

**University of Maine System**  
**STUDENT CONDUCT CODE**

**Effective Date: July 1, 2023**



*Maine's  
Public  
Universities*

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UNIVERSITY OF MAINE SYSTEM

In complying with the letter and spirit of applicable laws and pursuing its own goals of diversity, the University of Maine System does not discriminate on the grounds of race, color, religion, sex, sexual orientation, transgender status, gender, gender identity or expression, ethnicity, national origin, citizenship status, familial status, ancestry, age, disability physical or mental, genetic information, or veterans or military status in employment, education, and all other programs and activities. The University provides reasonable accommodations to qualified individuals with disabilities upon request. The following person has been designated to handle inquiries regarding non-discrimination policies: Director of Equal Opportunity, 5713 Chadbourne Hall, Room 412, University of Maine, Orono, ME 04469-5754, 207.581.1226, TTY 711 (Maine Relay System).

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# STUDENT CONDUCT CODE

The Student Conduct Code (“Code”) is a requirement under the University of Maine System (“University”) Board of Trustees Policy Section 501 and exists to notify students, faculty, and staff of the specific expectations the University holds related to student behavior and the rights and responsibilities that accompany being a student and participating in student activities and organizations. The University expects students to maintain standards of personal integrity in harmony with its educational goals; to be responsible for their actions; to observe national, state, and local laws and regulations, and University rules and policies; and to respect the rights, privileges, and property of others.

The Code process is intended to be a learning experience that can yield growth, behavioral changes, and personal understanding of one’s responsibilities and the consequences and impacts of one’s actions. This process balances the needs and rights of students with the needs and expectations of the University and larger community. The Code process offers a continuum of responses to allegations of misconduct. Students are treated with care and respect and are afforded the opportunity to receive a fair hearing. Many sanctions and interventions are designed to be educational and restorative in nature, promoting the University’s mission.

What constitutes a violation of the Code and what sanctions may be imposed will be determined using the definitions set forth in the Code in effect at the time of any alleged violation(s).

With regard to the procedures that will be used to resolve any report of an alleged violation, the version of the Code in effect at the time of the report to the University will be used regardless of whether the alleged conduct occurred on or off University Property, and regardless of when the alleged conduct occurred.

## **Reporting Concerns Regarding Application of the Code**

Student rights and responsibilities are outlined throughout this Code. If students have questions or concerns about this Code or the way this Code is being applied, they should contact a Conduct Officer at their University; this may be either the Conduct Officer handling a particular matter or another Conduct Officer. If those questions or concerns remain unresolved, the student may contact the Conduct Officer’s supervisor or

the UMS Coordinator of Student Conduct. If those questions or concerns remain unresolved following this process, students may contact the University of Maine System Vice Chancellor for Academic Affairs.

### **Bias and Conflict of Interest**

Faculty, staff, and students participating or serving in any role or process under the Code have the obligation to be unbiased and to avoid Conflicts of Interest. If a faculty, staff or student believes they may have a current Conflict of Interest or that one is foreseen, they shall promptly and fully disclose the Conflict of Interest to the UMS Coordinator of Student Conduct and shall refrain from participating on behalf of the University. Additionally, each is required to affirm no Conflict of Interest with their role or responsibility, or bias, prior to participating in each matter under the Code.

- A. Any Party has the right, for demonstrated bias or Conflict of Interest, to request the removal of an Investigator, Conduct Officer, Hearing Board member, or Appeal Panel member. Requests for removal must be submitted to the UMS Coordinator of Student Conduct stating the grounds for the removal at least three (3) days prior to the first date of the scheduled resolution process.
- B. Removal of an Investigator, Conduct Officer, Hearing Board member, or Appeal Panel member, for demonstrated bias or conflict of interest, will be within the authority and at the discretion of the UMS Coordinator of Student Conduct with an alternative(s) appointment provided, as necessary.

### **Accommodations and Other Support Services**

The University is committed to providing necessary accommodations to ensure a fair and safe process for participants. Accommodations will take into consideration disabilities, personal safety and language differences.

### **Student Conduct Amnesty**

The University strives to maintain a balance between student support and accountability. The University believes in addressing student health and safety concerns directly, and confronting dangerous behaviors, but also encouraging students to seek help in situations where their own, or another student's health is endangered. As such, a student who seeks assistance on behalf of themselves or another individual experiencing an alcohol and/or drug related incident, may receive amnesty from disciplinary action for the alcohol and/or drug use under the Code, at the

discretion of the Conduct Officer. Students who participate in Code investigations may also be eligible for amnesty from disciplinary action under the Code, at the discretion of the Conduct Officer.

The University strongly encourages students to report instances of sexual violence, intimate partner violence or stalking covered under this Code. Students who report information about an incident of sexual violence, intimate partner violence or stalking will not be disciplined by the University for any violation of drug or alcohol use, trespassing, unauthorized entry of the University's facilities or other minor violations of the Student Conduct Code in which they might have engaged in connection with the reported incident; unless the University determines that the report was not made in good faith or that the violation was egregious. An egregious violation must include, but not be limited to, taking an action that places the health and safety of another person at risk.

## **I. JURISDICTION**

This Code applies when the University has jurisdiction over both the Responding Party and the alleged conduct.

- A. The University has jurisdiction over the Responding Party when the Responding Party is, at the time of the alleged conduct, any one of the following:
  - 1. A student who is enrolled at the University.
    - a. A "student" means any person who has accepted, registered, or enrolled in any course or program offered by the University, including distance courses, and who has not been absent from the University greater than one (1) calendar year.
    - b. A student is considered to be "enrolled" at the University until such time as the student has:
      - i. Officially graduated from the University; or
      - ii. Been officially dismissed from the University; or
      - iii. Been absent from the University for a period of time greater than or equal to one (1) calendar year.
    - c. A student who is on probation or suspended from the University at the time of the alleged conduct will be

- considered to be enrolled for the purposes of determining the University's jurisdiction.
2. A University-recognized student organization, or any student organization not recognized at the time of the report, but under University probation or suspension.
- B. The University has jurisdiction over the alleged conduct when the alleged conduct occurs:
1. On any campus of the University, on any University Property or when the alleged conduct involves University Property; or
  2. At an activity or program sponsored by the University; or
  3. In any context where the University can demonstrate a substantial interest regardless of the location of the conduct, including online or off-campus, and where the conduct threatens:
    - a. Any University educational process; or
    - b. Legitimate function of the University; or
    - c. The health or safety of any individual.
- C. It is at the University's discretion to determine whether jurisdiction applies. In general, jurisdiction is determined as of the date of the alleged conduct.
- D. An enrolled student may not graduate if they have a pending case under the Code. If a student officially withdraws from the University or does not participate in the disciplinary process, the process will continue and the student may not, at the discretion of the University, be permitted to return to the University or graduate until the student is found not responsible for a violation of this Code or until any imposed sanctions have been satisfied.

## II. DEFINITIONS

- A. Administrative Resolution: A meeting with a Conduct Officer to determine if a Responding Party has violated any section(s) of the Code, as more fully described in this Code.
- B. Advisor: An individual chosen to assist or support any Party involved in any matter governed by this Code. An Advisor may not serve as a witness or a participant in a hearing. Examples of

Advisors include, but are not limited to, family members, friends, University employees, and attorneys.

- C. Appeal Panel: A panel of individuals that hears appeals from an Administrative Resolution or Student Conduct Hearing Board.
- D. Conduct Officer: A person designated by the University to address alleged violations of this Code.
- E. Conflict of Interest: When a person or related organization has an existing or future interest or association which conflicts with their role or responsibility within the University.
- F. Coordinator of Student Conduct: The individual designated by the University of Maine System to be responsible for providing guidance, support and direction in the Code process and ensuring compliance with applicable policies, regulations, and laws.
- G. Affirmative Consent: A person's voluntary agreement to engage in specific sexual acts with another person.
  - 1. Consent must be:
    - a. Informed, freely, and actively given, and consist of a mutually agreeable and understandable exchange of words or actions; and
    - b. Clear, knowing, and voluntary; and
    - c. Active, not passive.
  - 2. Consent may be withdrawn at any time and when outwardly communicated that Consent is withdrawn, sexual activity must cease.
  - 3. Silence, passivity, or absence of resistance, in and of itself, cannot be interpreted as Consent.
  - 4. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and conditions of) sexual activity.
  - 5. Past Consent does not imply future Consent. Even in the context of an ongoing relationship, Consent must be sought and freely given for each sexual act.
  - 6. Consent to engage in one form of sexual activity does not imply Consent to engage in any other sexual activity.



7. Consent to engage in sexual activity with one person does not imply Consent to engage in sexual activity with any other person.
  8. There is no Consent when the exchange involves unwanted physical force, coercion, intimidation and/or threats.
  9. If an individual is mentally or physically incapacitated such that one cannot understand the fact, nature, or extent of the sexual situation, and the Incapacitation is known or should be known to a Reasonable Person, there is no Consent. This includes conditions resulting from voluntary alcohol or drug consumption, being asleep, or unconscious. The assessment is based on objectively and reasonably apparent indications of Incapacitation when viewed from the perspective of a Reasonable Person.
  10. Consent is not valid if the person is too young to Consent to sexual activity under applicable law, even if the minor wanted to engage in the activity.
  11. In evaluating whether Consent was given, consideration will be given to the totality of the facts and circumstances, including but not limited to:
    - a. the extent to which a Reporting Party affirmatively uses words or actions indicating a willingness to engage in sexual contact, free from intimidation, fear, or coercion;
    - b. whether a Reasonable Person in the Responding Party's position would have understood such person's words and acts as an expression of Consent; and
    - c. whether there are any circumstances, known or reasonably apparent to the Responding Party, demonstrating Incapacitation or lack of Consent.
- H. Hearing Officer: A University Official, including, and not limited to, a Conduct Officer or Hearing Board Chair, authorized to facilitate cases under the Code and determine whether a student or an organization has violated the Code and to impose sanctions when it has been determined that a violation has occurred.
- I. Incapacitation; Incapacitated: An individual who is Incapacitated lacks the ability to make informed judgments. Incapacitation is the inability, temporarily or permanently, to give Consent because an individual is mentally and/or physically unable to

understand the fact, nature, or extent of the sexual situation, helpless, asleep, unconscious, or unaware that sexual activity is occurring. Helpless means a person is incapable of appraising or controlling one's own conduct, unable to verbally or otherwise communicate Consent or unwillingness to an act.

1. Where alcohol or other drugs are involved, Incapacitation is a state beyond impairment or intoxication.
2. Where alcohol or other drugs are involved, evaluating Incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness.

- J. Interim Measures or Actions: Actions taken to promote the safety and well-being of the Parties or the University community, including, but not limited to, interim suspension from the University, University activities, or University housing; creating for either Party a new living, dining or working arrangement; issuing a No Contact Order; changing class or work schedules; changing transportation; financial aid accommodations; immigration assistance; and other academic and/or employment accommodations and support.
- K. No Contact Order: An order issued by a University Official pursuant to a case under the Code prohibiting a person or Party from initiating direct or indirect contact with a specified person(s), as outlined in the Order.
- L. Notice: Official written communication from the University, which is considered effective if hand delivered, mailed with signature confirmation of delivery at the person's or entity's last known address, delivered through the use of the student's University email account with confirmation of receipt, or at the University's discretion, another method requested by the Party to whom the Notice is addressed. Students are expected to regularly monitor their official University email account.
- M. Party; Parties: May refer to the Reporting Party, Responding Party, or both Parties collectively.

- N. Preponderance of the Evidence: A standard that requires a fact or event to have more likely than not occurred, e.g., a greater than fifty percent (50%) likelihood.
- O. Reasonable Person: A representative individual under similar circumstances to the person in question, who exercises care, skill, and judgment.
- P. Reporting Party: Any person who alleges they, themselves, have been harmed by a student, or student organization and directly aggrieved by the incident. If a Reporting Party declines to participate, at the University's discretion, the University may move forward with the process under this Code.
- Q. Responding Party: Any student or student organization that has been alleged to have violated this Code or has been charged with a violation of this Code.
- R. Student Conduct Hearing Board; or Hearing Board: A body of trained University persons providing due process to students accused of violating this Code, as more fully described below in this Code.
- S. Support Person: A person who provides emotional or personal support or assistance to a Party during the investigative and hearing proceedings under this Code. Examples of a Support Person include, but are not limited to, family members, friends, or University employees.
- T. University of Maine System (the "University"): Means either collectively or singularly, any of the of following campuses and/or centers: University of Maine at Augusta; University of Maine at Farmington; University of Maine at Fort Kent; University of Maine at Machias; University of Maine; University of Maine at Presque Isle; University of Southern Maine; University of Maine School of Law; and all University Property.
- U. University Official: Any person employed or engaged by the University to perform assigned administrative or professional responsibilities, including campus police or security staff. University Officials may be full or part-time or may be student

staff members.

- V. University Property: Includes, but is not limited to, any Real or Personal Property owned, held, rented, licensed, chartered, or used at the University's discretion, Real or Personal Property otherwise engaged by the University in any manner or by University employees or University organizations as a direct result of and in connection with their service to the University.
  - 1. Real Property: Land, buildings, fixtures, improvements, and any interests therein.
  - 2. Personal Property: All property, other than real property, and any interests therein.
  
- W. VAWA (Violence Against Women Act) Offenses: Offenses of sexual assault (rape, fondling, incest or statutory rape), domestic violence, dating violence, and/or stalking.
  
- X. Violent Crime: One of a series of offenses described in the regulations implementing the Family Educational Rights and Privacy Act (FERPA) which includes, but is not limited to, arson, assault offenses, burglary, criminal homicide, destruction & vandalism, kidnapping, and sex offenses  
<http://www.ecfr.gov/current/title-34/subtitle-A/part-99>
  
- Y. Witness: A person who has directly observed, or has personal knowledge or experience of, a possible violation of this Code.

### III. VIOLATIONS

The following violations contravene this Code.

The violations listed below are considered in the context of the student's responsibility as a member of the University community. Other University-issued documents establish other University rules and violations, for example, residence hall contracts, student handbooks, academic integrity policies, or codes of conduct, ethics or professional responsibility, specific to certain courses of study or majors.

#### A. Academic Misconduct

NOTE: Each of the following forms of Academic Misconduct

are more fully defined in University Board of Trustees Policy Section 314 Academic Integrity.

1. Plagiarism: The submission of another's work as one's own, without adequate attribution. Plagiarism is academic theft.
2. Cheating: The act or attempted act of deception by which a person, student, or student organization seeks to misrepresent that they have mastered information on an academic exercise that they have not mastered. Cheating is also the use or attempted use of unauthorized assistance in an examination, paper, homework assignment, or other project.
3. Fabrication: The use of invented information or the falsification of research or other findings in an academic exercise.
4. Contributing to academic misconduct: Assisting another person's, student's, or student organization's academic misconduct.
5. Other forms of academic misconduct: Any actions by which one seeks an unfair academic advantage over others, or violations of the Academic Integrity Policy as may be reported by a faculty member or other academic officer.

#### B. Disruption of University Operations

1. Causing a Disturbance: Conduct which causes interference with or results in substantial disruption of University activities.
2. Failure to Comply with Sanction or Agreement: Failure to comply with a sanction imposed under this Code; or failure to comply with an Alternative Resolution agreement entered into under this Code.
3. Failure to Identify: Failure to identify oneself accurately to a University employee performing their official duties.
4. Interference with Code Enforcement: Interference with a Reporting Party, Responding Party, witness, investigation or the carrying out of procedures defined in this Code.
5. Interference with or Failure to Comply with a University Official: Direct interference with or failure to comply with a University Official in the performance of their official duties.
6. Supplying False Information: Knowingly providing incorrect or untrue information to a University Official in pursuit of

their official duties or in the course of a Code proceeding, or knowingly causing false information to be thus supplied.

7. Unauthorized Representation: An individual or entity claiming to represent the University of University employees without the authorization to do so.
8. Violation of Residence Hall Contract: Violation of residence hall contracts, except when the residence hall contract specifically provides for an alternate procedure or remedy for the violation at-issue.
9. Violation of Student Activity Rules: Violation of a University rule, policy, procedure, standard of conduct, or code of ethics governing a University student activity.

### C. Health & Safety Violations

1. Creating a Dangerous Condition: Creation of a fire hazard or other dangerous condition, which may cause harm to any individual or to property.
2. False Reporting of Dangerous Conditions: Giving or causing to be given false reports of fire or other dangerous conditions to the University or to local, state or federal authorities.
3. Endangering Health or Safety: Conduct which threatens or endangers the health or safety of any individual.
4. Violation of Health or Safety Policies: Violation of University health or safety rules, policies, or procedures.
5. Illegal Possession, Use, or Sale of Drugs: Illegal possession, use, or sale of drugs or drug paraphernalia.
6. Interference with Safety Equipment or Alarms: Tampering with, or disabling, or causing the malfunction of fire and safety equipment or alarm systems.
7. Restricting Traffic Flow: Restriction of normal pedestrian or vehicle traffic flow anywhere on University property, including entrances and exits.
8. Unauthorized Use or Possession of Chemicals or Explosives: Unauthorized use or possession of explosive components, chemicals, etc., such as fireworks, explosives, gas, or compressed air.
9. Violation of Alcohol, Drug, or Tobacco and Smoke Free Policies: Violations of alcohol, drug, or tobacco and smoke free policies, regulations, or laws.
10. Violation of Weapons Policies or Regulations: Possession or misuse of firearms or other dangerous weapons in violation

of University policies, regulations, or laws.

D. Offenses Involving Other People

1. Assault: Intentionally, knowingly, or recklessly causing bodily injury or offensive physical contact to another person.
2. Causing Fear of Physical Harm: Intentionally or knowingly placing another person in fear of imminent bodily injury.
3. Dating Violence: Violence committed against a person by an individual who is or has been in a social relationship of a romantic or intimate nature with that person. Whether a dating relationship exists is determined based on the Reporting Party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. All forms of dating violence prohibited by applicable law are also included (for example, Assault).
4. Discrimination: Discrimination based on actual or perceived race, color, religion, sex, sexual orientation, transgender status, gender, gender identity or expression, ethnicity, national origin, citizenship status, familial status, ancestry, age, physical or mental disability, genetic information, veteran or military status.
5. Domestic Violence: A felony or misdemeanor crime of violence committed by:
  - a. A current or former spouse or intimate partner of the victim; or
  - b. A person with whom the victim shares a child in common; or
  - c. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; or
  - d. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
  - e. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

NOTE: All forms of domestic violence prohibited by

Maine law are also included (see Domestic Violence Assault, Domestic Violence Criminal Threatening, Domestic Violence Terrorizing, Domestic Violence Stalking, and Domestic Violence Reckless Conduct).

6. Gender Discrimination: Discriminating against an individual on the basis of that individual's actual or perceived sex, sexual orientation, transgender status, gender, gender identity or expression.
7. Harassment: Severe or pervasive unwelcome conduct, including but not limited to: comments; jokes; acts; other verbal or physical conduct or bullying, that may be based on race, color, religion, sex, sexual orientation, transgender status, gender, gender identity or expression, ethnicity, national origin, citizenship status, familial status, ancestry, age, physical or mental disability, genetic information, veteran or military status.
8. Hazing: Any action or situation that recklessly or intentionally endangers the mental or physical health of any University Official or a person, student, or student organization or any activity expected of a person, student, or student organization as a condition of joining or maintaining membership in a group that humiliates, degrades, abuses or endangers the student, regardless of the student's willingness to participate in the activity.
9. Interference with Residential Life: Significant interference with University residential life.
10. Intimate Partner Violence: means any of the acts that constitute abuse under 19-A M.R.S.A. §4002(1)(A to H) that are committed by an individual who is or has been in a social relationship with another individual of an intimate nature regardless of whether the individuals were or are sexual partners. Intimate Partner Violence may constitute Dating Violence or Domestic Violence.
11. Intimidation: The improper use of authority, coercion, or threat for the purpose of compelling or deterring action against that person's will. Intimidation violates this Code when it threatens substantial harm to the other person's membership or status in the community; personal, professional, or academic reputation or opportunities; extracurricular opportunities; or financial security. Intimidation may include, but is not limited to, threatening to



accuse someone of illegal activity; threatening to expose a secret that could subject the person to hatred, contempt, or ridicule or otherwise compromise that person's standing in the community; threatening to disseminate sexual images of the other person; or use of a position of authority to take or withhold action against the other person.

12. Invasion of Privacy: The violation of another individual's reasonable expectation of privacy where the circumstances justify that expectation.
13. Indecent Conduct: Exhibition, including by electronic means, of the genitals, anus, or pubic area of a person other than for legitimate academic purposes. Simulation of a sexual act, sex act in public with or without private parts showing, or public masturbation are also included.
14. Retaliation: Action taken by an individual(s) or group or organization against any person or group for any action taken in furtherance of this Code including but not limited to: filing a complaint, testifying, assisting, or participating in an investigation or proceeding under this Code.

15. **Sexual Assault**

Sexual assault means an offense that meets the definition of rape, fondling, incest, or statutory rape.

**Rape** is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. **Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. **Statutory rape** is sexual intercourse with a person who is under the statutory age of consent. All forms of sexual assault and sexual contact prohibited by Maine law are also included.

16. "Sexual violence" means conduct that constitutes:
  - a. Any crimes in Maine listed at <http://www.mainelegislature.org/legis/statutes/17-A/title17-Ach11sec0.html>
  - b. Unauthorized dissemination of certain private images

pursuant to 17-A M.R.S.A. §511-A;  
<http://www.mainelegislature.org/legis/statutes/17-A/title17-Asec511-A.html>

- c. Aggravated sex trafficking or sex trafficking pursuant to 17-A M.R.S.A. §§852 or 853, respectively;  
<http://www.mainelegislature.org/legis/statutes/17-A/title17-Asec852.html> or
  - d. Sexual harassment as defined in 14 M.R.S.A. §6000(2-  
<http://www.mainelegislature.org/legis/statutes/14/title14sec6000.html>)
17. Sexual Harassment: Includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, including sexual assault, sexual violence, and any sexual act prohibited by applicable law. Sexual harassment, including Sexual Assault, can involve persons of the same or opposite sex, or any sex. Consistent with the law, this policy prohibits two types of sexual harassment:
- a. Tangible Employment or Educational Action (quid pro quo): This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a University activity are made an explicit or implicit condition of submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting an individual's employment, education, living environment, or participation in a University program or activity. Generally, a person who engages in this type of sexual harassment is an agent or employee with some authority conferred by the University.
  - b. Hostile Environment: Sexual harassment that creates a hostile environment is based on sex and exists when the harassment:
    - i. Is subjectively and objectively offensive; and
    - ii. Is so severe or pervasive as to alter the conditions of a person's employment, education or living situation that it creates an abusive working, educational or living environment.

- c. A hostile environment can be created by anyone involved in a University program or activity, such as an administrator, faculty or staff member, student, or University guest. Offensiveness alone is not enough to create a hostile environment. Although repeated incidents increase the likelihood that a hostile environment has been created, a single serious incident, such as a Sexual Assault, can be sufficient. Determining whether conduct creates a hostile environment depends not only on whether the conduct was unwelcome to the person who feels harassed, but also whether a Reasonable Person in a similar situation would have perceived the conduct as objectively offensive. The following factors will also be considered:
    - i. The degree to which the conduct affected one or more students' education or individual's employment; and
    - ii. The nature, scope, frequency, duration, and location of the incident(s); and
    - iii. The identity, number, and relationships of persons involved; and
    - iv. The nature of higher education; and
    - v. Whether the conduct arose in the context of other discriminatory conduct; and
    - vi. Whether the conduct altered the conditions of the Complainant's educational or work performance and/or UMS programs or activities; and
    - vii. Whether the conduct implicates academic freedom or protected speech; and
    - viii. Other relevant factors that may arise from consideration of the reported facts and circumstances.
18. Sexual Misconduct: Includes, but is not limited to, prostituting another person, watching or taking pictures, videos, or audio recordings of another person in a state of undress without their Consent or of another person engaging in a sexual act without the Consent of all parties, disseminating, streaming, or posting images, pictures or video of another in a state of undress or of a sexual nature without the person's Consent; letting others watch you have sex without the knowledge and Consent of your sexual

partner, possession of child pornography, voyeurism, and knowingly transmitting an STI or HIV to another person; and any sexual act prohibited by applicable law. Sexual misconduct may constitute Sexual Harassment. All forms of sexual misconduct prohibited by applicable law are also included. (For example, Violation of Privacy, Possession of Sexually Explicit Material, Image-Based Sexual Abuse and Sex Trafficking).

19. Stalking: Engaging in a course of conduct directed at a specific person that would cause a Reasonable Person to:
  - a. Fear for the person's safety or the safety of others; or
  - b. Suffer substantial emotional distress. For the purposes of this definition:
    - c. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
    - d. Reasonable person as defined in Section II.N.
    - e. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. All forms of stalking prohibited by applicable law are also included.
20. Unauthorized Recording: In general, the unauthorized recording of course content, classroom sessions, meetings held under this Code, and confidential university meetings is prohibited and considered a violation of this Code. However, exceptions will be considered on a case-by-case basis where a recording is made for the purpose of documenting inappropriate behavior.

#### E. Offenses Involving Property

1. Defacement, Destruction, or Misuse of Property: Intentionally, knowingly, or recklessly misusing, tampering with, damaging, destroying, or defacing University Property or the property of others without appropriate authorization.
2. Misuse of University Computer Network or Computers: Misuse of the University computer network or computers including, but not limited to, theft of computer files or data,

e-mail, or other electronically stored information, hacking or unauthorized probing, sharing of personal sign on information, spamming, sending out computer viruses, or uploading or downloading copyrighted material for personal use or distribution without appropriate authorization or prohibited by state or federal law, including but not limited to possession or distribution of child pornography.

3. Tampering, Destruction, or Falsification of Official Records: Intentionally or knowingly altering or destroying official documents, or presenting false official documents or information from such documents, to the University, any individual, or to a local, state, or federal agency.
4. Theft or Unauthorized Use: Theft, attempted theft, or unauthorized acquisition, removal, distribution, or use of the property of another, including University Property.
5. Trespassing: Trespassing or unauthorized presence on the property of another, including University Property.
6. Motor Vehicle Violations: Violation of applicable University motor vehicle policies and/or state, local, or federal laws and ordinances.

F. General Infractions

1. Aiding Infraction: Knowingly assisting in a Code violation.
2. Continued Infraction: Continued infractions of this Code.
3. Conviction of a Crime: Conviction of any crime that threatens: (a) any educational process or legitimate function of the University, or (b) the health or safety of any individual.
4. Interference with or Failure to Comply with Public Safety Personnel: Direct interference with or failure to comply with any public safety personnel in the performance of their official duties.
5. Other Illegal Activity: Violating any applicable law, regulation, or rule (e.g., local, state, or federal).

## IV. SANCTIONS

If a Responding Party admits to a violation of this Code to the Investigator, Conduct Officer, Hearing Board, or Appeal Panel; or upon determination by the Conduct Officer, Hearing Board, or Appeal Panel that a Responding Party has been found in violation of this Code, one or

more of the following sanctions may be imposed. Sanctions issued under this Code are independent of the awarding of grades (an academic matter), and provisions of this Code cannot be used for changing awarded grades.

NOTE: Regarding Gender Discrimination and Sexual Harassment: For any alleged violation of this Code that is Gender Discrimination or Sexual Harassment and a sanction is imposed on the Responding Party, the Reporting Party shall be notified of any such sanction which impacts the Reporting Party.

- A. Assigned Educational Actions: This may include educational programming, research projects, reflective essays, presentations, health and safety assessments, or other related assignments intended to promote learning.
- B. Community Service: Voluntary service that benefits people, a community, an organization, or the University.
- C. Deferred Sanction: A specified period of time during which a sanction has been imposed, but stayed. Any further violation of this Code during that time may, at a minimum, result in the imposition of the deferred sanction, and any new or additional sanction(s) deemed necessary.
- D. Disciplinary Dismissal: Permanent separation (subject to a right of review after five years) from the University.
  - 1. Responding Parties who are dismissed will not be permitted to attend any of the University campuses or centers or to attend any University functions.
  - 2. Readmission: After five (5) years from the date of the Disciplinary Dismissal, the Responding Party may submit a written request to the UMS Coordinator of Student Conduct to be considered for readmission to attend any of the University campuses or centers. The UMS Coordinator of Student Conduct will convene a committee to review requests for readmission. This committee may draw on the membership of existing committees (such as current members of the Hearing Board or Appeal Panel); and shall include representation from any involved University campus or center.

3. Requests for the removal of letter attached to official transcript: Responding Parties subject to Disciplinary Dismissal who have been found responsible for a Violent Crime, including VAWA Offenses, will have a letter attached to their official transcript describing the Disciplinary Dismissal. After five (5) years from the date of the Disciplinary Dismissal, the Responding Party may submit a written request to the UMS Coordinator of Student Conduct to have the letter attached to their official transcript removed. The UMS Coordinator of Student Conduct will convene a committee to review the request. This committee may draw on the membership of existing committees mentioned above); and shall include representation from any involved University campus or center.
- E. Disciplinary Probation: A specified period of time when any further violation may result in additional sanctions, up to and including Disciplinary Dismissal from the University.
- F. Disciplinary Suspension: Separation from the University for a specific period of time and until any stated condition(s) is met.
1. Responding Parties subject to Disciplinary Suspension will not be permitted to attend any of the University campuses or centers or attend any University functions until all conditions of the Disciplinary Suspension are met and the Disciplinary Suspension period has ended.
  2. Requests for the removal of letter attached to official transcript: Responding Parties subject to Disciplinary Suspension who have been found responsible for a Violent Crime, including VAWA Offenses, will have a letter attached to their official transcript describing the Disciplinary Suspension. After all conditions of the Disciplinary Suspension are met and the Disciplinary Suspension period has ended, the letter describing the Disciplinary Suspension will no longer be attached to the official transcript. If the end date of the Disciplinary Suspension has passed and the conditions for the Disciplinary Suspension were not fulfilled, the Responding Party may submit a written request to the UMS Coordinator of Student Conduct to have the letter attached to their official transcript removed. The UMS Coordinator of

Student Conduct will convene a committee to review the request. This committee may draw on the membership of existing committees (such as those mentioned in the sections above); and shall include representation from any involved University campus or center.

- G. Loss of Visitation Privileges: Loss of visitation privileges to designated area(s) of any University Property.
- H. No Contact Order: A written order that a Party may not initiate direct or indirect contact with a specified person(s), as outlined in the Order.
- I. Official Warning: Formal acknowledgment of a violation and the expectation that it will not be repeated.
- J. Reassignment, Suspension, or Removal from University Housing. Removal from a particular hall or all campus housing buildings on one or more University campuses.
- K. Restitution: Reimbursement to the owner of the property up to the replacement value of the property damaged, stolen, removed, or used without authority.
- L. Other action(s) as the Conduct Officer, Hearing Board, or Appeal Panel, may reasonably deem appropriate, examples include but are not limited to:
  - 1. Suspension of an organization's official University recognition.
  - 2. Suspension of a student from extracurricular activity(ies).
  - 3. Suspension of guest privileges.
  - 4. Termination from student employment.
  - 5. Academic degree revocation.
  - 6. Monetary fine for recognized student organizations only. Individual Responsible Parties are not subject to monetary assessments.

NOTE: The University may impose a more severe sanction on a Responding Party when the Conduct Officer, Hearing Board, or Appeal Panel determines that a Responding Party intentionally selected the person or organization against whom the violation was committed, or



selected the property damaged or stolen, because of the race, color, religion, sex, sexual orientation, transgender status, gender, gender identity or expression, ethnicity, national origin, citizenship status, familial status, ancestry, age, physical or mental disability, genetic information, veteran or military status of that person, or the persons in the organization or the owner of the property.

## **V. RESOLUTION PROCEDURES**

NOTE: Regarding Title IX: For any alleged violation of this Code that is within the jurisdiction of, and involves matters covered by, University of Maine System Board of Trustees Policy Section 402 Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Intimate Partner Violence, Stalking and Retaliation and Title IX Sexual Harassment (“Policy 402”), Policy 402 and the University of Maine System Procedures for Title IX Sexual Harassment are required to be followed.

NOTE: Regarding VAWA Offenses: For any alleged violation of this Code that is a VAWA Offense, all the rights and responsibilities which this Code provides to a Responding Party must be provided simultaneously to the Reporting Party.

NOTE: Regarding Violent Crimes: For any alleged violation of this Code that is a Violent Crime, the results of any proceeding or appeal conducted under the Code with respect to that alleged crime, regardless of whether the Responding Party was found in violation or not, may be disclosed to any victim of the Violent Crime. “Final results” is limited to the name of the Responding Party, the violation alleged or committed, and any sanction imposed by the University against the Responding Party.

### **A. Reporting Violations**

1. Alleged violations of this Code may be brought by University employees, students, or members of the general public and will result in the initiation of a Preliminary Inquiry.
2. Reports may be made anonymously; however anonymous reporting may limit the University’s ability to investigate and respond.

## **B. Preliminary Inquiry**

1. The Preliminary Inquiry will be conducted by a Conduct Officer to determine whether the circumstances alleged warrant further review.
2. Following the Preliminary Inquiry and a determination that the circumstances alleged warrant further review, and before interviewing or questioning the Responding Party, notice must be provided by the Conduct Officer to the Responding Party. Notice will include:
  - a. Reporting Party(ies);
  - b. Date(s) of alleged occurrence(s); and
  - c. Description of the alleged conduct; and
  - d. Maximum possible sanctions which may be imposed; and
  - e. Right to have an Advisor and a Support Person of their choice; and
  - f. Right to review the information to be used in the determination; and
  - g. Any Interim Measure or Action, if applicable; and
  - h. A copy of, or link to, this Code.
3. If there is no reasonable cause to conclude that the Code has been violated, the disciplinary process will end and the Responding Party will be notified by the Conduct Officer.

## **C. Interim Measures or Actions**

NOTE: For any alleged violation of this Code that is Gender Discrimination or Sexual Harassment and an Interim Measure or Action is imposed on the Responding Party, the Reporting Party shall be notified of any such Interim Measure or Action if the Interim measure or action impacts the Reporting Party.

1. An Interim Measure or Action may be taken with regard to any Party.
2. A Responding Party may have privileges revoked or may be suspended from the University pending the outcome of a disciplinary process if, in the judgment of the Conduct Officer, the Responding Party's continued presence or use of privileges at the University is likely to pose:
  - a. A substantial threat to the Reporting Party or other people; or
  - b. Significant risk of property damage; or

- c. Significant risk of disruption to or interference with the normal operations of the University.
3. Interim Measures or Actions, including but not limited to: interim suspensions; University Property usage restrictions; University account holds; and academic degree holds, will be implemented immediately with the goal of mitigating negative impact on the Parties while maintaining the safety of the University community and integrity of the Code process.
4. A Party who has been issued an Interim Measure or Action may request a review of that decision within five (5) business days of notification by contacting the Chief Student Affairs Officer of their University.
5. The review of Interim Measures or Actions will be conducted by the Chief Student Affairs Officer of the Party's University (or their designee) and a meeting will be scheduled with the Party within five (5) business days of receipt of the request.
6. The review will include an opportunity for the Party to provide information and for the University Official to ask questions and seek clarification of the information used in the initial decision.
7. A written determination will be promptly provided to the Party. The decision of the reviewer is final and may not be appealed.
8. Interim Measures or Actions are to remain in place until all University hearings and appeals are final or all University appeal periods have ended unless indicated otherwise in writing.

#### **D. Formal Investigation**

1. For more serious or complex cases, the Conduct Officer, at their discretion, may initiate a Formal Investigation and identify a trained investigator, as soon as reasonably practicable.
2. The University may, where appropriate, temporarily delay the Formal Investigation when criminal charges on the basis of the same conduct are being investigated. The University may move forward with the conduct process and does not have to wait for the resolution of the criminal case.

3. Prior to commencement of a Formal Investigation, the Conduct Officer will provide written Notice to the Responding Party. Notice will include the following:
  - a. Alleged Code violation(s) and a description of the alleged conduct constituting each alleged violation; and
  - b. Reporting Party(ies); and
  - c. Date(s) of alleged conduct; and
  - d. Right to have an Advisor and a Support Person of their choice; and
  - e. Maximum possible sanction(s) which may be imposed; and
  - f. The name of the investigator; and
  - g. A copy of, or link to, this Code.
4. Investigation Process
  - a. Will follow applicable standards for reliability, thoroughness, impartiality, timeliness, and fairness.
  - b. Will entail recorded interviews with relevant Parties and witnesses, obtaining and reviewing available evidence, and identifying other sources of reliable and relevant information, as applicable or otherwise deemed necessary.
  - c. Will, at the discretion of the investigator, be summarized in a written report by the investigator that identifies the relevant evidence, both inculpatory and exculpatory, gathered through the Formal Investigation.
  - d. Will not make determinations as to whether the Responding Party is responsible for any Code violation(s).
5. While Formal Investigation times may vary, in general, an investigation is completed within ninety (90) calendar days. If a Formal Investigation is going to take longer than ninety (90) calendar days, an update will be provided by the investigator or Conduct Officer to relevant Parties indicating the estimated timeframe for completion.
6. Upon the conclusion of the Formal Investigation, the Responding Party will be provided Notice under Section G, below.

### **E. Resolution Formats**

The resolution format is determined by the Conduct Officer and based on the seriousness of the matter, the impact to the Parties and

the community, the severity of likely sanctions, and other relevant circumstances.

NOTE: A Responding Party has the right to question (through the Chair or presiding Officer) the Reporting Party during a proceeding if Suspension from the University, Dismissal, or Loss of Recognition is a potential sanction for any violation found as a result of the proceeding.

1. Alternative Resolution is a voluntary agreement process between the involved Parties facilitated by the Conduct Officer which allows the individuals involved in a conflict or alleged violation of University policy to have influence over the resolution process. An Alternative Resolution will be considered when:
  - a. At the discretion of the Conduct Officer, the facts in the case are determined to be suitable for the alternative processes, such as conflict coaching, mediation, facilitated dialogue or restorative practices, and the Parties voluntarily agree to pursue participation and engagement willingly, and freely. The nature of some conduct matters, for instance, those involving VAWA Offenses and Violent Crimes, may not be suitable for an Alternative Resolution.
  - b. The Conduct Officer will make arrangements for the specific alternative resolution process that best fits the circumstances of the matter and may appoint a facilitator.
  - c. If and when a mutually satisfactory resolution is reached by the Parties and the Conduct Officer, and an Alternative Resolution agreement is entered into and signed by the Parties, the case is resolved.
  - d. Alternative Resolutions may not be appealed.
  - e. Violations of the Alternative Resolution agreement are a violation of this Code.
  - f. If an Alternative Resolution process is attempted but a resolution is not achieved, the Conduct Officer and the Parties retain their right to pursue formal resolution through processes outlined elsewhere in this Code.

2. Administrative Resolution is a scheduled, structured meeting between a Responding Party and a Conduct Officer to resolve less complex or serious matters.
  - a. An Administrative Resolution may be considered when:
    - i. The alleged violation is less complex or serious,
    - ii. There is sufficient evidence to charge a Code violation that has not been resolved through an Alternative Resolution process; and
    - iii. At least one of the following is true:
      - a. The facts are not in dispute; or
      - b. The facts are less complex or serious; or
      - c. A University employee directly observed the conduct violation.
3. Administrative Resolution Procedures
  - a. The Responding Party must receive Notice of the meeting at least two (2) business days before the scheduled resolution meeting. The meeting is typically held within twenty (20) business days of the completion of the preliminary inquiry or formal investigation, if any. If extenuating circumstances exist that preclude holding the meeting within 20 business days, a scheduling update will be provided. Notice will include the following:
    - i. Alleged Code violation(s); and
    - ii. Reporting Party(ies); and
    - iii. Date(s) of alleged conduct; and
    - iv. Maximum possible sanction(s) which may be imposed; and
    - v. Names of witnesses requested to appear, if applicable; and
    - vi. Right to have an Advisor and a Support Person of their choice; and
    - vii. Date and time of the scheduled proceeding; and
    - viii. Name(s) of the appointed presiding Officer(s); and
    - ix. A copy of, or link to, this Code.
  - b. If any relevant Party is not present as scheduled, the Conduct Officer, taking into account the reason for the absence, concerns with health and safety, timeliness of the process, and taking into account the totality of the circumstances, may, within their sole discretion:

- i. Proceed in a normal manner without a Responding Party's attendance; or
    - ii. Hear only a portion of the testimony and adjourn to a later date; or
    - iii. Postpone the entire hearing to a later date.
  - c. The Reporting Party and the Responding Party may be accompanied by an Advisor and a Support Person of their choice. Questioning of Parties or witnesses by any Advisor or Support Person will not be permitted, and they may only speak with their advisee, unless otherwise permitted by the presiding Conduct Officer.
  - d. Evidence and Recording
    - i. Any relevant information may be considered as evidence.
    - ii. A Responding Party has the right to remain silent, if a criminal prosecution relating to the same violation(s) is being conducted, or such action appears likely. Conduct Officers will not draw any negative inference from the Responding Party's silence, including the refusal to give information or consent to a search.
    - iii. Only the University is permitted to video or audio record any proceeding under the Code and the Conduct Officer may record the meeting at their discretion.
    - iv. A Party shall have the opportunity to present information or evidence to be considered in the resolution of the matter.
    - v. The name(s) of any witnesses requested, written statements, or other information from a Party should be submitted to the Conduct Officer prior to the meeting for inclusion in the materials presented, however the Parties may submit additional names of witnesses, written statements, or other information, at the time of the meeting, at the discretion of the presiding Conduct Officer.
- 4. Administrative Resolutions: Findings and Determinations
  - a. Using the Preponderance of the Evidence standard, the Conduct Officer will determine if the

- Responding Party is responsible or not responsible for each alleged violation.
- b. If the Responding Party is found not to have violated this Code, the case will be dismissed. Such dismissal will not affect any appeal rights of any Party.
  - c. If the Responding Party is found to have violated this Code, the presiding Conduct Officer will impose appropriate sanctions.
  - d. Upon completion of the meeting, the Responding Party will receive Notice of the determination and outcome after the meeting within ten (10) business days. Notice will include:
    - i. The finding and outcome for each alleged violation; and
    - ii. The reasoning that supports the finding; and
    - iii. Any sanctions imposed; and
    - iv. The reasoning that supports the sanctions; and
    - v. Any specific right of appeal if applicable.
  - e. In a case of a Violent Crime, the University may disclose the final results of the Administrative Resolution to the victim.
  - f. If the case involves an alleged VAWA Offense, Sexual Violence or Intimate Partner violence, simultaneous Notice will be provided to the Reporting Party and the Responding Party within 7 business days of the determination.
  - g. If the case involves alleged Gender Discrimination or Sexual Harassment, the Reporting Party will be notified of any sanctions imposed as a result of the violation which impact the Reporting Party.
5. Student Conduct Hearing Board (“Hearing Board”) is a fact-finding and decision-making body designated to adjudicate cases involving more serious violations of this Code. The UMS Coordinator of Student Conduct (or designee) is responsible for appointing each Hearing Board.
- a. A Hearing Board may be appointed to hear a case when:
    - i. Facts are serious or more complex; or
    - ii. Alleged violation(s) are anticipated to have higher impact to the Parties and the community.



For example, cases which could reasonably result in suspension from the University, dismissal, or loss of recognition of a campus organization.

- iii. Alleged violation(s) involve serious physical, emotional, or psychological harm or the threat thereof; or
  - iv. A VAWA Offense, Sexual Violence, Intimate Partner Violence, Discrimination or Violent Crime is alleged.
- b. Composition of the Hearing Board:
- i. The Hearing Board is composed of three (3) individuals consisting of:
    - a. A chair, who is either a faculty or staff member; and
    - b. At least one (1) enrolled student; and
    - c. At least one (1) additional faculty or staff member.
  - c. The composition of the Hearing Board will represent the diversity of the University community whenever reasonably practicable.
  - d. Alternate Hearing Board member(s) will be appointed as applicable and appropriate.

## **F. Hearing Board Timing and Attendance**

- 1. The Responding Party must receive Notice of the resolution format to be used, as identified above, within five (5) business days of the scheduled hearing or resolution format. A hearing or resolution is typically held within twenty (20) business days of the completion of the preliminary inquiry or formal investigation, if any. If extenuating circumstances exist that preclude holding the meeting within 20 business days, a scheduling update will be provided.
  - a. Notice will include the following:
    - i. Alleged Code violation(s); and
    - ii. Reporting Party(ies); and
    - iii. Date(s) of alleged conduct; and
    - iv. Maximum possible sanction(s) which may be imposed; and

- v. Names of witnesses requested to appear, if applicable; and
  - vi. Right to have an Advisor and a Support Person of their choice; and
  - vii. Right to review the evidence; and
  - viii. Date and time of the scheduled proceeding; and
  - ix. Name(s) of the appointed presiding Officer(s); and
  - x. A copy of, or link to, this Code.
2. If a relevant Party is unable to attend due to the constraints of a legal process (for example, a protective order) or is unable to attend related to concerns about trauma or future violence, then the Party may be provided alternative means of participation consistent with applicable law and due process.
  3. If a Responding Party is not present as scheduled, the Hearing Board Chair, taking into account the reason for the absence, concerns with health and safety, timeliness of the process, and taking into account the totality of the circumstances, may, within their sole discretion:
    - a. Proceed in a normal manner without a Responding Party's attendance; or
    - b. Hear only a portion of the testimony and adjourn to a later date; or
    - c. Postpone the entire hearing to a later date.
    - d. NOTE: A Responding Party has the right to question (through the Chair or presiding Officer) the Reporting Party during the proceeding if Suspension from the University, Dismissal, or Loss of Recognition is a potential sanction for any violation found as a result of the proceeding.
  4. A Hearing Officer may not rely solely on the absence of the Responding Party in determining the outcome of the matter.
  5. The Responding Party and the Reporting Party may be accompanied by an Advisor and a Support Person of their choice. Questioning by any Advisor or Support Person will not be permitted, and they may only speak with their advisee, unless otherwise permitted by the presiding Conduct Officer or Chair of the Hearing Board.

## **G. Evidence and Recording**

1. Any relevant information may be considered as evidence.

2. A Responding Party has the right to remain silent, if a criminal prosecution relating to the same violation(s) is being conducted, or such action appears likely. Hearing Officers will not draw any negative inference from the Responding Party's silence, including the refusal to give information or consent to a search.
3. Only the University is permitted to video or audio record any proceeding under the Code and the Hearing Board Chair and/or UMS Coordinator of Student Conduct will make arrangements for the recording, as needed. All matters under the Code are considered confidential unless otherwise indicated by law, and the record will be the property of the University.
4. A Party, generally, shall have the opportunity to present information or evidence to be considered in the resolution of the matter.
5. The name(s) of any witnesses requested, written statements, or other information from a Party should be submitted to the UMS Coordinator of Student Conduct at least two (2) business days prior to the hearing for inclusion in the materials presented to the Hearing Board.
6. The Parties may submit additional names of witnesses, written statements, or other information, at the time of the hearing, at the discretion of the Hearing Board Chair.

#### **H. Student Conduct Hearing Board Procedures**

1. Responsibility for recognizing and permitting persons to speak is the exclusive purview of the Hearing Board chair.
2. At the discretion of the Hearing Board chair, persons disruptive at any stage of the hearing may be asked to leave.
3. Each Party will be permitted to make an opening statement.
4. The available evidence to be considered will be presented, including the results of any Formal Investigation report, and shall be provided by the investigator, if feasible.
5. The Hearing Officer(s) may ask questions of any Witness or Party.
6. The Parties may pose questions to each other and to any witnesses through the Hearing Board chair. The Hearing Board chair will ask the witness or Party the question posed, if determined to be relevant and appropriate.

7. Questioning by any Advisor or Support Person is not permitted.
8. A Party will have the opportunity to make a closing statement, which may include recommendations regarding appropriate sanctions.
9. After the closing statements, the Hearing Board will go into a closed session to determine if the Responding Party, by the Preponderance of the Evidence standard, has violated this Code. This closed session is not recorded.

#### **I. Hearing Board Determination and Finding(s)**

1. Using the Preponderance of the Evidence standard, the Hearing Board members(s) will determine if the Responding Party is responsible or not responsible for each alleged violation.
2. If the Responding Party is found not to have violated this Code, the case will be dismissed. Such dismissal will not affect any appeal rights of any Party.
3. If the Responding Party is found to have violated this Code, the Hearing Board members will impose appropriate sanctions.
4. Upon completion of the deliberative process, the Responding Party will receive Notice of the determination and outcome. Notice will include:
  - a. The finding outcome for each alleged violation; and
  - b. The reasoning and facts that support the finding; and
  - c. Any sanctions imposed; and
  - d. The reasoning and facts that support the sanctions; and
  - e. Any specific right of appeal.
5. In a case of a Violent Crime, the University may disclose the final results of the Code proceeding to the victim.
6. If the case involves an alleged VAWA Offense, Sexual Violence, or Intimate Partner Violence, simultaneous Notice will be provided to the Reporting Party and the Responding Party within seven (7) business days.
7. If the case involves alleged Gender Discrimination, the Reporting Party will be notified of any sanctions imposed as a result of the violation which impacts the Reporting Party.

## **J. Appeals**

### **1. Right of Appeal**

In the event a sanction of Disciplinary Suspension, Disciplinary Dismissal, removal from University Housing, academic degree revocation, or loss of recognition of a University organization, or the case involves an alleged VAWA Offense, the Responding Party has a right to appeal any findings or sanctions to an Appeal Panel.

### **2. Grounds for Appeal**

- a. The Appeal Panel is not intended to be a full rehearing of the allegations and will be limited to the following grounds:
  - i. An alleged substantive error, including a procedural error or omission that substantially impacted the investigation or the outcome of the Administrative Resolution, or Hearing Board, (for example, bias or failure to follow applicable procedures); or
  - ii. To consider new evidence, not reasonably available during the investigation, Administrative Resolution, or Hearing Board that could impact the findings or sanctions. A summary of this new evidence and its potential impact must be included in the request for appeal; or
  - iii. The sanction imposed is disproportionate to the severity of the violation, considering the totality of circumstances.

The determination of whether the grounds for appeal are met is the responsibility of the Chair of the Appeal Panel. Appeals must be submitted in writing to the UMS Coordinator of Student Conduct within five (5) business days after the appealing Party has received written Notice of the determination and findings. Appeals must clearly state the issues to be reviewed based on at least one of the grounds identified; and be no longer than ten (10) pages in length, plus attachments, unless the appealing Party timely requests and is granted additional pages.

**Appeals by Multiple Parties:** Appeal requests will be shared with all Parties. Such other Parties may file a response with the Appeal Panel within five (5) business days; this response will be shared with all Parties. Absent extenuating circumstances, the findings and sanctions

will stand if the request for appeal is not submitted within five (5) business days or is not based on permissible grounds. Extenuating circumstances are at the discretion of the UMS Coordinator of Student Conduct and in consultation with the Office of General Counsel.

If the Chair of the Appeal Panel determines that none of the grounds for appeal are met, the Chair of the Appeals Panel will notify the appealing party within five (5) business days of receiving the appeal. The Chair's decision is final.

NOTE: Absent a substantial threat to health, safety, or well-being of the University, University community, or individuals on University Property, sanctions will take effect only after all University appeals are final or all University appeal periods have ended. Applicable threat assessment procedures will be used as appropriate. Interim Measures or Actions are to remain in place until all University appeals are final or all University appeal periods have ended unless indicated otherwise in writing by the Hearing Officer.

3. Composition of the Appeal Panel
  - a. The UMS Coordinator of Student Conduct is responsible for appointing the Appeal Panel.
  - b. The Appeal Panel is composed of three (3) officials, not previously directly involved in any way with the matter. The Appeal Panel is composed of:
    - i. A chair who is either a faculty or staff member; and
    - ii. At least one (1) enrolled student; and
    - iii. At least one (1) additional faculty or staff member; and
    - iv. Alternate official(s), as applicable and appropriate.
    - v. The composition of the Appeal Panel will represent the diversity of the University community whenever reasonably practicable.
4. Function of the Appeal Panel
  - a. Review the matter file including but not limited to: the investigative report; any hearing files and recordings; and
  - b. Review any new information provided; and
  - c. Ask written clarifying questions as applicable, including but not limited to, as appropriate, asking questions of:

- the investigator; Conduct Officer; Hearing Board members; individuals who presented information to the Hearing Board; and other individuals who have information relevant to the process; and
- d. Make a determination based on the information reviewed. Determinations are based on majority vote.
5. Timing and Attendance
- a. If a request for an appeal is submitted consistent with the parameters identified, the UMS Coordinator of Student Conduct will provide written Notice to the appealing Party within five business days from the submitted request. Notice will include:
    - i. The issues to be reviewed and the grounds for appeal; and
    - ii. Right to review the information that will be used by the Appeal Panel; and
    - iii. Date and time of the initial Appeal Panel meeting; and
    - iv. Names of the Appeal Panel members.
  - b. The Appeal Panel will have an initial meeting not later than ten (10) business days after issuance of the notice to the appealing Party that an Appeal Panel has been appointed. If extenuating circumstances exist that preclude the initial Appeal Panel meeting from occurring within ten (10) business days, an update will be provided indicating the estimated timeframe for the meeting.
  - c. The Parties will not attend Appeal Panel meetings. All Appeal Panel meetings will be closed sessions during which the Appeal Panel will carry out its functions as described above in section 4.
6. Determinations
- a. The Appeal Panel may make the following determinations:
    - i. Uphold or change the findings of the Conduct Officer or Hearing Board; or
    - ii. Uphold or change the sanctions of the Conduct Officer or Hearing Board; or
    - iii. Remand for a new or additional Formal Investigation with a new or same investigator; or
    - iv. Remand to the same Hearing Officer or Hearing Board for a new hearing; or

- v. Remand to a different Hearing Officer or Hearing Board for a new hearing.
7. The Appeal Panel's decision, including a decision to remand to the same or a different Hearing Officer or Hearing Board is final (as to the remand decision only and not to the substance of the underlying claim) and not subject to appeal. The decision in a remanded case, cannot be appealed. The Appeal Panel will provide Notice to the Appealing Party of the determination(s) within a timely manner. Notice will include:
    - a. The decision; and
    - b. The reasoning and facts that support the decision; and
    - c. Any modifications to the sanctions, including the reasoning and facts that support the modifications, if applicable.
  8. If the alleged conduct is a VAWA Offense, Sexual Violence, or Intimate Partner Violence the Parties will receive simultaneous written Notice within 7 (seven) business days of the determination of :
    - a. The decision; and
    - b. The reasoning and facts that support the decision.
  9. NOTE: If the alleged violation is Gender Discrimination, or Sexual Harassment, the Reporting Party shall receive written Notice of any sanction imposed as a result of the violation which impacts the Reporting Party. In a case of a Violent Crime, the University may disclose the final results of the Code proceeding to any victims, regardless of whether the University concluded a violation was committed.

## **VI. TRAINING**

- A. All persons responsible for the oversight or administration of the Student Conduct Code shall receive at minimum annual training relevant to their role and responsibility.
- B. The Conduct Officers and the UMS Coordinator of Student Conduct will identify and invite all persons representing the University community, including enrolled students, faculty and staff to receive training.



- C. Annual training will include understanding the processes and procedures that protect the safety of individuals involved, and it promotes accountability. In addition, training will be provided on issues related to Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment, trauma informed practices, and how to conduct an investigation.

## **VII. STUDENT CONDUCT CODE INTERPRETATION AND REVISIONS**

Under the authority of the Chancellor, any question of interpretation or application of the Student Conduct Code will be referred to the UMS Coordinator of Student Conduct, in consultation with the UMS Office of General Counsel for final determination.

### **Student Conduct Code Review**

The Student Conduct Code shall be reviewed a minimum of every two years under the direction of the UMS Coordinator of Student Conduct, and in consultation with the University Conduct Officers, Office of the General Counsel, and other stakeholders, as appropriate. The University Conduct Officers will be responsible for obtaining feedback regarding the Student Conduct Code from appropriate stakeholders on each of their campuses, including students, faculty, and staff. The UMS Coordinator of Student Conduct will inform the Chair of the Board of Trustees Academic and Student Affairs Committee of any recommendations for major changes. Final approval of the Student Conduct Code will be the responsibility of the Chancellor, in consultation with the Office of the General Counsel.

**Effective Date: July 1, 2023**







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