resulting in a finding of no violation of the code of conduct – Dispose of at the end of the hearing process
- It is acceptable to include in education records appropriate information concerning any final disciplinary action taken against any student for conduct that poses a significant risk to the safety of that student or others

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# V. LEGAL MATTERS

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- A. Student Records: Family Educational Rights & Privacy Act (FERPA)
- B. Student Conduct & Disability Matters: Americans With Disabilities Act (ADA)



# A. FERPA

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1. FERPA Overview: U.S. Department of Education FERPA Materials
2. FERPA Exceptions
3. Disciplinary Records
4. Permissible Disclosures to Parents
5. Transfer of Education Records
6. Law Enforcement Records
7. Records Release: Office of the Registrar

# A. FERPA Overview – 1. U.S.

## Department of Education Materials

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- The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99, is a federal law that protects the privacy of student education records. FERPA applies to all TBR institutions and FERPA provides that students enrolled in TBR institutions, regardless of age, have the sole right to control access to and release of their education records.
- Additional information regarding FERPA may be viewed on the U.S. Department of Education Website: *(NOTE: RODP Administrators to insert a link to the U.S. Department of Education website <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>)*

# A. FERPA – 2. Exceptions permitting unilateral release of records

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## □ **Health or Safety Emergency**

- **In an emergency, FERPA permits Office of the Registrar, or designated personnel, to unilaterally disclose necessary education records, including personally identifiable information from records, to law enforcement officials, public health or medical personnel, and parents for the limited purpose of responding to the emergency.**

Note: A blanket release of records is not permitted, only information necessary to manage the emergency may be released.

## □ **Administrators with a Legitimate Educational Interests**

- **FERPA permits unilateral disclosure of education records to institutional administrators with a legitimate need to know the content of the records (e.g., Student Assistance Coordinating Committee, counselors, law enforcement, etc.)**

Note: FERPA does not prevent institutional personnel from sharing observations and/or records related to a student with institutional colleagues, provided that there is a legitimate need to do so.

# A. FERPA – 3. Disciplinary Records

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- Disciplinary records of official disciplinary proceedings and/or incident reports of faculty / staff are protected education records under FERPA.
- Disciplinary records are subject to unilateral release by the Office of the Registrar or Student Affairs in the following circumstances:
  - Final results of an institutional disciplinary proceeding against a student for a crime of violence or non-forcible sex offense conclude that the student committed the act in violation of the institutional rules or policies (open release)
  - The victim of an alleged crime of violence or non-forcible sex offense may be informed of the final results of any institutional disciplinary proceeding against the alleged perpetrator of the crime regardless of the outcome of the hearing (limited release to the victim)

# A. FERPA – 4. Records that may be disclosed to parents

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**FERPA authorizes appropriate institutional administrators to share information and/or records with parents absent student consent as follows:**

- Any records or information may be released if the student is a dependent for income tax purposes
- Any records or information related to the matter may be released if a health or safety emergency involves their child
- Any records or information related to a violation of any law or policy regarding the use or possession of alcohol or controlled substances may be released to parents of students under age twenty-one (21)
- Any information that is based on an administrator's personal knowledge or observation of the student (e.g., non-records, personal observations)
- Any records or information requested in a lawfully issued subpoena or court order
- Any records covered by an existing Partners In Education ("PIE") Program Agreement between the student and institution authorizing the release of such records to designated parents / guardians. Information regarding the PIE Program at Middle Tennessee State University may be reviewed at: *(NOTE: RODP Administrators to insert a link to the MTSU Partners In Education Webpage <http://www.mtsu.edu/~pie/>)*



## A. FERPA – 5. Transfer of Records

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- FERPA permits Office of the Registrar or designated personnel to disclose any and all education records, including disciplinary record, to another institution at which the student seeks or intends to enroll.

NOTE: TBR institutions authorizing the release of records under this FERPA exception must indicate that such disclosures are made in its annual FERPA notification to students.



## A. FERPA – 6. Law Enforcement Records

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- Investigative and other records created and maintained by institutional or local law enforcement units for the purpose of law enforcement activities are not covered by FERPA and may be disclosed to anyone without student consent.

# A. FERPA - 7. Records Release: Office of the Registrar

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- Institutions have a designated office that is authorized to release student records (e.g., Office of the Registrar or Student Affairs Office). All requests for student records from third parties must be forwarded to the Office of the Registrar, Student Affairs Office, or appropriate institutional office for review and response.
- All releases of student records to third parties must be managed by the appropriate institutional office.
- **Notwithstanding the applicability of a FERPA exception, individual faculty and staff are not permitted to unilaterally disclose written or verbal information contained in student records to third parties (e.g., non- institutional personnel) under any circumstances.**



## B. ADA

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1. ADA: U.S. Department of Justice ADA Materials
2. Accommodation Determinations
3. Impact on Classroom Behavior
4. ADA “Direct Threat” Test

## B. ADA - 1. The Americans with Disabilities Act (ADA)

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- The Americans with Disabilities Act (ADA), 42 U.S.C. §12101-12213; 34 CFR Part 99, is a federal law that provides protection to individuals with disabilities. The ADA applies to all TBR institutions and it provides that students may not be discriminated against on the basis of a mental or physical disability.
- Additional information regarding the ADA may be viewed on the U.S. Department of Justice Website:  
*(NOTE: RODP Administrators to insert a link to the U.S. Dept. of Justice Website (<http://www.ada.gov/adahom1.htm>))*



## B. ADA 2. - Accommodation Determinations

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- Students are responsible for notifying instructors and/or the Disability Services Office (x-2783) of the need for a possible ADA accommodation in the classroom.

**- Disability Services Office: The determination of whether the student is eligible for a disability-related exception to an attendance or other classroom policy or procedure must be made by the Disability Services Office after receipt of required medical or psychological documentation from the student's licensed health care professional. The decision should be made in consultation with the instructor of the course for which the exception is sought.**

-The institution has the authority to make the final decision regarding the type of reasonable accommodation to which the student is entitled.

-Accommodations do not apply retroactively.



## B. ADA 3. - Impact on Classroom Behavior

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### **I. Classroom Conduct**

Instructors have discretion to initiate appropriate disciplinary procedures against a student with a disability if the student does not adhere to the institutional student conduct rules. Students with disabilities are held to the same conduct standards as all other students.

### **II. Academic Performance**

A student's receipt of an ADA accommodation (e.g., additional time on exams, note taker, sign language interpreter, etc.) does not constitute an exception to other academic requirements of the course. Students with disabilities are held to the same standards of evaluation as specified in the course syllabus.

## B. ADA 4. – Direct Threat

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- Students with disabilities may be denied participation in an educational service on the basis of their disability only if they pose a “direct threat” to the health or safety of others.
- **“Direct threat”** is a significant risk to the health or safety of others that cannot be eliminated by modification of policies, practices, or procedures or by the provision of auxiliary aids or services. The threat must be: (1) concrete and (2) not based on mere supposition that an individual’s disability may result in dangerous conduct.
- **The determination that disabled student poses a “direct threat” must be made by the Disability Services Office (x-2783).** Individual faculty and staff must seek guidance from the appropriate personnel to manage such matters.

# Legal Issues – Reflective Question # 11

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QUESTION: A student submits an essay containing a reference to recurring dreams of stabbing her roommate.

WHAT IS YOUR RESPONSE: Tell the roommate? Discuss with the student? Report the matter to the Student Assistance Coordinating Committee? Report the matter to law enforcement? What are the FERPA / privacy considerations? Would you classify this student as distressed, disturbed, disruptive, or dangerous?

# Legal Issues – Reflective Question # 12

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QUESTION: A parent / spouse calls you and asks if you have noticed that his child / wife has lost a lot of weight recently and lacks an ability to concentrate. You have noticed the behavioral changes of the student in question.

WHAT IS YOUR RESPONSE: What can you tell the parent / spouse about your observations? Do you need authorization from the Office of the Registrar to disclose this information? Can you forward the parent / spouse copies of the student's attendance records and grades? Does the status of the caller (parent vs. spouse) matter?

# What You Should Know

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- ❑ Institutional and TBR Code of Student Conduct
- ❑ Student due process / hearing rights
- ❑ Contact information for campus police or local law enforcement services
- ❑ Contact information for institutional or local counseling services
- ❑ FERPA Disclosure Provisions – Always contact the Office of the Registrar, Student Affairs or appropriate office for guidance regarding any written or verbal disclosure of student records
- ❑ Institutional Partners In Education Program
- ❑ Student ADA rights
- ❑ Institutional Emergency Response Plan (crisis response, lock down plans, etc.)
- ❑ Contact information for the institutional Student Assistance Coordinating Committee report behavior of concern



# Resources

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- **The U.S. Department of Education**
  - Family Policy Compliance Office
  
- **U.S. Department of Justice**
  
- **Middle Tennessee State University**
  - Division of Student Affairs, Enrollment and Academic Services: Counseling and Testing Services
  
- **The University of Memphis**
  - Division of Student Affairs