

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

**Effective Date: July 1, 2018**

**Revised by the Conduct Review Board**

**and accepted by the Board of Trustees, July 1, 2018**



**UNIVERSITY OF MAINE SYSTEM**

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# UNIVERSITY OF MAINE SYSTEM STUDENT CONDUCT CODE

## POLICY STATEMENT

The purpose of the University of Maine System Student Conduct Code (the “Code”) is to promote the pursuit of activities that contribute to the intellectual, ethical, and physical development of the individuals under the auspices of the University of Maine System (the “University”) and the individual campuses. The Code seeks to ensure the safety of persons engaging in those pursuits; to protect the free and peaceful expression of ideas; and to assure the integrity of various academic processes.

Students are expected to conduct their affairs with proper regard for the rights of others and of the University. All members of the University community share a responsibility for maintaining an environment where actions are guided by mutual respect, integrity, and reason.

All members of the University are governed by University policies, local ordinances, and state and federal laws. For specific governing documents, students and/or campus organizations may refer to University Policies and Procedures; campus student handbooks; campus residence hall agreements and manuals; and related notices and publications. Individuals in violation of state and federal law are subject to prosecution by appropriate state and federal authorities regardless of whether the activity occurs on or off University Property. In addition, students may be subject to disciplinary action by the University pursuant to the Code. The severity of the imposed sanctions will be appropriate to the violation and circumstances of the situation.

In seeking to encourage responsible attitudes, the University places much reliance upon personal example, counseling, and admonition. In certain circumstances where these preferred means fail, the University will rely upon the rules and procedures described in the Code.

The Officer may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc.

Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred.

If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

IN THE ENFORCEMENT OF THE CODE, THE UNIVERSITY FUNCTIONS IN AN ADMINISTRATIVE MANNER. THE UNIVERSITY'S ADMINISTRATIVE PROCESS AFFORDS FUNDAMENTAL FAIRNESS, BUT DOES NOT FOLLOW THE TRADITIONAL COMMON LAW ADVERSARIAL METHOD OF A COURT OF LAW.

*In complying with the letter and spirit of applicable laws and in 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 expression, national origin, citizenship status, age, disability, genetic information or veterans 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, North Stevens Hall, Orono, ME 04469; voice: (207)581-1226; TTY 711 (Maine Relay System) email: [equal.opportunity@maine.edu](mailto:equal.opportunity@maine.edu).*

A qualified student with a disability is entitled to reasonable accommodations to participate in this administrative process. Accommodations may include, but are not limited to, sign language interpretation or information in alternative formats. Students wishing to request reasonable accommodations should make those requests directly to the Officer. The Officer will consult with the appropriate campus office for students with disabilities to assist with the determination of reasonable accommodations. Students may be required to provide documentation in order for the Officer to make a determination.

## **I. JURISDICTION**

- A. The Code will apply to the following:
  - 1. Any person(s) registered or enrolled in any course or program offered by the University;
  - 2. Any person accepted to the University;
  - 3. Any recognized student organization; or
  - 4. Any group of students not currently recognized, but under probation or suspension, by the University.
- B. Persons are deemed to be enrolled at the University until such time as the student has:

1. Officially graduated from the University;
  2. Been officially dismissed from the University; or
  3. Not been enrolled in any course or program within the University for one calendar year.
- C. Persons are also deemed to be enrolled at the University if the student:
- a. Has been officially suspended from the University (persons are deemed to be enrolled during the period of their suspension), or
  - b. Is taking distance courses provided by or presented at a University campus.
- D. The Code may be applied in cases of conduct when the alleged incident:
1. Occurs on any campus of the University, or involving any other University Property;
  2. At Activities Pursued Under the Auspices of the University; or
  3. In which the University can demonstrate a substantial interest as an academic institution regardless of where the conduct occurs, including online or off-campus, and in which the conduct seriously threatens: (a) any educational process; (b) legitimate function of the University; or (c) the health or safety of any individual.
- E. Jurisdiction is determined on the date of the alleged incident.

## II. DEFINITIONS

- A. **Activities Pursued Under the Auspices of the University:** Any activities specifically sponsored or participated in by the campus or by any campus organization. Such activities do not include informal off-campus gatherings of students. However, this definition will not be construed so as to limit the University's jurisdiction.
- B. **Administrative Hearing Before the Officer:** A hearing before the Officer to determine if a Responding Party has violated any section(s) of the Code.
- C. **Advisor:** A person who is available to advise or support any party involved in a Code violation investigation and resolution process. Someone acting in the capacity of an advisor may not be a witness. Examples of advisors may include, but are not limited to, family members, friends, University Employees, and attorneys.
- D. **Campus Authorities:** Includes, but is not limited to, any Campus Police or Security Staff, the Officer, the Committee, and the Review Panel.
- E. **Conduct Officer (the "Officer"):** Person(s) or designee(s) responsible for resolving alleged violations of the Code.

- F. **Consent:** An individual's agreement to engage in sexual activity.
1. Consent must be:
    - a. Informed, freely, and actively given, and consist of a mutually agreeable and understandable exchange of words or actions.
    - b. Clear, knowing and voluntary.
    - c. Active, not passive.
  2. Consent may be withdrawn at any time.
  3. Silence, 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.
  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 or impaired such that one cannot understand the fact, nature, or extent of the sexual situation, and the Incapacitation or impairment is known or should be known to a Reasonable Person, there is no consent. This includes conditions resulting from alcohol or drug consumption, or being asleep, or unconscious.
  10. Consent is not valid if the person is too young to consent to sexual activity under Maine law, even if the minor wanted to engage in the activity.
- G. **Formal Investigation:** A fair, thorough, and impartial process used to determine, to the fullest extent possible, if a there has been a violation of the Code. Investigations include, but are not limited to, interviews with relevant parties and evidence collection.
- H. **Gender Expression:** An individual's external expression of their gender identity, through such means as clothing, hair styling, jewelry, voice, and behavior.
- I. **Gender Identity:** An individual's sincerely held core belief regarding their gender whether that individual identifies as male, female, a blend of both, neither, or in some other way (such as, for example, an individual who identifies as "queer", "genderqueer", "bi-gender", "intersex", or "gender fluid").
- J. **Hostile Environment:** Is created when harassment is:
1. Severe, Persistent, or Pervasive; and
  2. Objectively Offensive, such that it denies or limits a person's ability

to participate in or benefit from the University's programs, services, opportunities, or activities; or unreasonably interferes with an individual's academic or work performance.

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 campus 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;
  - ii. The nature, scope, frequency, duration, and location of the incident(s);
  - iii. The identity, number, and relationships of persons involved; and
  - iv. The nature of higher education.
- K. **Incapacitation:** An individual is mentally or physically incapacitated such that:
1. The individual cannot understand the fact, nature, or extent of the situation (e.g. to understand the "who, what, when, where, why or how" of the situation); and
  2. The incapacitation is known or should be known to the Responding Party (as evaluative from the perspective of a Reasonable Person).

This includes conditions resulting from alcohol or drug consumption, being asleep, or unconscious.

A policy violation is not excused by the fact that the Responding Party was intoxicated and, due to that intoxication, did not realize the incapacity of the other person.

- L. **Interim Measures or Actions:** Taken to promote the safety and well-being of the Parties, including, but not limited to, moving either Party

to a new living, dining or working situation; 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.

- M. **Notification Standards:** Official notice from the University may be hand delivered, mailed to a student's last known address, or delivered through the use of the student's University email account.
- N. **Party(ies):** The Reporting Party(ies) and Responding Party(ies), collectively.
- O. **Preliminary Inquiry:** Typically one to three (1-3) days in length, this inquiry precedes a formal investigation, to determine if there is reasonable cause to believe that there has been a violation of the Code.
- P. **Preponderance of the Evidence:** The standard of evidence used to determine whether the Student Conduct Code has been violated. Under this standard, a violation will be determined to have occurred if, based upon the evidence presented, the Officer, the Committee, or the Review Panel conclude that it is more likely than not that the violation was committed.
- Q. **Reasonable Person:** A representative individual under similar circumstances and with similar identities to the person in question, who exercises care, skill, and judgment.
- R. **Reporting Party:** A person who alleges harm and/or a policy violation by a student or campus organization. Where the Reporting Party does not want to participate, the University may move forward with the case. In cases of Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking, however, the words "Reporting Party" shall refer only to the person who has been harmed by the alleged misconduct.
- S. **Responding Party:** A student or organization that has been alleged to have violated the Code, is under Formal Investigation, or has been charged with a violation of the Code.
- T. **Review Panel:** A one (1) or three (3) member panel that hears reviews from the Committee, described in Section VII.
- U. **Sexual Orientation:** A person's actual or perceived sexuality or sexual identity.
- V. **Student Conduct Committee (the "Committee"):** A committee composed of representatives from campuses of the University responsible



for hearing conduct cases on review after the Administrative Hearing, described in Section VI.

- W. **University Employee:** Employees, including faculty, staff, students, Board of Trustees, volunteers, and agents of the University.
- X. **University of Maine System Student Conduct Code (the “Code”):** This entire document.
- Y. **University of Maine System (the “University”):** Means either collectively or singularly, any of the of following campuses: University of Maine at Augusta; University of Maine at Farmington; University of Maine at Fort Kent; University of Maine at Machias; University of Maine (Orono); University of Maine at Presque Isle; University of Southern Maine; University Colleges; and all University Property.
- Z. **University Property:** Includes, but is not limited to, any Real or Personal Property owned, held, rented, licensed, chartered, or otherwise engaged by the University in any manner or by University Employees and/or campus 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. The University’s computer network and all its component parts, which are not real property. Any document or record issued or purporting to be issued by the University.
- AA. **Violent Crime:** Arson, assault offenses, intimidation, burglary, manslaughter, murder, destruction/damage/vandalism of property, kidnapping/abduction, and/or robbery.

### III. VIOLATIONS

Violations are activities which directly and significantly interfere with the University’s (1) primary educational responsibility of ensuring the opportunity of all members of the community to attain their educational objectives, or (2) subsidiary responsibilities of protecting the health and safety of persons in the campus community, maintaining and protecting property, keeping records, providing living accommodations and other services, and sponsoring non-classroom activities such as lectures, concerts, athletic events, and social functions.

The violations listed below are considered in the context of the student’s

responsibility as a member of the academic community; other actions which may be considered as violations may be defined by other documents, such as, for example, residence hall contracts. Disciplinary action taken under the Code is independent of the awarding of grades (an academic matter), and provisions of the Code cannot be used for changing awarded grades.

The residence hall contract between the student and the University may specify certain other conditions which impose additional responsibilities and obligations on the residence hall student. The following violations indicate categories of conduct or activity which violate the Code.

### **Reporting Violations**

All reports are acted upon promptly while every effort is made by the University to preserve the privacy of such reports. Such reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided. Reports of alleged violations of the Code should be reported to Campus Authorities such as the University's Residence Hall staff, Dean of Students, or Officer. Reports of Gender Discrimination (including sexual harassment, dating violence, domestic violence, sexual assault or stalking) may be reported directly to the University's Title IX Coordinator/Deputy Coordinator.

**The following violations are provided in order to give students reasonable warning that such conduct or attempted conduct is prohibited.**

#### **A. Academic Misconduct**

1. **Cheating:** The act or attempted act of deception by which a student seeks to misrepresent that he/she has mastered information on an academic exercise that he/she has not mastered.
2. **Fabrication:** The use of invented information or the falsification of research or other findings in an academic exercise.
3. **Plagiarism:** The submission of another's work as one's own, without adequate attribution.
4. **Facilitating Academic Misconduct:** Assisting in another person's academic misconduct.

#### **B. Disruption of University Operations**

1. **Causing a Disturbance:** Disturbance resulting in substantial disruption of authorized activities.
2. **Failure to Comply with Sanction:** Failure to comply with or attempts to circumvent a sanction(s) imposed by the Officer, Committee, or Review Panel.
3. **Failure to Identify:** Failing to properly identify oneself to a University Employee acting in pursuit of official duties.

4. **Interference with Code Enforcement:** Interference with a Reporting Party, Responding Party, witness, investigation or the carrying out of procedures defined in the Code.
5. **Interference with or Failure to Comply with a University Employee:** Direct interference with or failure to comply with a University Employee in the performance of his/her official duties.
6. **Supplying False Information:** Knowingly supplying false information to University Employees in pursuit of their official duties or to a Committee or Review Panel in the course of a disciplinary proceeding, or knowingly causing false information to be thus supplied.
7. **Unauthorized Representation:** Unauthorized representation of the University or University Employee(s).
8. **Violation of Residence Hall Policies:** Violation of residence hall contracts, except when the residence hall contract specifically provides for an alternate procedure or remedy for the violation concerned.
9. **Violation of Student Activity Regulations:** Violation of a campus-specific or system-wide regulation, policy, standard of conduct, or code of ethics applicable to the activity in which the student is engaged, and which has been adopted, published or otherwise made known to students participating in such activity.

C. **Health & Safety Violations**

1. **Creating a Dangerous Condition:** Creation of a fire hazard or other dangerous condition.
2. **Endangering Health or Safety:** Conduct which threatens or endangers the health or safety of any individual.
3. **False Reporting of Dangerous Conditions:** Giving or causing to be given false reports of fire or other dangerous conditions.
4. **Illegal Possession, Use, or Sale of Drugs:** Illegal possession, use, or sale of drugs or drug paraphernalia. The misuse of legal prescription drugs.
5. **Interference with Safety Equipment or Alarms:** Tampering with, disabling, or causing malfunction of fire and safety equipment or alarm systems.
6. **Possession or Misuse of Weapons:** Violation of regulations concerning possession or misuse of firearms or other dangerous weapons, as defined by policies established for each campus.
7. **Restricting Traffic Flow:** Restriction of normal traffic flow into or out of University Property.
8. **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 Policies:** Violations of University or State of Maine alcoholic beverage regulations or laws.

10. **Violation of Health or Safety Policies:** Violation of University health or safety regulations.

D. **Offenses Involving Other People**

1. **Causing Fear of Physical Harm:** Intentionally or recklessly placing a person or persons in reasonable fear of imminent physical harm.
2. **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 Maine law are also included.
3. **Domestic Violence:** A felony or misdemeanor crime of violence committed by:
  - a. A current or former spouse or intimate partner of the victim;
  - b. A person with whom the victim shares a child in common;
  - c. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - 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.

All forms of domestic violence prohibited by Maine law are also included.

4. **Gender Discrimination:** Discriminating against an individual on the basis of that individual's gender, including, but not limited to, Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking.
5. **Harassment:** Repeated and/or severe acts of unwelcome behavior that creates a hostile working, educational, or living environment that unreasonably interferes with an individual's academic or job performance and opportunities.
6. **Hazing:** Any action taken or situation created by a person or an organization, or with the knowledge or Consent of an organization,

which recklessly or intentionally endangers the mental or physical health of a student.

7. **Interference with Residential Life:** Significant interference with the normal residential life of others.
8. **Intimidation:** Implied or actual threats or acts that cause a reasonable fear of harm in another, and may be inferred from conduct, words, or circumstances reasonably calculated to cause fear.
9. **Invasion of Privacy:** The violation of another individual's reasonable expectation of privacy where the circumstances justify that expectation, including, but not limited to, physically trespassing in a private area with the intent of observing or eavesdropping; using an electronic device to intercept, record, amplify or broadcast a private conversation or private events; or engaging in surveillance, photographing, broadcasting, image-capturing or recording of private conversations or private events. The fact that the Responding Party was a party to the conversation or event is not determinative of another individual's reasonable expectation of privacy.
10. **Lewd or Indecent Behavior:** Exhibition of the genitals, anus, or pubic area of a person other than for legitimate academic purposes.
11. **Physical Assault:** Intentionally, knowingly, or recklessly causing bodily injury or offensive physical contact to another person.
12. **Retaliation:** Action taken by the University or any individual or group against any person for opposing any practices prohibited by the Code or for filing a complaint, testifying, assisting, or participating in an investigation or proceeding under the Code. This includes action taken against a bystander who intervened to stop or attempt to stop a violation of the Code. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation.

Action is generally deemed retaliatory if it would deter a Reasonable Person in the same circumstances from opposing practices prohibited by the Code or from participating in the resolution of a complaint.

13. **Sexual Assault:** An offense that meets the definition of rape, fondling, incest, or statutory rape, as follows:
  - a. 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.
  - b. 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.
- c. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - d. Statutory rape is sexual intercourse with a person who is under the statutory age of Consent under applicable law.

All forms of sexual assault and sexual contact prohibited by Maine law are also included.

14. **Sexual Harassment:** Includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, including sexual assault and sexual violence. Sexual harassment, including Sexual Assault, can involve persons of the same or opposite 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 severe, pervasive, or persistent, and objectively offensive such that it denies or limits a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities; or
  - ii. Unreasonably interferes with an individual's academic or work performance.

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 campus 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;
  - ii. The nature, scope, frequency, duration, and location of the incident(s);
  - iii. The identity, number, and relationships of persons involved; and
  - iv. The nature of higher education.
15. **Sexual Misconduct:** Includes, but is not limited to, prostituting another person, nonconsensual image capturing of sexual activity, presentation or unauthorized viewing of a non-consensual videotaping of sexual activity, letting others watch you have sex without the knowledge and Consent of your sexual partner, possession of child pornography, peeping tommy, and/or knowingly transmitting an STD or HIV to another person. Sexual misconduct may also constitute sexual harassment.

All forms of sexual misconduct prohibited by Maine law are also included.

16. **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:

- a. 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.
- b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- c. 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 Maine law are also included.

17. **Discriminatory Harassment:** Harassment based on actual or perceived race, color, religion, sex, Sexual Orientation, Gender Identity, Gender Expression, national origin or citizenship status, age, disability, genetic information or veteran status.
18. **Unauthorized Recording of a Conversation:** Intercepting, recording or image-capturing a University Employee in a classroom, office or over the telephone without that University Employee's Consent unless it is part of an approved reasonable accommodation.

E. **Offenses Involving Property**

1. **Defacement, Destruction, or Misuse of Property:** Intentional and/or reckless misuse, destruction, or defacement of University Property or of the property of other people without authorization.
2. **Misuse of University 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, probing or hacking into other computers or computer systems, spamming, sending out computer viruses, or uploading or downloading copyrighted material for personal use or distribution without authorization.
3. **Motor Vehicle Violation:** Violation of motor vehicle policies established for each campus.
4. **Tampering, Destruction, or Falsification of Records:** Tampering with, destroying, or falsifying official records.
5. **Theft or Unauthorized Use:** Theft, attempted theft, or unauthorized acquisition, removal, or use of the property of another.
6. **Trespassing:** Trespassing or unauthorized presence on any University Property, including residence halls.

F. **General Infractions**

1. **Aiding Infraction:** Knowingly assisting in the violation of any of the provisions of the Code.
2. **Continued Infraction:** Continued infractions of the 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. **Other Illegal Activity:** Violating local, state, or federal laws otherwise not covered under the Code.

## IV. SANCTIONS

If a Responding Party admits to a violation of the Code to the Officer, Investigator, Committee or Review Panel; or upon determination by the Officer,



Committee or Review Panel that a Responding Party has been found in violation of the Code, one or more of the following sanctions may be imposed in accordance with the provisions of the Code (see Section V):

- A. **Assigned Educational Projects:** This may include research projects, reflective essays, counseling assessments, sanction seminars or other related assignments intended to promote learning.
- B. **Community Service:** The type of service may be related to the nature of the violation.
- C. **Deferred Sanction:** A specific period of time during which a sanction has been imposed but is stayed. Any further violation of the Code during that time may, at minimum, result in the imposition of the deferred sanction, and any new or additional sanctions deemed necessary.
- D. **Disciplinary Dismissal:** Permanent separation (subject to the 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 attend any University functions. After five (5) years from the date of the dismissal, the Responding Party may submit a written request to be readmitted to attend one of the University campuses. For a Responding Party preparing to transfer to a non-University institution who has been dismissed for a Violent Crime or Sexual Assault, a letter will be attached to the student's transcript explaining the dismissal. After five (5) years from the date of the dismissal, the Responding Party may submit a written request to have the letter attached for transfer applications to non-University institutions removed from their transcript.
  - 2. Requests for readmission or removal of the letter attached for transfer applications will be submitted to the Officer of the campus from which the Responding Party was dismissed. The Officer will convene the campus committee designated by the President to review such requests pursuant to the campus written procedures.
- E. **Disciplinary Probation:** A specified period of time when any further violation may result in additional sanctions, up to and including dismissal from the University.
- F. **Disciplinary Suspension:** Separation from the University for a specific period of time and/or until a stated condition(s) is met.

Responding Parties who are suspended will not be permitted to attend any of the University campuses during the sanction period or attend

any University functions. After the sanction period has been completed and all requirements of the suspension have been met, the Responding Party is eligible for readmission to any University campus. For a Responding Party preparing to transfer to a non-University institution who has been suspended for a Violent Crime or Sexual Assault, a letter will be attached to his/her transcript explaining that he/she has been suspended. If the Responding Party is transferring to a non-University institution after the sanction has been completed the letter will not be attached to the transcript.

- G. **Fine:** Payment of money. Responding Parties who are unable to pay may discuss alternate payment arrangements.
- H. **Loss of Contact with a Specific Person(s):** With this sanction, the person may not initiate direct or indirect contact with a specified person(s).
- I. **Loss of Visitation Privileges:** This loss of visitation may be to any designated area(s) of any University Property.
- J. **Official Warning:** Official acknowledgment of a violation and the expectation that it will not be repeated.
- K. **Removal from University Housing:** Removal from a particular hall or all housing.
- L. **Restitution:** Restitution, up to the replacement value of the items damaged, stolen, removed, or used without authority and damages incurred.
- M. **Such other action(s) as the Committee, Officer or Review Panel may reasonably deem appropriate (e.g., suspension of an organization's official campus recognition, suspension of a student from an extracurricular activity, termination from student employment, and/or academic degree revocation).**

The University may impose a more severe sanction on a Responding Party when the Officer, Committee, or Review 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, religion, color, sex, Sexual Orientation, Gender Identity, Gender Expression, national origin or citizenship status, age, disability, genetic information or veteran status of that person, or the persons in the organization or the owner of the property.

## V. PROCEDURES

Each University campus may adopt procedures for carrying out the provisions of the Code within the guidelines set forth by the Code as described below and consistent with the Code. University campuses having a professional code of ethics may adopt additional procedural provisions to be applicable to their own students.

ADMINISTRATION AND INTERPRETATION OF THE CODE WILL BE SOLELY WITHIN THE JURISDICTION OF THE OFFICER, THE COMMITTEE OR THE REVIEW PANEL, SUCH INTERPRETATION BEING PURSUANT TO THE PROCEDURES OF THE CODE.

### A. PRELIMINARY INQUIRY

1. Alleged violations of the Code brought to the attention of the University by University Employees, students, or members of the general public will result in the initiation of a Preliminary Inquiry. A Preliminary Inquiry will determine if there is sufficient information to warrant a Formal Investigation or informal resolution. **Before interviewing or questioning of the Parties, notification must be provided under Section V.C., Notice of Formal Investigation, unless doing so would be likely to jeopardize health or safety, or the integrity of the investigation, or lead to the destruction of evidence.**
2. Informal resolution may be used to resolve cases where:
  - a. There is sufficient information to support the allegations;
  - b. All parties have mutually consented to the process; and
  - c. The process is acceptable to the Officer.

The Parties have the right to end the informal process at any time and begin the formal complaint process. Mediation may not be used in cases of allegations of Sexual Assault.

3. Upon the conclusion of the Preliminary Inquiry, in accordance with Notification Standards, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking, the Parties will be simultaneously notified whether no charges will be filed, a Formal Investigation will commence, or Informal Resolution will be pursued. In all other cases, only the Responding Party will be notified whether or not charges will be filed, or if a Formal Investigation will commence.
4. If, during the Preliminary Inquiry or at any point during the Formal Investigation, the Officer determines that 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. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking, the Parties will receive simultaneous notification of the Officer's decision end the disciplinary process and both the Parties will be notified of the right of review.

5. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking, once the need for a Formal Investigation has been determined, the Parties will be provided written notification of the Formal Investigation at the appropriate time during the Formal Investigation.
6. Each Officer, Committee member, and Review Panelist is expected to conduct due diligence to determine if there is a potential conflict of interest. If there is a conflict of interest for the Officer, the Officer will refer the matter to another Officer. If any member of the Committee or Review panel is conflicted, an alternate will be appointed. The parties have the right to raise any potential conflict of interest with the Officer or any member of the Committee or Review Panel.

The University aims to complete the investigation, including the Preliminary Inquiry and Formal Investigation, if any, within a sixty (60) business day time period from the date of initial notice to completion of the Formal Investigation, if any, which time period may be extended as necessary for appropriate cause.

## **B. INTERIM MEASURES OR ACTIONS**

1. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking, the University may provide Interim Measures or Actions intended to address the short-term effects of the alleged Harassment, discrimination, and/or Retaliation, to the Parties and the community, and to prevent further violations of the Code. Interim Measures or Actions taken will be kept as private as reasonably practicable.
2. A Responding Party may be suspended from the University or have privileges revoked pending the outcome of a disciplinary proceeding if, in the judgment of the Officer, the Responding Party's continued presence or use of privileges at the University pending the outcome of the proceeding is likely to pose a substantial threat to the Reporting Party or to other people and/or is likely to cause significant property damage and/or disruption of or interference with the normal operations of the University. The

Officer may converse with the Parties when such Interim Measures and Actions are considered.

3. Responding Parties who have been issued an Interim Measures or Actions or an interim suspension may seek review of that decision by requesting the Campus President or designee to review the decision. The Campus President or designee will review the request within five (5) business days of receipt.
4. In accordance with Notification Standards, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking the Officer may inform the Parties of any Interim Measures or Actions.
5. Interim Measures or Actions, including but not limited to: interim suspensions; no-contact orders; University Property usage restrictions; University account holds; and academic degree holds, will be implemented to ensure as minimal negative impact on the Parties while maintaining the safety of the University community and integrity of the investigation.
6. An enrolled student may not graduate if that student has a pending conduct case. 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 be permitted to return to the University or graduate until the student is found not responsible for a violation of the Code or any imposed sanctions have been satisfied.

### **C. NOTICE OF FORMAL INVESTIGATION**

1. Prior to commencement of a Formal Investigation, the Officer will notify the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking) in writing per the Notification Standards of the following:
  - a. Alleged Code violation(s);
  - b. Reporting Party(ies);
  - c. Date(s) of alleged occurrence(s);
  - d. Maximum possible sanctions which may be imposed;
  - e. The procedures that will be used to resolve the complaint; and
  - f. Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking) right of review.

### **D. FORMAL INVESTIGATION**

1. Upon the Officer's decision to commence a Formal Investigation, the Officer will initiate the investigation or assign it to a trained investigator, as soon as practicable.

2. The University may undertake a short delay in its investigation when criminal charges on the basis of the same behaviors that invoked this process are being investigated. The University will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection is complete.
3. All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence, and identifying sources of expert information, as necessary.
4. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking, both the Parties will be given access to the relevant evidence to be used in rendering a determination and each party will be provided a full and fair opportunity to address that evidence prior to a finding being rendered.
5. The Officer and/or investigator will provide regular updates to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking) throughout the investigation, as appropriate.
6. During the Investigation the Parties may be accompanied by an Advisor.
7. If no charges are being brought at the conclusion of the Formal Investigation, the Officer will provide such notification to the Responding Party. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking, the Parties will receive simultaneous notification of the Officer's decision not to bring charges and both the Parties will be notified of the right of review to either a committee chair or alternative hearing officer.

**E. NOTICE OF ADMINISTRATIVE HEARING BEFORE THE OFFICER**

1. If charges are being filed, the Officer will notify the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking) in writing per the Notification Standards of the following:
  - a. Charge(s);
  - b. Reporting Party(ies);
  - c. Date(s) of alleged occurrence(s);
  - d. Maximum possible sanction which may be imposed;
  - e. The procedures that will be used to resolve the complaint; and
  - f. Date and time of the Administrative Hearing.

## F. ADMINISTRATIVE HEARING BEFORE THE OFFICER

An Administrative Hearing Before the Officer will be held for cases that have not been disposed of informally where there is sufficient evidence to charge a Code violation.

1. If any Party is not present at the time appointed for the hearing, the Officer will first attempt to determine the reason for that person's absence. The Officer may then proceed in a normal manner without a Party's attendance, may hear only a portion of the testimony and adjourn to a later date, or may continue the entire hearing to a later date.
  - a. The Officer may not consider the absence of any Party as relevant to whether the Responding Party committed the alleged violation of the Code.
2. During the hearing the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking), may be accompanied by an Advisor and a support person of their choice. Advisors and support people will not be permitted to speak at the hearing, except to speak with their advisee, unless permission has otherwise been granted by the Officer.
3. During the hearing, the Officer may hear and consider as evidence any relevant information.

The Officer may not consider:

- a. Information obtained directly or indirectly through a search of a Party's or witnesses' effects or room if a court of law has determined the search was illegal.
  - b. If the Officer is aware that a criminal prosecution relating to the same violation(s) is being conducted, or such action appears likely to be made, independent of the hearing, the Officer will notify the Responding Party in advance of the right to remain silent, and the Officer will draw no negative inference from the Responding Party's refusal to give information or consent to a search, except that the Responding Party had no answer or evidence to give.
4. The Officer will then:
    - a. Make a determination that the Responding Party is in violation of the Code if a Preponderance of the Evidence demonstrates that the Responding Party has violated the code, or dismiss the case if the Officer determines the Responding Party is not in violation of the Code. The Officer will inform the Responding Party, in writing, of the outcome, including any sanctions imposed and any right of review.

- b. If the alleged violation is a Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written notification of the outcome, including any sanctions and the rationale for the result and any sanctions, and of the Parties' right of review.
  - c. If the alleged violation is Gender Discrimination or Sexual Harassment, the Reporting Party shall receive simultaneous notification of the outcome and of any sanctions that directly relate to the Reporting Party, and of the Reporting Party's right of review.
  - d. In a case of a Violent Crime, the University may disclose the final results of the disciplinary proceeding to the victim(s), regardless of whether the University concluded a violation was committed.
5. If the Officer determines the Responding Party is responsible for a violation of the Code, the Officer will impose appropriate sanctions. Sanctions will become operative immediately once notice has been given to the Responding Party.
  6. **Sanctions imposed as the result of the Administrative Hearing are implemented immediately unless the Officer stays their implementation in extraordinary circumstances, pending the outcome of a review hearing.** Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute extraordinary circumstances, and students may not be able to participate in those activities during the review period.

**G. RIGHT OF REVIEW BEYOND ADMINISTRATIVE HEARING BEFORE THE OFFICER**

1. In the event the Officer issues a sanction of suspension, dismissal, removal from University Housing, academic degree revocation, or loss of recognition of campus organizations, the Responding Party may request a review of the finding and/or sanction. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking, the Parties have the right to a review of any finding(s) or sanction(s).
2. Requests for review will be in writing, state the issue(s) to be reviewed, and provide a detailed rationale for the request. The written request for a review will be submitted to the Officer within seven (7) calendar days after the Party(ies) has received notice of the Administrative Hearing finding(s) and shall not exceed five (5) pages in length.
3. The request for review to the Committee will be limited to the following grounds:



- a. A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
  - b. To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact will be included in the written request for review.
  - c. The sanction imposed is significantly disproportionate to the severity of the violation and/or the cumulative record of the Responding Party.
  - d. Reconsideration of existing information and whether it supports the Administrative Hearing before the Officer finding.
4. The Committee will review request(s) for review. The original finding(s) and sanction(s) will stand if the request for review is not timely or is not based on the grounds listed above in Section V.G(3), and such a decision is final.
  5. The Committee review may result in: (a) a change to the finding(s); (b) a change in sanction(s), such as a higher sanction, a lower sanction, the same sanction, or no sanction at all being imposed; or (c) remand to Administrative Hearing Before the Officer.

#### **H. RESPONSIBILITIES OF THE COMMITTEE**

1. As soon as practicable upon receipt of the request for review, the following steps will be taken:
  - a. The Committee chair will notify, in writing, the Officer and the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking) of a date, place, and time for the Committee hearing. Committee hearings are normally held not earlier than five (5) calendar days and not later than fourteen (14) calendar days after issuance of the notification of hearing.
  - b. List in the notice to the Parties the names of the Committee member(s) conducting the review and witnesses being invited by the Committee.
  - c. Make arrangements for the keeping of a recorded record of the Committee hearing. In cases of a review to the Review Panel, the Responding Party charged with the violation, his/her Advisor, and authorized Campus Authorities may have access to the record for purpose of review relating to a request for review. No copies will be made except by the University. The record will be kept by the University campus for at least three (3) years after all review rights have been exhausted at

which time the record may be destroyed. Records of hearings are deemed to be Student Education Records under the Family Educational Rights and Privacy Act of 1974 (FERPA) and may not be disclosed publicly except as provided in FERPA. No recording in any form, other than the one made by the Committee, is permitted at the Committee hearing. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Reporting Party and his/her Advisor may have the same access to the recording as the Respondent. If the alleged violation is Gender Discrimination or Sexual Harassment, the Reporting Party and his/her Advisor may have access to the portions of the recording pertaining to the Reporting Party.

2. Composition of the Committee
  - a. The Committee will be composed as described in Section VI.
  - b. The Parties or the Officer will have the right to challenge, for cause, any Committee member by submitting to the Committee Chair written notice stating the grounds for the challenge at least two (2) business days prior to the scheduled hearing. Removal of members for cause will be within the authority and at the discretion of the Committee Chair or another member of the Committee if the Chair is unable to exercise that function or is challenged for cause.
3. Hearing Preliminaries
  - a. At any proceeding before the Committee, the Parties and witnesses may have the assistance of an Advisor.
  - b. The hearing will be closed to the public. The Committee Chair may permit, in addition to the Party's Advisor, one support person for each Party to observe the proceedings. At the discretion of the Committee Chair, the Committee Chair reserves the right to close the hearing.
  - c. If any Party or witness is not present at the time appointed for the hearing, the Committee will attempt to determine the reason for that party's absence. The Committee may proceed: (1) in a normal manner without their attendance; (2) hear only a portion of the testimony and adjourn to a later date; or (3) continue the entire hearing to a later date. The Committee may not consider the absence of a party as relevant to whether the Responding Party committed the alleged violation of the Code.
4. Hearing Procedures
  - a. Responsibility for recognizing and permitting persons to speak lies exclusively with the Committee Chair.
  - b. Persons disruptive at any stage of the hearing may be evicted at the reasonable discretion of the Committee Chair.
  - c. The names of witnesses and/or copies of written statements

will be submitted to the Officer at least two (2) business days prior to the hearing for inclusion in the materials presented to the Committee. At the discretion of the Committee Chair, the Parties may submit written documents, oral testimony of witnesses, and all relevant documents, records, and exhibits at the time of the hearing.

- d. The Officer will first present the results of the Preliminary Investigation, Formal Investigation, and Administrative Hearing.
- e. The Reporting Party may present oral testimony and/or written statements from any person(s) including the Responding Party, and all relevant documents, records and exhibits.
- f. The Responding Party may then present oral testimony and/or written documentation themselves and/or from other witnesses, and all relevant documents, records and exhibits.
- g. At any time during the proceedings, members of the Committee may question witnesses or parties to the proceeding; witnesses or parties may only ask questions of each other at the discretion of and through the Committee Chair. **Questioning by any Advisor is not permitted.** Advisors and support people may not speak at the hearing, except to their advisee.
- h. After the presentation of all the information to the Committee, the Officer and the Responding Party (and the Reporting Party if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking) may present summaries of their arguments to the Committee.
- i. During the hearing, the Committee may consider any relevant information to the grounds for appeal, will not be bound by the strict rules of legal evidence, and may take into account any information which is of value in determining the issues involved. Efforts will be made to obtain the most reliable information available.
- j. After all parties have presented their respective information, the Committee will go into closed session to determine whether the Responding Party is in violation of the Code. Deliberations are not recorded. A Committee member should vote that the Responding Party is in violation of the Code only if a Preponderance of the Evidence demonstrates behavior that is in violation.
- k. A simple majority vote of responsible or not responsible for a violation of the Code by the Committee members present will prevail. If the majority of the Committee votes for not

responsible or there is a tie, the Responding Party will be found not responsible.

- l. If a Responding Party is found to be responsible for the violation of Code, the Officer and the Responding Party (and the Reporting Party if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking) may make recommendations to the Committee as to the appropriate sanctions. The Committee will go back into closed session and deliberate on sanctions. Deliberations are not recorded. A majority vote of the Committee members is needed for an imposition of a sanction(s).
5. After Committee deliberations are concluded, the Committee Chair will:
  - a. Inform the Responding Party of the finding of the Committee, per the Notification Standards including:
    - i. The section(s) of the Code found to have been violated;
    - ii. The sanction imposed; and
    - iii. The rationale for both the finding(s) and the sanction(s).
  - b. If the alleged violation is a Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Committee will inform the Parties, per the Notification Standards, simultaneously of the outcome of the proceeding, the rationale for the result, any sanctions, when a decision is considered final, any changes that occur prior to finalization, and any rights of review.
  - c. If the alleged violation is Gender Discrimination or Sexual Harassment, in addition to informing the Complainant of the outcome of the proceedings the Committee shall inform the Complainant of any sanctions imposed upon the Respondent that directly relate to the Complainant.
  - d. In a case of a Violent Crime, the University may disclose the final results of the Committee Hearing to the victim, regardless of whether the University concluded there was a violation of the Code.
6. **Sanctions imposed as the result of the Committee hearing are implemented immediately unless the Chair of the Committee stays their implementation in extraordinary circumstances, pending the outcome of a review hearing.** Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute extraordinary circumstances, and students may not be able to participate in those activities during the review period.

## **I. RIGHT OF REVIEW BEYOND COMMITTEE**

1. In the event the Committee approves a sanction of suspension, dismissal, removal from University Housing, academic degree revocation, or loss of recognition of campus organizations, the Responding Party may request a review of the finding or sanction. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking, all Parties have the right to a review of any finding(s) or sanction(s).
2. Requests for review will be in writing, state the issue(s) to be reviewed, and provide a detailed rationale for the request. The written request for a review will be submitted to the Officer within seven (7) calendar days after the Party(ies) has received notice of the Committee finding(s) and shall not exceed five (5) pages in length.
3. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking, the review request will be shared with the other Party(ies), who may file a response within five (5) calendar days and/or bring their own review on separate grounds within the original timeframe. If new grounds are raised, the party requesting the review will be permitted to submit a written response to these new grounds within five (5) calendar days. This response will be shared with all Parties.
4. Campus president or designee will appoint a Review Panel as described in Section VII below.
5. The request for review to the Review Panel will be limited to the following grounds:
  - a. A procedural error or omission occurred that significantly impacted the outcome of the process (e.g. substantiated bias, material deviation from established procedures, etc.).
  - b. To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact will be included.
  - c. The sanction imposed is significantly disproportionate to the severity of the violation and the cumulative record of the Responding Party.
6. The Review Panel will review request(s) for review. The original finding(s) and sanction(s) will stand if the request for review is not timely or is not based on the grounds listed above in Section V.I(5), and such a decision is final.
7. If the Review Panel finds that at least one of the review grounds is met by at least one party, additional principles governing the hearing of review will include the following:

- a. The Review Panel may make changes to the finding only where there is clear error and to the sanction(s) only if there is a compelling justification to do so.
  - b. A review hearing is not intended to be a full re-hearing (de novo) of the allegation(s). A review to the Review Panel is limited to a review of the written documentation and recorded record of the Committee hearing regarding the grounds for review, and any new information provided by Parties. A review is not an opportunity for the Review Panel to substitute their judgment for that of the Committee merely because it disagrees with the Committee finding(s) and/or sanction(s). Reviews may be remanded to the original Committee or Officer at the discretion of the Review Panel. A remand to the original Committee or Officer cannot be reviewed.
  - c. In accordance with the Notification Standards, the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking) will be informed of whether the grounds for a review are accepted and of the results of the review decision or remand.
  - d. A majority vote of the Review Panel will prevail.
  - e. Once the Review Panel has made a decision, the outcome is final. Further reviews are not permitted, even if a decision or sanction is changed on remand, except in the case of a new hearing before a new Committee or Officer, if ordered by the Review Panel.
  - f. In accordance with the Notification Standards, the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking) will be informed in writing of the outcome of the Review Panel.
  - g. In a case of a Violent Crime the University may disclose the final results of the Review Panel to the victim, regardless of whether the University concluded a violation was committed.
8. In rare cases where a procedural (or substantive) error cannot be cured by the Review Panel (as in cases of bias), the Review Panel may recommend a new hearing with a new Committee. The results of the new Committee hearing may be reviewed, once, on any of the three (3) applicable grounds for review stated in Section V.I(5) above.
  9. In cases where the review results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Responding Party to his/her/their/its prior status.

## **VI. STUDENT CONDUCT COMMITTEE COMPOSITION**

- A. Committee members will be identified by campus presidents or their designee(s).
- B. Each University campus will identify from their respective campus, at least three (3) people, who can serve as trained Committee members, each in the following categories:
  - 1. Enrolled students;
  - 2. Faculty members; and
  - 3. Staff members.
- C. Each hearing Committee will have at least three (3) and no more than seven (7) members consisting of:
  - 1. Committee Chair who is either a faculty or staff member;
  - 2. At least one (1) enrolled student; and
  - 3. At least one (1) faculty or staff member.
- D. All members of a hearing Committee will avoid both the appearance and reality of any conflict of interest. Any Committee member who has a potential conflict of interest or feels that s/he is unable to render an unbiased decision in the case will decline assignment to that Committee.
- E. The composition of the Committee will have equitable gender representation whenever practicable.

## **VII. REVIEW PANEL COMPOSITION**

- A. At the discretion of each campus president or designee, the Review Panel shall consist of either:
  - 1. One (1) person who is a faculty or staff member, as identified by the campus president or designee; or
  - 2. Three (3) members which shall include:
    - a. One (1) faculty or staff member identified by the campus president;
    - b. One (1) enrolled student; and
    - c. One (1) Committee member.
- B. All Review Panel members may not have previous involvement with the current matter. All members of a Review Panel will avoid both the appearance and reality of any conflict of interest. Any Review Panel member who has a potential conflict of interest or feels that s/he is unable to render an unbiased decision in the case will decline assignment to that Review Panel.

## **VIII. TRAINING**

- A. The following individuals will have annual training on issues related to Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, or Stalking and how to conduct an investigation and hearing process that protects the safety of individuals involved and promotes accountability:
  - 1. Campus presidents' designee(s);
  - 2. Officers;
  - 3. Individuals responsible for conducting Preliminary Inquiry or Formal Investigations;
  - 4. Committee members; and
  - 5. Review Panel members.

## **IX. SPECIFIC PROCEDURES WITH RESPECT TO DATING VIOLENCE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING**

The University prohibits Dating Violence, Domestic Violence, Sexual Assault, or Stalking. In such cases, the University will provide a prompt, fair, and impartial investigation and resolution. This process will be conducted by University Employees who receive annual training on these issues, and on how to conduct an investigation and hearing process that protects the safety of individuals involved and promotes accountability.

- A. Reporting a Violation
  - 1. Individuals may elect to report an incident to Campus Authorities, local law enforcement, both, or neither.
  - 2. Should a Reporting Party elect to report an incident to local law enforcement, Campus Authorities are available to assist with this process at the Reporting Party's request.
  - 3. Reporting Parties should, if possible, attempt to preserve any evidence. This evidence could prove crucial should the Reporting Party choose to report a violation of the Code, report a criminal act to local law enforcement, or seek an order of protection from abuse or harassment from the courts.
  - 4. As with other violations of the Code, and in accordance with federal law, the Preponderance of the Evidence standard will be used to determine whether a violation of the Code has occurred.
- B. Sanctions and Protective Measures
  - 1. Separate from the sanctions outlined in Section IV, it is within the University's power to impose remedial measures for the Parties.
  - 2. Even if a Reporting Party chooses not to pursue disciplinary proceedings under the Code or report the incident to law enforcement, the Reporting Party should consider talking to Title



IX Coordinator or the Deputy Coordinator about the possibility of remedial measures, as many measures (such as counseling or changing classes) may be possible regardless of whether an investigation is initiated.

3. Examples of possible remedial measures include:
  1. Changes in housing, classes, or transportation in order to avoid contact between the Parties;
  2. No-contact directives; and
  3. Helping connect the Parties to access services on campus and in the community, including counseling.
4. Additional information on resources, including details about free on-campus counseling services and other resources on campus and in the community, may be found in the University's policy pamphlet on sexual assault, domestic violence, dating violence, and stalking.

C. Confidentiality

1. Under federal law, the University is required to report statistics regarding the occurrence of certain crimes in the University community. When reporting these statistics the University withholds the names of Parties as confidential and, to the extent permissible by law, withholds any other information that may serve to identify the Parties.
2. If a Reporting Party requests that their name or other identifiable information not be disclosed to the Responding Party, the University's ability to respond to the incident and pursue disciplinary action may be limited. Reporting Parties should note that, under Title IX of the Education Amendments of 1972, retaliation against a Party is prohibited. University Employees will take steps to prevent retaliation and will take responsive action if retaliation is found to have occurred.

## **X. STUDENT CONDUCT CODE REVIEW BOARD**

- A. The Student Conduct Code Review Board will be responsible for:
  1. Considering all proposed amendments to the Code and acting as an advisor to the Board of Trustees in matters pertaining to the Code; and
  2. Sending recommendations on proposed amendments of the Code to the President's Council and Chancellor for transmission to the Board of Trustees.
- B. The Student Conduct Code Review Board will be composed of the following:
  1. From each campus of the University:
    - a. One (1) Officer;

- b. One (1) Committee chair; and
- c. One (1) enrolled student appointed by the President or his/her designee after seeking nominations from student representatives.
- 2. One (1) enrolled student who is in a distance education program. This enrolled student will be appointed by the Vice Chancellor for Academic Affairs or his/her designee.
- 3. One (1) representative from the Board of Trustees.
- 4. One (1) representative appointed by Chancellor.
- C. The Chancellor's representative will be responsible for calling the Student Conduct Code Review Board into session.
- D. The Student Conduct Code Review Board will meet at least once every three (3) years, but may meet more often when requested by the following:
  - 1. Officers representing at least two (2) campuses of the University;
  - 2. Student government officers representing at least two (2) campuses of the University; or
  - 3. The Chancellor.

## **XI. AMENDING THE STUDENT CONDUCT CODE**

The Board of Trustees will act upon proposed amendments to the Code after receiving recommendations of the Student Conduct Code Review Board, the President's Council of the University System, and the Chancellor. As provisions of the Code are subject to periodic review and change, the most recent and current copy of the Code may be obtained through the University of Maine System Chief Student Affairs Office or the Student Affairs Office on each campus.

**Revised by the Student Conduct Code Review Board and accepted by the Board of Trustees, 19 March 2018**  
**Effective Date: July 1, 2018**