

Family Guide to Student Conduct

Austin Peay State University
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FAMILY GUIDE TO STUDENT CONDUCT

The transition for your student to college is as much of a transition for parents as it is for the student. As your student undergoes changes in his or her development, thus, the relationship with you will undoubtedly change. During their time at Austin Peay, students will be expected to make their own decisions, learn to resolve conflict on their own, and take responsibility for their actions. While your student grows and learns, he or she will continue to reflect on your love, respect your opinion, and generally operate on the values you instilled in him or her.

This guide has been created to assist you in helping your student navigate the student conduct process at Austin Peay State University should he or she be a student filing a complaint or accused of violating the Student Code of Conduct. Austin Peay State University believes students are citizens of the state, local and national governments or are citizens of other countries, and of the academic community, and are, therefore, expected to conduct themselves as law-abiding members of each community at all times. Admission to the University carries with it special privileges and imposes special responsibilities apart from those rights and duties enjoyed by non-students. Wherever possible, sanctions serve as a means to educate students about their mistakes and how to become a better citizen.

This guide will focus on general procedures of most student disciplinary processes. This guide also includes some general advice you can use in working with your student who may be involved with the student disciplinary system. We hope this guide aids you in understanding what your student may be facing as they begin to navigate their way through the student disciplinary system.

The answers to a multitude of frequently asked questions are listed below. We encourage you to read through this guide, and should your student become involved in the student disciplinary system at Austin Peay State University, and you have questions, please contact the Office of Student Affairs.

1. General Overview and History of Student Conduct Procedures

Universities began addressing student misconduct as far back as 1822 when a group of University of Virginia students rioted on the UVA Lawn. In response to this incident, Thomas Jefferson wrote:

“The article of discipline is the most difficult in American education. Premature ideas of independence, too little repressed by parents, beget a spirit of insubordination, which is the greatest obstacle to science with us, and a principal cause of its decay since the revolution. I look to it with dismay in our institution, as a breaker ahead, which I am far from being confident we shall be able to weather.”

Student discipline is not therefore a recent invention of higher education. However, discipline as used by Jefferson has undergone an evolution of sorts over the years. Modern disciplinary practices trace their routes to the 1961 case of *Dixon v Alabama State Board of Education*. In *Dixon*, the students argued that their meeting with the administrator did not meet the standards for due process. As a result of this meeting, the students were expelled from the institution. The

Court ruled that students should be given at least notice of the charges and an opportunity to be heard. The court also said that a full criminal hearing is not required.

Over the years, Dixon has been tested from time to time. The basic decision still prevails. A more recent case is *Flaim v Medical College of Ohio*. Flaim was expelled from the medical college for a felony drug conviction. In Flaim, the court returned once again to the due process standards set forth by *Dixon*. That is, the more serious the repercussions, the more procedure that is due.

However, in both cases, the courts have consistently stated that even where a student is facing expulsion from the institution, the process that is due need not be as elaborate as the process that would be due in a criminal hearing. Thus, students facing disciplinary action from their institution generally are not entitled to have an attorney represent them, to cross-examine witnesses or have an appeal unless the institution's conduct code allows for these procedures.

2. Steps to Filing A Disciplinary Complaint

Any member of the APSU University Community (staff, faculty, or student) has the right to file a disciplinary complaint against a student or student organization. A disciplinary complaint is a written statement alleging that an APSU Student or Student Organization has exhibited behavior that is in violation of the APSU "Code of Student Conduct."

The complaint serves as a detailed and factual description of the incident, or your observations, written in chronological order. It should describe the actions of all participants in the incident and should include any statements you heard that were made by the accused, by yourself, and by any witnesses. It should list the names of all parties involved-accused student(s), witnesses, victims.

Students file disciplinary complaints with the Division of Student Affairs with either the Dean of Students (Room 206, Morgan University Center) or the Associate Director of Housing, Residence Life and Dining Services (Room 119, Miller Hall).

After filing the disciplinary complaint, the complainant and/or victim will have the right

- To be notified of his/her rights prior to making a statement
- To be informed that any written statement made or signed will be shared with the accused student and that the accused student may request a copy of the statement.
- To attend the hearing.
- To have an adviser present during the hearing.
- To be given the opportunity to question all witnesses and the accused during the hearing.
- To be provided a copy of any statement he/she has written or dictated to others.
- To be able to submit a list of witnesses to be called to the hearing.
- To be permitted to drop the charges only up to the date of the hearing.
- To be notified of the outcome of the hearing, including the finding concerning responsibility and any sanctions taken.

3. Due Process at Austin Peay State University

The accused student or student organization will have the option to select the hearing format for adjudication of the case. Currently, the options include:

- An informal discussion with a Student Affairs Administrator – This option is available only for a student’s first violation of minor regulations. (An anecdotal record is maintained by the administrator, in his/her personal files, and will become a part of the student’s or organizations formal disciplinary record if additional violations occur.)
- An administrative hearing with one or more Student Affairs Administrative Hearing Officers-This option includes a structured hearing to which all parties involved in the incident will be invited. (If the student or organization is found to be responsible for a violation of the “Code of Student Conduct,” a formal disciplinary record will be maintained in the Division of Student Affairs for at least 4 years following the decision or 1 year beyond graduation, whichever comes first. If the decision results in a student’s suspension or expulsion, or an organization’s suspension, the formal disciplinary record will be maintained permanently.)
- A hearing with the University Hearing Board, whose members include administrators, faculty, and students. (Records will be maintained according to the same guidelines lists above for an administrative hearing.)
- A plea of “guilty” and a request to “waive” the right to a hearing. (In this case, the Administrative Hearing Officer will review the case and make a decision concerning the disciplinary actions to be taken with the student or organization. The record will be maintained according to the same guidelines listed above for other formal disciplinary records.)
- A hearing following the guidelines of the Tennessee Uniform Administrative Procedures Act (TUAPA)-this option is available only for cases that may result in a suspension or expulsion.

4. Parent Notification Policy regarding Student Conduct

Austin Peay State University does not typically notify family or parents of students involved in a disciplinary case. However, Austin Peay does automatically notify parents if a student under 21 violates the Code of Student Conduct regarding the alcohol or drug policy. The notification of the disciplinary violation does not include sanctions. Federal law and university policy restrict our ability to disclose information about a student without his or her consent. Austin Peay encourages parents and family to discuss with their student about adjustment to college life, academic success, and ways to support them through this educational experience.

5. Disciplinary Action for Students

A listing of all the disciplinary actions that may be used when a student or organization is found responsible for a violation appear in the “Code of Student Conduct” as well as below: As stated in the Student Handbook under “Disciplinary Sanctions”:

- A. Upon a determination that a student or organization has violated any of the rules, regulations, or disciplinary offenses set forth in these regulations, the following disciplinary sanctions may be imposed, either singly or in combination, by the appropriate University officials. (Note: Final results of disciplinary proceedings for violations that include violent acts or non-forcible sex offenses, as defined by Tennessee law, may be released without permission of the student perpetrator.)
- B. Possible sanctions could include, but not limited to the following:
 - restitution; reprimand; restriction; university probation; suspension; expulsion; interim or summary suspension; housing probation; housing suspension or forfeiture; service to the university; special educational program; interim or summary suspension from campus housing; referral for intervention; assessment and/or counseling; fines; and letter of apology

6. Parent Role in the Disciplinary Process

As a member of APSU community each student is expected to manage his/her own disciplinary matters with the university. Parents or family members can provide important moral support and assist their student in understanding the process and the expectations of the university. If the student wishes for parents or family members to sit in on the disciplinary hearing, APSU welcomes your participation as an adviser to your student.

7. Hiring or Consulting an Attorney

Decisions about whether or not to consult legal counsel are personal ones. However, please understand that attorneys are prohibited from participating in the student conduct process, even in the case where criminal charges are pending. An attorney may simply advise the student but may not represent the student in a student conduct disciplinary hearing. The student is responsible for representing himself or herself although they can have an advisor present whether it is a parent, attorney or someone else of their choosing.

8. FERPA and Access of Student Disciplinary Files

The Family Educational Rights and Privacy Act of 1974 (FERPA) protects the privacy of your student’s education records. “Education records” is any records where a student can be personally identified and are maintained by Austin Peay State University. Education records include any documentation or records that are possession of Austin Peay. The records include transcript or other documentation from previously educational institutions. Once your student turns 18 or attends a school beyond high school, you can no longer access his or her records without consent.

If you desire access your student's APSU records, he or she must complete a FERPA Release Form which can be found on the Registrar's website. Your student must submit the form to the Registrar's Office in Ellington Building, Room 116, or to the Office of Student Affairs.

Without your student's consent, FERPA allows us to release information to you only if one of these statements applies:

- Your student is considered a "dependent" for tax purposes. You must verify this with a copy of your most recent tax return.
- Your student is under age 21 and has violated our alcohol or other drug policy.
- A health or safety emergency involves your student.
- The information an official is sharing based on personal knowledge or observation of your student.

In accordance with FERPA, Parents may access directory information at the discretion of Austin Peay State University. Directory information includes name, email address, address, telephone listing, date and place of birth, major field of study, degrees and awards received, participation in officially recognized activities and sports, weight and height of members of athletic teams, most recent previous educational agency or institution attended, and enrollment status.

For more specific information about FERPA, please contact:

Austin Peay State University:
Office of the Registrar - (931) 221-7150
Office of Student Affairs - (931) 221-7341

National Contact:
Family Policy Compliance Office – U.S. Department of Education
(202) 260-3887

9. Access to Student Grades

Most families ask their student directly. Doing so fosters trust and a sense of mutual responsibility. Beyond this, a student may request a transcript for the family or have one mailed to the family or simply print an unofficial copy for the family. Another way a parent or family member can find out his or her student's grades is to provide appropriate documentation to Austin Peay State University's Office of the Registrar that indicates the student is your dependent for tax purposes.

10. Criminal Proceedings versus Student Disciplinary Process

First and foremost, rules governing the handling of student conduct matters at institutions of higher education are different from criminal statutes. Criminal prosecutions occur only when violations of law are alleged. On campus, there are many types of violations that may not be violations of state and federal law, but violate the Code of Student Conduct.

A second significant difference between campus procedures and criminal processes is the standard of proof. The standard of proof on most college campuses, including Austin Peay State University, is a preponderance of the evidence or “more likely than not.” In contrast, the standard in a criminal case is beyond a reasonable doubt.

Another difference is that the campus discipline process, including outcomes, is protected and confidential whereas a criminal prosecution creates public records. For more information on the limitations on the disclosure of student records, please refer to the page five of this guide regarding the Family Educational Rights and Privacy Act (FERPA).

Yet another difference is that students who are charged with a violation of the Student Code of Conduct have the choice to have their case heard before a staff member in the Office of Student Affairs or the Office of Housing, Residence Life, and Dining Services. It is not a trial, and as such, is not adversarial in nature. The student conduct process is intended to be educational, rather than punitive. The sanctions tend to focus on repairing harm to the community, to victims, and to the institution as a whole. They also have taken into account what the accused student needs to learn from the situation. The process focuses on helping the student understand why and how his or her behaviors violated community standards and how the student can make better choices in the future.

It is important to note that depending on the type of violation, criminal charges can be filed while a violation of the Student Code of Conduct is being investigated. These are completely separate processes with different goals, ramifications, and jurisdictions.

11. Support during the Student Disciplinary Process

While APSU recognizes that your goal is to provide unconditional support for your student, we ask that you provide this support with the purpose of also encouraging him or her to take responsibility for his or her behaviors and to learn from their mistakes. Understand that there is a process in place to hear all information regarding the incident in question. Encourage your student to prepare himself or herself for the process. Ask questions that get your student to reflect on their role in a given situation and how this may have affected the campus or residence hall community.

APSU ask you to understand that FERPA precludes university staff from discussing information with you about your student’s academic and disciplinary records without written permission from your student except in emergency situations. Please understand our limitations in working with you.

When your student receives paperwork regarding disciplinary procedures and has questions, direct him or her to contact a staff member in the Division of Students Affairs, including but not limited to, the Dean of Students or the Associate Director of Housing, Residence Life, and Dining Services for information. Due to federal and state laws protecting the privacy of students (FERPA), staff members are not permitted to give specifics to family members or other parties and will recommend to those inquiring that the student should contact our office. This teaches and empowers your student to work on solving his or her own issues and

concerns. Staying in the background can be an important developmental step for your student.

We recommend that you educate yourself about our philosophy and process by looking through the Austin Peay State University website. Many of your questions may be easily addressed through this medium.

12. Long-term Effects for Violating the Code of Student Conduct

A finding of responsibility does create a disciplinary record at the University. Generally, the record is maintained for four years or one year beyond graduation. However when a student is suspended and expelled the record is kept indefinitely. Generally, a finding of responsibility for a minor violation will have no long-term impact on your student. A more serious violation and sanction can have significant long-term impact on your student.

We encourage you to be involved with your student. We recognize that students make mistakes and poor decisions at times. It is our responsibility to help students make better decisions in the future and to help them avoid repeating their mistakes. APSU take this role very seriously. While students may not always agree with decisions that are made, we always listen to all sides of the story and weigh the evidence before making a decision.

13. Talking with your Student about Alcohol and Other Drugs

Parents should recognize that college students, especially first-year students, are at a significantly higher risk for alcohol-related challenges than almost any other population.

AVAILABILITY OF ALCOHOL + ABSENCE OF PARENTS/GUARDIANS + DESIRE TO FIT IN = POTENTIALLY RISKY DRINKING DECISIONS

The first few weeks while at college, students' primary concerns are about seeking acceptance and making social connections. Many will find very healthy ways to do this such as joining student organizations. Others will resort to alcohol to break down some of their inhibitions. While students are informed of some of the physical risks associated with alcohol, very few are aware of the legal, academic, and social consequences of high risk drinking. Making poor choices regarding alcohol and other drug use can negatively impact your student's success in higher education. Here are some suggestions for beginning a discussion about alcohol or other drugs with your student:

- A. Student should understand that Austin Peay State University stipulates that alcohol and other drug use on campus is strictly prohibited.**
- B. Set clear and realistic expectations regarding academic performance and the use of alcohol.**
- C. Make sure your student knows the legal penalties for underage drinking, using a fake ID, public intoxication, and DUI. In addition, make sure your student**

understands the academic consequences of underage drinking and alcohol use on campus.

D. Stress to your student that drinking alcohol to the point of impairment or intoxication is dangerous.

Low Risk Drinking is:

- Thinking about whether you will drink or what you will drink before the party
- Being 21 or older
- Eating a meal before drinking
- Abstaining
- Drinking no more than one drink per hour; maximum 1 for women, 2 for men
- Always knowing what you are drinking; who you are drinking with
- Alternating alcohol-free drinks throughout the evening
- Knowing how you will get home safely before you go out

High Risk Drinking is:

- Chugging, drinking games, shots (drinking anything out a of punch bowl, trough, hose or funnel)
- Drinking to get drunk (intoxicated)
- Driving after drinking or riding with someone under the influence
- Drinking too much or too fast
- Going to parties where people drink too much
- Not knowing what is in your glass or leaving it unattended
- Not knowing with whom you are drinking
- Mixing alcohol with medications or illegal drugs
- Underage drinking

E. Examine your own values and behavior and the messages you send regarding alcohol and other drugs. Refrain from “glorifying” alcohol related stories from your college days.

F. Encourage them to stand up for their right to a safe academic environment.

G. Encourage them to intervene when classmates or roommates are in trouble with alcohol.

H. Stay in touch.

I. Know where to go for help. If you suspect that your student is having problems, please encourage them to seek help at the following on-campus locations:

- Counseling Services
- APSU Health Services
- Office of Housing, Residence Life, and Dining Services
- Office of Student Affairs

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