

Board of Trustees
Academic and Student Affairs Committee
July 12, 2021, at 9:00 am
Zoom Meeting

The public is invited to view the meeting on YouTube. The link to the Board of Trustees YouTube page can be found the Board website: <https://www.maine.edu/board-of-trustees/>

9:00-9:25 am

Tab 1 Proposed Changes to Board Policy 501 - Student Conduct Code, 2nd Reading

9:25-9:30 am

Tab 2 Student Health Insurance Program Update

9:30-9:40 am

Tab 3 Faculty Governance Council Update

9:40-9:50 am

Tab 4 Unified Accreditation Update

9:50-10:05 am

Tab 5 Data Governance Update

10:05-10:10 am

Tab 6 Faculty Representative Discussion

10:10-10:15 am

Tab 7 Student Representative Discussion

Items for Committee decisions and recommendations are noted in red.

Note: Times are estimated based upon the anticipated length for presentation or discussion of a particular topic. An item may be brought up earlier or the order of items changed for effective deliberation of matters before the Committee.

University of Maine System
Board of Trustees

AGENDA ITEM SUMMARY

NAME OF ITEM: Proposed Changes to Board Policy 501 - Student Conduct Code, 2nd Reading

INITIATED BY: Lisa Marchese Eames, Chair

BOARD INFORMATION:

BOARD ACTION: X

BOARD POLICY:

501: Student Conduct Code

UNIFIED ACCREDITATION CONNECTION:

BACKGROUND:

The UMS Student Conduct Code applies to the entire University of Maine System. As mandated by Board policy, the Code is reviewed and updated every three years, and is ultimately approved by the Board of Trustees. The review process has been underway since September 2020. An additional DEI review occurred in May/June 2021; appropriate adjustments have been made to the Code in response.

Laurel Hyle, UMS Deputy General Counsel and Chief Compliance Officer, will update the Committee on the review process as well as changes/clarifications to the Code since the first read. Laura Rodas, Associate Dean of Students at UMA and chair of the UMS Student Conduct Code Review Committee and Donna Seppy, Director of Student Success Initiatives, will also be available to answer questions. The Board of Trustees Academic and Student Affairs Committee will be asked to review these changes and recommend that they be approved at the July Board of Trustees meeting.

TEXT OF PROPOSED RESOLUTION:

That the Academic and Student Affairs Committee approves this item to be forwarded to the July 26, 2021 Board of Trustees meeting for approval of the following resolution:

That the Board of Trustees accepts the recommendation of the Academic and Student Affairs Committee and approves the proposed changes to Board of Trustee Policy 501 - Student Conduct Code, to go into effect August 1, 2021.

7/1/2021

UNIVERSITY OF MAINE SYSTEM

STUDENT CONDUCT CODE

Effective Date: August 1, 2021

Revised by the Student Conduct Code Committee

and

Approved by the Board of Trustees: July 26, 2021

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UNIVERSITY OF MAINE SYSTEM

STUDENT CONDUCT CODE

POLICY STATEMENT

The purpose of this University of Maine System Student Conduct Code (this “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 and the individual university institutions and the University Of Maine School Of Law. This Code seeks to promote the safety of persons engaging in those pursuits, the free and peaceful expression of ideas, and the integrity of academic processes.

Students are expected to conduct themselves with proper regard for their rights and responsibilities, and the rights and responsibilities of others including 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 community are governed by University policies, local ordinances, and state and federal laws. For specific governing documents, students and campus organizations may refer to: University Policies and Procedures; campus student handbooks; campus residence hall agreements and manuals; and other official University 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 this Code or other applicable University policies, handbooks, catalogs, or standards.

In addition to the procedures described in this Code, using fair, objective decision-making processes, the University may implement administrative de-escalation and alternative resolution measures to resolve issues that arise within the University community.

What constitutes an offense and what sanctions may be imposed will be decided using the Student Conduct Code in effect at the time of any alleged Code violation(s). With regard to the procedures applicable to the resolution of any alleged offense, the Code procedures in effect at the time of the report will apply to resolution of incidents, regardless of whether the incidents occurred on or off campus, and regardless of when the incident occurred.

If applicable law or regulation changes in a way that impacts this Code, this Code will be construed to comply with applicable law and regulation.

In the implementation of this Code, the University seeks to harmonize its administrative functions in a manner consistent with and grounded in its educational mission with an emphasis on fundamental fairness, due process, personal responsibility, and community relationships.

Student Rights & Responsibilities

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 are welcome to contact a Conduct Officer at the University; this may be either the Conduct Officer handling a particular matter or another Student 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 or designee. If those questions or concerns remain unresolved following this process, students may contact the Vice Chancellor for Academic Affairs.

Various timeframes, including for response and submission of information and documents, are outlined throughout this Code. If, at any time, a student would like to request an update or additional information about a particular matter under review, the student may contact the campus authority handling the matter.

Accessibility Support

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 Conduct Officer. The Conduct Officer will consult with the appropriate office for students with disabilities to assist with the determination of reasonable accommodations. Students may be required to provide documentation in order to establish the need for appropriate accommodations.

Non-Discrimination Statement

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, gender identity, 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.

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 report, 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; or
 - 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 report 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, or involving 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 educational process; or

- b. Legitimate function of the University; or
 - c. The health or safety of any individual.
4. It is at the University's discretion to determine whether it has jurisdiction to apply this Code.

II. DEFINITIONS

- A. **Advisor:** A person who is available to advise or support any party involved in any matter governed by this Code. An advisor may not serve as a witness or a participant in the hearing. Examples of advisors include, but are not limited to, family members, friends, University Employees, and attorneys.
- B. **Appeal Panel:** A panel that hears appeals from the Conduct Officer Hearing or the Hearing Board Hearing as described in Section VII.A.
- C. **Campus Authorities:** Includes, but is not limited to, any campus police or security staff, Investigator, Conduct Officer, Hearing Board, Appeal Panel, or Presidential Appeal Panel members.
- D. **Conduct Officer:** Individual appointed by the University to address alleged violations of this Code.
- E. **Conduct Officer Hearing:** A hearing before the Conduct Officer to determine if a Responding Party has violated any section(s) of this Code.
- F. **Consent:** An individual'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.
 - b. Clear, knowing, and voluntary.
 - 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 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 voluntary alcohol or drug consumption, being asleep, or unconscious when the Responding Party takes advantage of the other party's incapacitation. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a reasonable person., as defined in Section II.P.
 - 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 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; 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 whether there are any circumstances, known or reasonably apparent to the Responding Party, demonstrating incapacitation or lack of consent.

- G. **Formal Investigation:** The process described in Section V.I.
- H. **Hearing Board:** A board that hears cases of alleged violations of this Code as described in Section VI.B.
- I. **Incapacitation:** An individual who is incapacitated lacks the ability to make informed judgments and cannot consent to sexual contact. Incapacitation is the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Mentally helpless means a person is rendered temporarily incapable of appraising or controlling one's own conduct. Physically helpless means a person is physically unable to verbally or otherwise communicate consent or unwillingness to an act. Where alcohol or other drugs are involved, incapacitation is a state beyond impairment or intoxication. 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:** The process described in Section V.G.
- K. **Notice:** Notice 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 current student's or University Employee email account with confirmation of receipt, or at the University's discretion, another method requested by a Party. Students are expected to regularly monitor their official University email account.
- L. **Party(ies):** May refer to the Reporting Party(ies), Responding Party(ies), or both Parties collectively.
- M. **Preliminary Inquiry:** The process described in Section V.C.
- N. **Preponderance of the Evidence:** A standard that requires a fact or event to have more likely than not to have occurred, e.g., a greater than fifty percent (50%) chance.
- O. **Presidential Appeal Panel:** A panel that hears appeals from the Appeal Panel as described in Section VII.B.
- P. **Reasonable Person:** A representative individual under similar circumstances and with similar identities to the person in question, who exercises care, skill, and judgment.
- Q. **Reporting Party(ies):** Any person who alleges harm or a policy violation under this Code by a person, a student, or student organization as defined in Section I.A.1. In cases of Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, or Discrimination, or Harassment, the words "Reporting Party" shall refer only to the person who has been allegedly harmed by the alleged misconduct. If a Reporting Party declines to participate, at the University's discretion, the University may move forward with the process under this Code.
- R. **Responding Party(ies):** Any person, a student, or student organization as defined in Section I.A.1 or 2., that has been alleged to have violated this Code, is under Formal Investigation, or has been charged with a violation of this Code.
- S. **Support Person:** a person who provides emotional or personal support or assistance to a party during the investigative and hearing proceedings
- T. **University of Maine System (the "University"):** Means either collectively or singularly, any of the of following institutions: 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 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 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.
- V. **Violent Crime:** As described in Family Educational Rights and Privacy Act (FERPA).

III. VIOLATIONS

Violations are conduct which contravenes this Code.

Disciplinary action taken under this Code is independent of the awarding of grades (an academic matter), and provisions of this Code cannot be used for changing awarded grades. 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 violations may be defined by other documents, for example, residence hall contracts, student handbooks, or codes of conduct specific to certain courses of study or majors.

A. Academic Dishonesty

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 dishonesty:** Assisting another person's, student's, or student organization's academic dishonesty.
5. **Other forms of dishonest academic conduct:** Any actions by which one seeks an unfair academic advantage over others.
6. **Violation of UMS Academic Integrity Policy**

B. Disruption of University Operations

1. **Causing a Disturbance:** Disturbance resulting in substantial disruption of University activities.
2. **Failure to Comply with Sanction:** Failure to comply with a sanction imposed under this Code.
3. **Failure to Identify:** Failing to accurately identify oneself 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 Employee:** Direct interference with or failure to comply with a University Employee in the performance of their official duties.
6. **Supplying False Information:** Knowingly supplying false information to University Employees in pursuit of their official duties or to an Investigator, Conduct Officer, Hearing Board, Appeal Panel, or Presidential Appeal 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 Contract.**
9. **Violation of Student Activity Regulations:** Violation of a University regulation, policy, standard of conduct, or code of ethics.

C. Health & Safety Violations

1. **Creating a Dangerous Condition.**
2. **False Reporting of Dangerous Conditions.**
3. **Endangering Health or Safety.**
4. **Violation of Health or Safety Policies.**

5. **Illegal Possession, Use, or Sale of Drugs.**
 6. **Interference with Safety Equipment or Alarms.**
 7. **Restricting Traffic Flow.**
 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 UMS or Institution Alcohol, Drug, or Tobacco and Smoke Free Policies.**
 10. **Violation of UMS or Institution Weapons Policies.**
- 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, gender identity, gender expression, national origin, citizenship status, age, disability, genetic information, or veterans 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.
 All forms of domestic violence prohibited by applicable law are also included (for example, 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 sex, gender, sexual orientation, gender identity, or gender 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 (including pregnancy), sexual orientation, gender identity, gender expression, national origin, citizenship status, age, disability, genetic information, or veterans status.
 8. **Hazing:** Any action or situation, including harassing behavior, that recklessly or intentionally endangers the mental or physical health of any University Employee 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.

10. 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.

11. Invasion of Privacy: The violation of another individual's reasonable expectation of privacy where the circumstances justify that expectation.

12. 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.

13. 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.

14. 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 their age or because of their 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 applicable law are also included (for example, gross sexual assault, unlawful sexual contact, incest, sexual abuse of minors).

15. 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.

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; 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.

16. **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 STD 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).

17. **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 as defined in II.P.
- 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 applicable law are also included.

- 18. **Unauthorized Recording:** In general, the unauthorized recording of overall 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**
- 4. **Theft or Unauthorized Use:** Theft, attempted theft, or unauthorized acquisition, removal, distribution, or use of University Property or the property of another.
- 5. **Trespassing:** Trespassing or unauthorized presence on University Property or the property of another.
- 6. **Violation of Institution Motor Vehicle Policies or Parking Regulations.**

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 (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, Appeal Panel, or Presidential Appeal Panel; or upon determination by the Conduct Officer, Hearing Board, Appeal Panel, or Presidential Appeal Panel that a Responding Party has been found in violation of this Code, one or more of the sanctions found in Board of Trustees Policy 402 Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation and Title IX Sexual Harassment may be imposed and include:

- A. **Assigned Educational Project(s):** This may include educational programming, research projects, reflective essays, presentations, or other related assignments intended to promote learning.
- B. **Community Service.**

- C. **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 institutions or attend any University functions. After five (5) years from the date of the dismissal, the Responding Party may submit a written request to the UMS Coordinator of Student Conduct or designee to be considered for readmission to attend any of the University institutions. The UMS Coordinator of Student Conduct or designee will convene a committee. This committee may draw on the membership of existing committees (such as the Justice Education Development Implementation team); this committee should include representation from any involved university institution. Reviews of such requests should take into account that for external applicants, the University no longer reviews criminal or judicial history.
 - 2. Responding Parties who have been found responsible for a Violent Crime or Sexual Assault and who request an official transcript from the University, will have a letter attached to their official transcript describing the dismissal. After five (5) years from the date of the dismissal, the Responding Party may submit a written request to the UMS Coordinator of Student Conduct or designee to have the letter attached to their official transcript removed. The UMS Coordinator of Student Conduct or designee will convene a committee. This committee may draw on the membership of existing committees (such as the Justice Education Development Implementation team); this committee should include representation from any involved university institutions. Reviews of such requests should take into account that for external applicants, the University no longer reviews criminal or judicial history.
- D. **Disciplinary Probation:** A specified period of time when any further violation may result in additional sanctions, up to and including dismissal from the University.
- E. **Disciplinary Suspension:** Separation from the University for a specific period of time and until any stated condition(s) is met.
 - 1. Responding Parties who are suspended will not be permitted to attend any of the University institutions or attend any University functions until all conditions of the suspension are met and the suspension period has ended.
 - 2. Responding Parties who have been found responsible for a Violent Crime or Sexual Assault and who request an official transcript for the University, will have a letter attached to their official transcript describing the suspension. After all conditions of the suspension are met and the suspension period has ended the letter describing the suspension will no longer be attached to the official transcript.
- F. **Loss of Contact with a Specific Person(s):** Responding Parties may not initiate direct or indirect contact with a specified person(s).
- G. **Official Warning:** Formal acknowledgment of a violation and the expectation that it will not be repeated.
- H. **Mandatory Counseling.**
- I. **Reassignment, Suspension, or Removal from University Housing.**
- J. **Restitution:** Reimbursement to the owner of the property up to the replacement value of the property damaged, stolen, removed, or used without authority.
- K. **Other action(s)** as the Conduct Officer, Hearing Board, Appeal Panel, or Presidential Appeal Panel may reasonably deem appropriate, examples include but are not limited to:
 - 1. Suspension of an organization's official campus 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. Loss of visitation privileges to designated area(s) of any University Property.

7. Monetary fine for recognized student organizations.

NOTE: The University may choose to defer sanctions on a case-by-case basis as circumstances warrant.

The University may impose a more severe sanction on a Responding Party when the Conduct Officer, Hearing Board, Appeal Panel, or Presidential 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, gender identity, gender expression, national origin, citizenship status, age, disability, genetic information, or veterans status of that person, or the persons in the organization or the owner of the property.

V. PROCEDURES

NOTE WELL: For any alleged violation that involves matters covered by Board of Trustees Policy 402 Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation and Title IX Sexual Harassment Policy, the procedures provided in Board of Trustees Policy 402 and Title IX Procedures are required to be followed.

An enrolled student may not graduate if they have 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, 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.

As applicable and appropriate, prior to any interim measures or actions, sanctions, or as appropriate other action being taken under this Code, an individualized risk and safety assessment should be conducted to determine whether there is a reasonably foreseeable significant risk to others, or significant risk of self-harm. As applicable and appropriate, the Student Risk Assessment and Safety Intervention Policy should be utilized.

A. Reporting Violations

1. Alleged violations of this Code may be brought to the attention of the University 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.
3. Reports of Gender Discrimination (including Sexual Harassment, Dating Violence, Domestic Violence, Sexual Assault, or Stalking) are required to be reported directly to the University's Title IX Coordinator or Deputy Coordinator as described in Board of Trustees Policy 402 Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation and Title IX Sexual Harassment Policy.

B. Notice to Reporting Party: The Reporting Party will be notified that their report has been received and follow up will occur consistent with UMS policies and procedures and as permitted by FERPA.

C. Preliminary Inquiry

1. Reports of alleged violations of this Code will result in the initiation of a Preliminary Inquiry. A Preliminary Inquiry will determine whether there is sufficient information to proceed under this Code. **Before interviewing or questioning of the Parties occurs, Notice must be provided as stated in Section V.I., 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. **Notice Following Preliminary Inquiry**

- a. Upon the conclusion of the Preliminary Inquiry, the Responding Party, will be provided Notice of whether:
 - i. Any charge(s) will be filed and if so, what charge(s) will be filed.
 - ii. A Formal Investigation will commence.
 - iii. An Alternative Resolution is an option.
 - iv. An Administrative Resolution is an option.
 - v. Any Interim Measure(s) or Action(s) will be implemented.
 - 3. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking, all Parties will be provided Notice simultaneously.
- D. **Conflicts of Interest:** Each Conduct Officer, Hearing Board, Appeal Panel, and Presidential Appeal Panel member 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 Conduct Officer, the Conduct Officer will refer the matter to another Conduct Officer. If any member of the Hearing Board, Appeal Panel, or Presidential Appeal Panel has a conflict of interest, an alternate will be appointed. Any individual, including a Party, has the right to raise any potential conflict of interest concerns with the Conduct Officer or the UMS Coordinator of Student Conduct or designee.
- E. **Alternative Resolution**
 Alternative resolution processes such as conflict coaching, mediation, facilitated dialogue, and restorative justice allow individuals involved in a conflict to have significant influence over the resolution process and any outcome.
 - 1. If (1) all persons personally and directly affected by the conduct matter under this Code agree to attempt resolution through one of these processes; and (2) the Conduct Officer believes that the process is an appropriate form of resolution, then the Conduct Officer will make arrangements for the chosen alternative resolution pathway. The nature of some conduct matters, for instance those involving violence, are not suitable for alternative resolution.
 - 2. Participation in an alternative resolution process is voluntary and may or may not result in an agreement or resolution. When a mutually satisfactory resolution is reached by the Parties, the case is resolved and Parties are encouraged to use the Conduct Officer as a resource for future questions. Resolutions reached through alternative resolutions are not permitted to be appealed.
 - 3. If resolution is not achieved through an attempt at alternative resolution, including if resolution is not sustained following an alternative resolution agreement, the Parties retain their right to pursue formal resolution through processes outlined elsewhere in this Code.
- F. **Administrative Resolution**
 - 1. At the Conduct Officer's sole discretion and consistent with other requirements of this Code, a conduct matter may be resolved through Administrative Resolution.
 - 2. An Administrative Resolution may only be used when the conduct matter involves the following: facts are not in dispute; OR a University Employee directly observed the conduct violation; and the violation is a minor conduct violation.
 - 3. If a student objects to use of an Administrative Resolution, the student may request a formal review and the University will proceed with a Formal Investigation under this Code.
 - 4. All Administrative Resolutions must be resolved within 30 days. This timeframe does not include the time required for any resultant sanctions to be completed.
- G. **Interim Measures or Actions**

1. A Responding Party may have privileges suspended 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 to 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.
2. Interim Measure(s) or Action(s), including but not limited to: interim suspensions; University Property usage restrictions; University account holds; and academic degree holds, will be implemented with the goal of mitigating negative impact on the Parties while maintaining the safety of the University community and integrity of the investigation.
3. Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, a Responding Party who has been issued an Interim Measure(s) or Action(s) will receive notice of the basis for the Interim Measure(s) or Action(s) and may seek a review hearing of that decision prior to the Interim Measure(s) or Action(s) being imposed. The review hearing will be conducted by a University Employee appointed by the university President or the Dean of the University Of Maine School Of Law. This review hearing will entail questioning of the Parties and reviewing information that may be relevant to the determination of whether Interim Measure(s) or Action(s) would be appropriate under the circumstances. If a review hearing is requested, the University Employee appointed by the university President the Dean of the University Of Maine School Of Law will conduct the review and issue a decision within five (5) business days. If extenuating circumstances exist that preclude the review hearing from occurring within five (5) business days, an update will be provided indicating the estimated timeframe for the hearing.
4. If there is a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Interim Measure(s) or Action(s) may be imposed immediately. In such cases, the Responding Party will be provided notice of the basis for the Interim Measure(s) or Action(s) and notice of the date of the review hearing, which will occur within three (3) business days of the decision. If extenuating circumstances exist that preclude the review hearing from occurring within three (3) business days, an update will be provided indicating the estimated timeframe for the hearing.

H. Notice of Interim Measures or Actions

1. The Responding Party will be provided Notice of:
 - a. Any Interim Measure(s) or Action(s) that will be implemented.
 - b. Their right of review as described in Section V.G.3--4.
2. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking all Parties will be provided Notice simultaneously.
3. Reporting Parties alleging Discrimination or Harassment will be provided Notice of any Interim Measure(s) or Action(s) involving the Responding Party that directly relate to the Reporting Party.

I. Notice of Formal Investigation

1. Prior to commencement of a Formal Investigation, the Conduct Officer will provide written Notice to the Responding Party.
2. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking, all Parties will be provided Notice simultaneously.
3. Notice will include the following:
 - a. Alleged Code violation(s) and a description of the alleged conduct constituting each alleged violation:
 - i. Reporting Party; and

- ii. Location(s) of alleged conduct; and
- iii. Date(s) of alleged conduct; and
- iv. Right to have an Advisor present; and
- v. The name of the Investigator; and
- vi. The procedures that will be used to address the alleged Code violation(s); and
- vii. Maximum possible sanction(s) which may be imposed; and
- b. Any right of appeal for any Responding Party; and
- c. Any right of appeal for any Responding Party and any Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking.
- 4. Reporting Parties alleging Discrimination or Harassment will be provided written Notice of a Formal Investigation, including their right to an advisor, the name of the Investigator, and the procedures that will be used, including any appeal rights.

J. Formal Investigation

- 1. Upon the Conduct Officer's decision to commence a Formal Investigation, the Conduct Officer will initiate the investigation or assign it to a trained Investigator, who may be internal or external, as soon as reasonably practicable but at least within three (3) business days.
- 2. The University may, where appropriate, temporarily delay its investigation when criminal charges on the basis of the same conduct are being investigated.
- 3. Investigations should follow applicable standards, including with regard to objectivity, reliability, thoroughness, impartiality, timeliness, and fairness.
- 4. In general, investigations should entail interviews with relevant parties and witnesses, obtaining and reviewing available evidence, and identifying sources of expert information, as applicable.
- 5. The Conduct Officer 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, Stalking, Discrimination, or Harassment) throughout the investigation, as appropriate. Such regular updates should occur at least every 30 calendar days.
- 6. While investigation times may vary, in general, formal investigations should be completed within 90 calendar days. If a Formal investigation is going to take longer than 90 calendar days, an update will be provided indicating the estimated timeframe for completion of the investigation. Such updates will be provided 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, Discrimination, or Harassment).
- 7. The Investigator will summarize the relevant evidence gathered in the investigation, both inculpatory and exculpatory, in a written report. The Investigator will not make determinations as to whether policy violations were found.

K. Determination of Hearing Format

- 1. There are two (2) hearing formats under this Code.
 - a. Conduct Officer Hearing
 - b. Hearing Board Hearing
- 2. The hearing format should be chosen based on the complexity of the matter, the impact to the Parties and the community, the severity of likely sanctions, and other relevant circumstances.
- 3. In general, a Conduct Officer Hearing should be considered when:
 - a. Facts are less complex.
 - b. Alleged violation(s) are anticipated to have lower impact to the Parties and the community.

4. In general, a Hearing Board Hearing should be considered when:
 - a. Facts are more complex.
 - b. A diversity of opinions is important to a fair outcome.
 - c. Alleged violation(s) are anticipated to have higher impact to the Parties and the community. For example, cases which could reasonably result in suspension, dismissal, or removal from housing.
5. A Hearing Board Hearing is required for Code violations involving:
 - a. Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment.
 - b. Serious physical, emotional, or psychological harm or the threat thereof.

L. Notice Following Formal Investigation

1. Upon the conclusion of the Formal Investigation, the Responding Party, will be provided Notice of whether:
 - a. Any charge(s) will be filed and if so, what charge(s) will be filed.
 - b. A hearing before a Conduct Officer will occur.
 - c. A hearing before a Hearing Board will occur.
 - d. An Informal Resolution may be pursued.
2. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment all Parties will be provided Notice of any further proceedings.
3. If no charges are being brought at the conclusion of the Formal Investigation, the Conduct Officer will provide such notification to the Responding Party. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking, the Parties will receive simultaneous notification of the Conduct Officer's decision not to bring charges and both the Parties will be notified of the right to appeal to the UMS Coordinator of Student Conduct or designee.

VI. HEARINGS

A. CONDUCT OFFICER HEARING

1. Notice of Conduct Officer Hearing

- a. If any Code violation(s) are being filed, the Conduct Officer will provide written Notice within ten (10) business days from the conclusion of the Formal Investigation to the Responding Party.
- b. Notice will include the following:
 - i. Code violation(s) and a description of the alleged conduct constituting each violation; and
 - ii. Reporting Party(ies); and
 - iii. Date(s) of alleged conduct; and
 - iv. Right to have an Advisor of their choice present; and
 - v. Right to review the information that will be used by the Conduct Officer during the Conduct Officer Hearing; and
 - vi. Date and time of the Conduct Officer Hearing; and
 - vii. Name of the Conduct Officer; and
 - viii. Names of witnesses requested to appear by the Conduct Officer; and
 - ix. The procedures that will be used; and
 - x. Maximum possible sanction(s) which may be imposed.

2. Timing of Hearing:

- a. The Conduct Officer Hearing is required to be held not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Conduct Officer Hearing. If

extenuating circumstances exist that preclude the Conduct Officer Hearing from occurring within fourteen (14) business days, an update will be provided indicating the estimated timeframe for the hearing.

- b. If a Party is unable to attend the Conduct Officer Hearing related to the constraints of a legal process (for example, a protective order or a no contact order) or is unable to attend related to concerns about trauma or future violence then the Party will be provided alternative means of participation consistent with applicable law and due process.
- c. If any Party is not present at the time of the Conduct Officer Hearing, the Conduct Officer may, taking into account concerns with health and safety, timeliness of the process, and the reason for a Party's absence, and the totality of the circumstances:
 - i. Proceed in a normal manner without a 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.

The Conduct Officer may not rely solely on the absence of any Party in determining the outcome of the matter.

- 3. **Advisor and Support Person:** The Reporting Party and the Responding Party in any proceeding involving allegations of Discrimination or Harassment may be accompanied by an Advisor of their choice 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 Conduct Officer.
 - a. The Conduct Officer should hear and consider as evidence relevant information.
 - b. The Conduct Officer should not consider 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.
 - c. If the Conduct Officer is aware that a criminal prosecution relating to the same violation(s) is being conducted, or such action appears likely, then independent of the hearing, the Conduct Officer will notify the Responding Party in advance of the Responding Party's right to remain silent. The Conduct Officer will draw no negative inference from the Responding Party's silence including the refusal to give information or consent to a search.
 - d. The Conduct Officer will make arrangements for recording the hearing. No recording in any form, other than the one made by the University, is permitted. Conduct Officer Hearing proceedings are considered confidential unless otherwise indicated by law.
 - e. Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of the Conduct Officer by submitting written notice to the UMS Coordinator of Student Conduct or designee stating the grounds for the removal at least five (5) business days prior to the scheduled hearing. Removal of Conduct Officer for demonstrated bias or conflict of interest will be within the authority and at the discretion of the UMS Coordinator of Student Conduct or designee.
 - f. The names of Parties' witnesses, written statements, or other information should be submitted to the Conduct Officer at least two (2) business days prior to the hearing for inclusion in the materials presented to the Conduct Officer. The Parties may submit additional: names of witnesses; written statements; or other information at the time of the hearing.
- 4. **Conduct Officer Hearing Procedures:**
 - a. Responsibility for recognizing and permitting persons to speak is the exclusive purview of the Conduct Officer.

- b. Persons disruptive at any stage of the hearing may be asked to leave at the discretion of the Conduct Officer.
- c. The Parties will each have the opportunity to make an opening statement.
- d. The Investigator will present the results of the investigation.
- e. The Conduct Officer may ask questions of any witnesses and the Parties.
- f. The Parties may pose questions to each other and to any witnesses through the Conduct Officer. The Conduct Officer will ask the witness or other Party the question posed if the Conduct Officer determines the question is relevant and appropriate.
- g. Questioning by any Advisor or support person is not permitted.
- h. The Parties will each have the opportunity to make a closing statement, which may include recommendations regarding appropriate sanctions.
- i. Using the Preponderance of the Evidence standard, the Conduct Officer will determine if the Responding Party has violated this Code or has not violated this Code.
- j. If the Responding Party has not violated this Code, the case will be dismissed.
- k. If the Responding Party has violated this Code, the Conduct Officer will impose appropriate sanction(s).

5. Notice of Conduct Officer Hearing Outcome

- a. The Conduct Officer will provide written Notice to the Responding Party.
- b. Notice will include:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. Any right of appeal.
- c. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. The reasoning and facts that support any sanction(s) imposed; and
 - v. Any right of appeal.
- d. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive written Notice of:
 - i. The outcome and any sanctions that directly relate to the Reporting Party; and
 - ii. Any right of appeal.
- e. In a case of a Violent Crime other than those listed above, 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.

Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Sanctions will take effect only after all University appeals are final or all University appeal periods have ended. Applicable threat assessment procedures should be utilized 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 Conduct Officer.

B. HEARING BOARD

1. Notice of Hearing Before the Hearing Board

- a. If any Code violation(s) are being filed, the Hearing Board Chair will provide written Notice within ten (10) business days from the conclusion of the Formal Investigation to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking).
- b. Notice will include the following:
 - i. Code violation(s) and a description of the alleged conduct constituting each violation.
 - ii. Reporting Party(ies).
 - iii. Date(s) of alleged conduct.
 - iv. Right to have an Advisor and a support person of their choice present.
 - v. Right to review the information that will be used by the Hearing Board during the Hearing Board.
 - vi. Date and time of the Hearing Board.
 - vii. Names of the Hearing Board members.
 - viii. Names of witnesses requested to appear by the Hearing Board.
 - ix. The procedures that will be used.
 - x. Maximum possible sanction(s) which may be imposed.
- c. Reporting Parties alleging Discrimination or Harassment will be notified in writing of their right to participate in the Hearing before the Hearing Board, the date and time of the Hearing; the procedures that will be used in the Hearing, and their right to have an advisor and a support person of their choice.

2. Hearing Board Composition

- a. The UMS Coordinator of Student Conduct or designee is responsible for appointing the Hearing Board.
- b. The Hearing Board is comprised of at least three (3), five (5), or seven (7) members consisting 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.
- c. All members will be required to sign a conflict of interest and bias form for each hearing. All members are required to avoid both apparent and real conflicts of interest. Any Hearing Board member who has a potential conflict of interest or feels that they are unable to render an unbiased decision is required to decline assignment to the Hearing Board.
- d. The composition of the Hearing Board will represent the diversity of the University community whenever reasonably practicable.
- e. Hearing Board alternate members will be appointed as applicable and appropriate.

- 3. Timing of Hearing:** The Hearing Board Hearing is required to be held not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Hearing Board Hearing. If extenuating circumstances exist that preclude the Hearing Board Hearing from occurring within fourteen (14) business days, an update will be provided indicating the estimated timeframe for the hearing. Such updates will be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment).
- 4.** If a Party is unable to attend the Hearing Board Hearing related to the constraints of a legal process (for example, a protective order or a no contact order) or is unable to attend related to concerns about trauma

or future violence then the Party will be provided alternative means of participation consistent with applicable law and due process.

5. If any Party is not present at the time of the Hearing, the Hearing Board Chair may, taking into account, concerns with health and safety, timeliness of the process, and the reason for a Party's absence, and taking into account the totality of the circumstances:
 - a. Proceed in a normal manner without a 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.

The Hearing Board may not rely solely on the absence of any Party in determining the outcome of the matter.

6. The Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment), may be accompanied by an Advisor of their choice 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 Hearing Board Chair.
7. The Hearing Board should hear and consider as evidence relevant information.
8. The Hearing Board should not consider 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.
9. If the Hearing Board is aware that a criminal prosecution relating to the same violation(s) is being conducted, or such action appears likely, then independent of the hearing, the Hearing Board Chair will notify the Responding Party in advance of the Responding Party's right to remain silent. The Hearing Board will draw no negative inference from the Responding Party's silence including the refusal to give information or consent to a search.
10. The Hearing Board Chair will make arrangements for recording the hearing. No recording in any form, other than the one made by the University, is permitted. Hearing Board proceedings are considered confidential unless otherwise indicated by law.
11. Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of any Hearing Board member by submitting written notice to the UMS Coordinator of Student Conduct or designee stating the grounds for the removal at least five (5) business days prior to the scheduled hearing. Removal of Hearing Board members for demonstrated bias or conflict of interest will be within the authority and at the discretion of the UMS Coordinator of Student Conduct or designee.
12. The names of Parties' witnesses, written statements, or other information should be submitted to the Hearing Board Chair at least two (2) business days prior to the hearing for inclusion in the materials presented to the Hearing Board. The Parties may submit additional: names of witnesses; written statements; or other information at the time of the hearing.
13. **Hearing Board Hearing Procedures**
 - a. Responsibility for recognizing and permitting persons to speak is the exclusive purview of the Hearing Board Chair.
 - b. Persons disruptive at any stage of the hearing may be asked to leave at the discretion of the Hearing Board Chair.
 - c. The Parties will each have the opportunity to make an opening statement.
 - d. The Investigator will present the results of the investigation.

- e. The Hearing Board may ask questions of any witnesses and the Parties.
- f. 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 other Party the question posed if the Hearing Board Chair determines the question is relevant and appropriate.
- g. Questioning by any Advisor or support person is not permitted.
- h. The Parties will each have the opportunity to make a closing statement, which may include recommendations regarding appropriate sanctions.
- i. After the closing statements, the Hearing Board will go into a closed session to determine whether the Responding Party has violated this Code. The closed session is not recorded.
- j. Using the Preponderance of the Evidence standard, the Hearing Board will determine, by majority vote, if the Responding Party has violated this Code or has not violated this Code. If there is a tie vote, the Responding Party will be found to have not violated this Code.
- k. If the Responding Party has been found to have not violated this Code, the case will be dismissed. Such dismissal will not affect any appeal rights any Party may have.
- l. If the Responding Party has been found to have violated this Code, the Hearing Board will impose appropriate sanction(s).

14. Notice of Hearing Board Outcome

- a. The Hearing Board Chair will provide written Notice to the Responding Party.
- b. Notice will include:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. Any right of appeal (e.g., an Appeal Panel).
- c. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. The reasoning and facts that support any sanction(s) imposed; and
 - v. Any right of appeal (e.g., an Appeal Panel).
- d. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive written Notice of:
 - i. The outcome and any sanctions that directly relate to the Reporting Party; and
 - ii. Any right of appeal (e.g., an Appeal Panel).
- e. In a case of a Violent Crime other than those listed above, 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.

Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Sanctions will take effect only after all University appeals are final or all University appeal periods have ended. Applicable threat assessment procedures should be utilized 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 Conduct Officer.

VII. APPEALS**A. APPEAL PANEL**

1. **Right of Appeal:** In the event the Conduct Officer or the Hearing Board imposes a sanction of suspension, dismissal, removal from University Housing, academic degree revocation, or loss of recognition of campus organizations, the Responding Party has a right to appeal any finding(s) or sanction(s) to an Appeal Panel. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment, both Parties have the right to appeal any finding(s) or sanction(s) to an Appeal Panel.
2. **Appeal Panel Composition**
 - a. The UMS Coordinator of Student Conduct or designee is responsible for appointing the Appeal Panel.
 - b. The Appeal Panel is comprised of three (3) people consisting of:
 - i. An Appeal Panel chair who is either a faculty or staff member; and
 - ii. One (1) enrolled student; and
 - iii. One (1) Hearing Board member.
 - c. All Appeal Panel members are required to have not had previous involvement with the current matter. All members will be required to sign a conflict of interest and bias form for each hearing. All members are required to avoid both apparent and real conflicts of interest. Any Appeal Panel member who has a potential conflict of interest or feels that they are unable to render an unbiased decision is required to decline assignment to the Appeal Panel.
 - d. The composition of the Appeal Panel will represent the diversity of the University community whenever reasonably practicable.
 - e. Appeal Panel alternate members will be appointed as applicable and appropriate.
3. **Records**
 - a. In cases of a review to an Appeal Panel, the Responding Party charged with the violation and authorized Campus Authorities may have access to the record for purposes of review relating to a request for appeal. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.
 - b. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Reporting Party may have the same access to the recording as the Respondent. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination, or Harassment, the Reporting Party may have access to the portions of the recording pertaining to the Reporting Party. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.
4. **Appeal Panel Procedures:** Appeals must be:
 - a. In writing; and
 - b. State the issue(s) to be reviewed based on at least one of the grounds for appeal listed below in Section VIII.A.; and
 - c. Submitted to the UMS Coordinator of Student Conduct or designee within five (5) business days after the appealing Party has received written notice of the Conduct Officer or Hearing Board finding(s); and
 - d. No longer than ten (10) pages in length plus attachments.
5. **Appeals by Multiple Parties:** If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment the appeal request will be shared with the other Party(ies). Such other Parties may file a response with the Appeal

Panel within five (5) business days; this response will be shared with all Parties. Nothing in this Section precludes any Party from filing an appeal as detailed in Sections VII.A.1-5.

6. **Grounds for Appeal:** The Appeal Panel is not intended to be a full rehearing of the allegation(s) before the Conduct Officer or Hearing Board Hearing. The appeal will be limited to the following grounds:
 - a. A substantive error, including a procedural error or omission that substantially impacted the investigation or the outcome of the Conduct Officer or Hearing Board Hearing (for example, bias or failure to follow applicable procedures).
 - b. To consider new evidence, not reasonably available during the investigation or Conduct Officer or Hearing Board Hearing, that could impact the Conduct Officer or Hearing Board finding(s) or sanction(s). A summary of this new evidence and its potential impact must be included in the request for appeal.
 - c. The sanction imposed is disproportionate to the severity of the violation, considering the totality of circumstances.
7. **Timeliness:** Absent extenuating circumstances, the Conduct Officer or Hearing Board finding(s) and sanction(s) will stand if the request for appeal is not timely or is not based on the grounds listed above in Section VII.A.6. Extenuating circumstances are at the discretion of the University and will be determined by the Appeal Panel Chair in conjunction with the Office of General Counsel.
8. **Notice of Appeal Before the Appeal Panel**
 - a. If an appeal is submitted consistent with parameters identified in Sections VII.A.1-5., and 8A.7., the Appeal Panel Chair will provide written Notice within fifteen (15) business days from the finalized request for appeal; such Notice required to be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking).
 - b. Notice will include the following:
 - i. The issue(s) to be reviewed and the ground(s) for appeal.
 - ii. Right to review the information that will be used by the Appeal Panel.
 - iii. Date and time of the initial Appeal Panel meeting.
 - iv. Names of the Appeal Panel members.
 - v. The procedures that will be used.
 - vi. Maximum possible sanction(s) which may be imposed.
9. Reporting Parties alleging Discrimination or Harassment will be notified in writing of the Appeal Panel meeting and the procedures to be used.
10. **Timing of Appeal:** The Appeal Panel is required to have an initial meeting not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Appeal. If extenuating circumstances exist that preclude the initial Appeal Panel meeting from occurring within fourteen (14) business days, an update will be provided indicating the estimated timeframe for the hearing. Such updates will be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination or Harassment). Any Party may contact the Appeal Panel Chair for general updates on the process.
11. **Conflicts of Interest:** Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of any Appeal Panel member by submitting written notice to the UMS Coordinator of Student Conduct or designee stating the grounds for the removal at least five (5) business days prior to the

scheduled initial meeting. Removal of Appeal Panel members for demonstrated bias or conflict of interest will be within the authority and at the discretion of the UMS Coordinator of Student Conduct or designee.

12. Functions of Appeal Panel

- a. Review the conduct matter file including but not limited to: the investigative report; Conduct Officer or Hearing Board files and recordings; and
- b. Review any new information provided; and
- c. Ask clarifying questions as applicable, including but not limited to, as appropriate, asking questions of: the Investigator; Conduct Officer; Hearing Board member; individuals who presented information to the Conduct Officer or 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.

13. Determinations: The Appeal Panel may make the following determinations:

- a. Uphold or change the findings of the Conduct Officer or Hearing Board; or
- b. Uphold or change the sanctions of the Conduct Officer or Hearing Board; or
- c. Remand for a new or additional investigation with a new or same Investigator; or
- d. Remand to the same Conduct Officer or Hearing Board for a new hearing; or
- e. Remand to a different Conduct Officer or Hearing Board for a new hearing.
- f. A remand to the same or a different Conduct Officer or Hearing Board is final and not subject to appeal.
- g. The Appeal Panel will provide Notice to the Parties of any determination(s).

14. Notice of Appeal Panel Outcome

- a. The Appeal Panel Chair will provide written Notice to the Responding Party.
- b. Notice will include:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. Any right of appeal (e.g., a Presidential Appeal Panel).
- c. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. The reasoning and facts that support any sanction(s) imposed; and
 - v. Any right of appeal (e.g., a Presidential Appeal Panel).
- d. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive written Notice of:
 - i. The outcome and any sanctions that directly relate to the Reporting Party, and
 - ii. Any right of appeal (e.g., a Presidential Appeal Panel).
- e. In a case of a Violent Crime other than those listed above, 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.

Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Sanctions will take effect only after all University appeals are final or all University appeal periods have ended. Applicable threat assessment procedures should be utilized 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 Conduct Officer.

B. PRESIDENTIAL APPEAL PANEL

- 1. Right of Appeal:** In the event the Appeal Panel imposes a sanction of suspension, dismissal, removal from University Housing, academic degree revocation, or loss of recognition of campus organizations, the Responding Party has a right to appeal any finding(s) or sanction(s) to a Presidential Appeal Panel. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment both Parties have the right to appeal any finding(s) or sanction(s) to a Presidential Appeal Panel.
- 2. Presidential Appeal Panel Composition:**
 - a. Each university President or the Dean of the University of Maine School of Law is responsible for appointing the Presidential Appeal Panel for their respective institutions.
 - b. The Presidential Appeal Panel is comprised of three (3) people consisting of:
 - i. A Presidential Appeal Panel Chair who is either a faculty or staff member; and
 - ii. One (1) enrolled student; and
 - iii. One (1) UMS System Office Employee.
 - c. All Presidential Appeal Panel members are required to have not had previous involvement with the current matter. All members will be required to sign a conflict of interest and bias form for each hearing. All members are required to avoid both apparent and real conflicts of interest. Any Presidential Appeal Panel member who has a potential conflict of interest or feels that they are unable to render an unbiased decision is required to decline assignment to the Presidential Appeal Panel.
 - d. The composition of the Presidential Appeal Panel will represent the diversity of the University community whenever reasonably practicable.
 - e. Presidential Appeal Panel alternate members will be appointed as applicable and appropriate.
- 3. Records**
 - a. In cases of a review to a Presidential Appeal Panel, the Responding Party charged with the violation and authorized Campus Authorities may have access to the record for purposes of review relating to a request for appeal. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.
 - b. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Reporting Party may have the same access to the recording as the Respondent. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination or Harassment the Reporting Party may have access to the portions of the recording pertaining to the Reporting Party. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.
- 4. Presidential Appeal Procedures: Presidential Appeals must be:**
 - a. In writing; and
 - b. State the issue(s) to be reviewed based on at least one of the grounds for appeal listed below in Section VII.B.6., and

- c. Submitted to the UMS Coordinator of Student Conduct or designee within five (5) business days after the appealing Party has received written notice of the Appeal Panel finding(s) and
- d. No longer than ten (10) pages in length plus attachments.
- 5. **Appeals by Multiple Parties:** If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment the appeal request will be shared with the other Party(ies). Such other Parties may file a response with the Appeal Panel within five (5) business days; this response will be shared with all Parties. Nothing in this Section precludes any Party from filing an appeal as detailed in Sections VII.B.1-5.
- 6. **Grounds for Presidential Appeal:** The Presidential Appeal Panel is not intended to be a full rehearing of the allegation(s) before the Conduct Officer or Hearing Board Hearing. The Presidential Appeal Panel need not defer to the determination by the Appeal Panel. However, the appeal will be limited to the following grounds:
 - a. A substantive error, including a procedural error or omission that substantially impacted the investigation or the outcome of the Conduct Officer or Hearing Board Hearing (for example, bias or failure to follow applicable procedures).
 - b. To consider new evidence, not reasonably available during the investigation or Conduct Officer, Hearing Board Hearing, or the Appeal Panel review, that could impact the Conduct Officer, Hearing Board, or Appeal Panel finding(s) or sanction(s). A summary of this new evidence and its potential impact must be included in the request for appeal.
 - c. The sanction imposed is disproportionate to the severity of the violation, considering the totality of circumstances.
- 7. **Timeliness:** Absent extenuating circumstances, the Conduct Officer, Hearing Board, or Appeal Panel finding(s) and sanction(s) will stand if the request for appeal is not timely or is not based on the grounds listed above in Section VII.6. Extenuating circumstances are at the discretion of the University and will be determined by the Presidential Appeal Panel Chair in conjunction with the Office of General Counsel.
- 8. **Notice of Appeal Before the Presidential Appeal Panel**
 - a. If an appeal is submitted consistent with parameters identified in Sections VII.1-4. and VII.7., the Presidential Appeal Panel Chair will provide written Notice within fifteen (15) business days from the finalized request for appeal; such Notice required to be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking).
 - b. Notice will include the following:
 - i. The issue(s) to be reviewed and the ground(s) for appeal.
 - ii. Right to review the information that will be used by the Presidential Appeal Panel.
 - iii. Date and time of the initial Presidential Appeal Panel meeting.
 - iv. Names of the Presidential Appeal Panel members.
 - v. The procedures that will be used.
 - vi. Maximum possible sanction(s) which may be imposed.
 - c. Reporting Parties alleging Discrimination or Harassment will be notified in writing of the Presidential Appeal Panel meeting and the procedures to be used.
- 9. **Timing of Presidential Appeal Panel:** The Presidential Appeal Panel is required to have an initial meeting not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Presidential Appeal. If extenuating circumstances exist that preclude the initial Presidential Appeal Panel meeting from occurring within fourteen (14) business days, an update will be provided

indicating the estimated timeframe for the hearing. Such updates will be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment).

10. **Conflicts of Interest:** Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of any Presidential Appeal Panel member by submitting written notice to the UMS Coordinator of Student Conduct or designee stating the grounds for the removal at least five (5) business days prior to the scheduled initial meeting. Removal of Presidential Appeal Panel members for cause will be within the authority and at the discretion of the UMS Coordinator of Student Conduct or designee.
11. **Functions of Presidential Appeal Panel:**
 - a. Review the conduct matter file including but not limited to: the investigative report; Conduct Officer, Hearing Board, or Appeal Panel files and recordings; and
 - b. Review any new information provided; and
 - c. Ask clarifying questions as applicable, including but not limited to, as appropriate, asking questions of: the Investigator; Conduct Officer; Hearing Board member; Appeal Panel member, individuals who presented information to the Conduct Officer, Hearing Board, or Appeal Panel, 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.
12. **Determinations:** The Presidential Appeal Panel may make the following determinations:
 - a. Uphold or change the findings of the Conduct Officer, Hearing Board, or Appeal Panel; or
 - b. Uphold or change the sanctions of the Conduct Officer, Hearing Board, or Appeal Panel; or
 - c. Remand for a new or additional investigation with a new or same Investigator; or
 - d. Remand to the same Conduct Officer or Hearing Board for a new hearing; or
 - e. Remand to a different Conduct Officer or Hearing Board for a new hearing.
13. **All decisions of the Presidential Appeal Panel are final.**
14. **Notice of Determination:** The Presidential Appeal Panel will provide notice of any determinations to the applicable university President or the Dean of the University Of Maine School Of Law ("University President"). The University President may accept the determination of the Presidential Appeal Panel or request further review.
15. After the university President accepts the determination of the Presidential Appeal Panel, the Presidential Appeal Panel Chair will provide Notice to the Parties of any determination(s).
16. **Notice of Presidential Appeal Panel Outcome**
 - a. The President Appeal Panel Chair will provide written Notice to the Responding Party.
 - b. Notice will include:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. Any right of appeal.
 - c. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. The reasoning and facts that support any sanction(s) imposed; and

- v. Any right of appeal.
- d. If the alleged violation Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive written Notice of:
 - i. The outcome and any sanctions that directly relate to the Reporting Party; and
 - ii. Any right of appeal.
- e. In a case of a Violent Crime other than those listed above, 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.

VIII. TRAINING

- A. Each University President and the Dean of University of Maine School of Law in conjunction with the UMS Coordinator of Student Conduct or designee will identify at least three (3) people in each of the following categories to receive annual training to enable them to serve as trained Hearing Board, Appeal Panel or Presidential Appeal Panel members:
 - 1. Enrolled students; and
 - 2. Faculty members; and
 - 3. Staff members; and
 - 4. System level employees.
- B. Only individuals who have received annual training are permitted to serve as Hearing Board, Appeal Panel, or Presidential Appeal Panel members.
- C. The following individuals will have annual training on issues related to: Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment; trauma informed practices, how to conduct an investigation, and hearing process that protects the safety of individuals involved and promotes accountability:
 - 1. University Presidents and the Dean of University of Maine School of Law; and
 - 2. Title IX Coordinator(s) and Deputy Title IX Coordinators; and
 - 3. UMS Coordinator of Student Conduct or designee; and
 - 4. Individuals responsible for conducting Preliminary Inquiries or Formal Investigations; and
 - 5. Conduct Officers; and
 - 6. Hearing Board, Appeal Panel or Presidential Appeal Panel members; and
 - 7. Any other individuals that University Presidents and the Dean of University of Maine School of Law or the UMS Coordinator of Student Conduct or designee designates to be included in training.

Individuals should receive training commensurate with their role in the process.

IX. STUDENT CONDUCT CODE COMMITTEE

- A. **The Student Conduct Code Committee is responsible for:**
 - 1. Reviewing this Code for potential revision at least once every three (3) years or at any time at the request of:
 - a. Conduct Officers representing at least two (2) institutions of the University; or
 - b. Student government officers representing at least two (2) institutions of the University; or
 - c. Student government officers representing at least one (1) institution of the University and the University of Maine School of Law; or

- d. The Chancellor.
- 2. Accepting and responding to feedback that various members of the UMS community may have regarding this Code.
- 3. Proposing revisions to this Code to the Board of Trustees.
- B. **Student Conduct Code Committee Composition:** The Student Conduct Code Committee will represent the diversity of the University community whenever reasonably practicable. The following will be invited to participate in the Student Conduct Code Committee.
 - 1. A Committee Chair confirmed by the Chancellor.
 - 2. Up to five (5) faculty, staff, or enrolled students, appointed by the Committee Chair.
 - 3. One (1) Board Trustee appointed by the UMS Board of Trustees Chair.
 - 4. One (1) enrolled distance education program student appointed by the UMS Coordinator of Student Conduct or designee.
 - 5. Two (2) graduate students appointed by the UMS Coordinator of Student Conduct or designee. Graduate students from any campus institution may serve in this role.
 - 6. At least three [3] Conduct Officers representing differing institutions and appointed by the UMS Coordinator of Student Conduct or designee.
 - 7. One (1) Law School staff member, appointed by the Dean of University of Maine School of Law.
 - 8. At least three (3) Hearing Board Chairs representing each institution and appointed by the UMS Coordinator of Student Conduct.
 - 9. Eight (8) enrolled students, one (1) from each institution and the University Of Maine School Of Law.
 - a. Each applicable student government body will nominate a slate of at least three (3) enrolled students.
 - b. Each university President and the Dean of University of Maine School of Law will choose from their respective slate of nominees one (1) enrolled student representative.

X. AMENDING THE STUDENT CONDUCT CODE

The Board of Trustees will act upon proposed revisions to this Code after receiving recommendations from the Student Conduct Code Committee. As provisions of this Code are subject to periodic review and change, the most recent and current copy of this Code may be obtained through the University of Maine System website, the University of Maine System Vice Chancellor for Academic Affairs Office, or the student affairs office of each institution.

Anyone who wishes to request assistance in accessing the information in this Code, may contact the ADA Coordinator at 207-581-1227, adacoordinator@maine.edu, or TTY 711 (Maine Relay System).

Revised by the Student Conduct Code Review Board and accepted by the Board of Trustees, July 26, 2021

Effective Date: August 1, 2021

UNIVERSITY OF MAINE SYSTEM

STUDENT CONDUCT CODE

Effective Date: August 1, 2021

Revised by the Student Conduct Code Committee

and

Approved by the Board of Trustees: July 26, 2021

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UNIVERSITY OF MAINE SYSTEM

STUDENT CONDUCT CODE

POLICY STATEMENT

The purpose of this University of Maine System Student Conduct Code (this "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 and the individual university institutions and the University Of Maine School Of Law. This Code seeks to promote the safety of persons engaging in those pursuits, the free and peaceful expression of ideas, and the integrity of academic processes.

Students are expected to conduct themselves with proper regard for their rights and responsibilities, and the rights and responsibilities of others including 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 community are governed by University policies, local ordinances, and state and federal laws. For specific governing documents, students and campus organizations may refer to: University Policies and Procedures; campus student handbooks; campus residence hall agreements and manuals; and other official University 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 this Code or other applicable University policies, handbooks, catalogs, or standards.

In addition to the procedures described in this Code, using fair, objective decision-making processes, the University may implement administrative de-escalation and alternative resolution measures to resolve issues that arise within the University community.

What constitutes an offense and what sanctions may be imposed will be decided using the Student Conduct Code in effect at the time of ~~the any alleged Code violation(s). offense events in question.~~ With regard to the procedures applicable to the resolution of any alleged offense, the Code procedures in effect at the time of the report will apply to resolution of incidents, regardless of whether the incidents occurred on or off campus, and regardless of when the incident occurred.

If applicable law or regulation changes in a way that impacts this Code, this Code will be construed to comply with applicable law and regulation.

In the implementation of this Code, the University seeks to harmonize its administrative functions in a manner consistent with and an administrative manner grounded in its educational mission with an emphasis on fundamental fairness, due process, personal responsibility, and community relationships.

Student Rights & Responsibilities

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 are welcome to contact a Conduct Officer at the University; this may be either the Conduct Officer handling a particular matter or another Student 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 or designee. If those questions or concerns remain unresolved following this process, students may contact the Vice Chancellor for Academic Affairs.

Various timeframes, including for response and submission of information and documents, are outlined throughout this Code. If, at any time, a student would like to request an update or additional information about a particular matter under review, the student may contact the campus authority handling the matter.

Accessibility Support

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 Conduct Officer. The Conduct Officer will consult with the appropriate office for students with disabilities to assist with the determination of reasonable accommodations. Students may be required to provide documentation in order to establish the need for appropriate accommodations. ~~for the Conduct Officer to make a determination.~~

Non-Discrimination Statement

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, gender identity, 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.

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 report, 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; or

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 report will be considered to be enrolled for the purposes of determining the University’s jurisdiction.

~~1. Any student currently on probation or currently suspended from the University; or~~

~~3.2.~~ A University-recognized student organization, or any student organization not ~~currently~~ recognized at the time of the report, but under University probation or suspension.

~~(NB: Students who have not graduated nor been dismissed, but who have been absent from the University greater than one (1) calendar year, are not covered by this Code as noted in Section 1(A)(i).)~~

~~C.B.~~ The ~~University has jurisdiction over the alleged conduct is Code may be applied in cases of conduct~~ when the alleged ~~incident conduct~~ occurs:

1. On any campus of the University, or involving University Property; or
2. At an activity or program pursued under the auspices of the 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 educational process; or
 - b. Legitimate function of the University; or
 - c. The health or safety of any individual.
4. It is at the University's discretion to determine whether it has jurisdiction to apply this Code.

II. DEFINITIONS

- A. **Advisor:** A person who is available to advise or support any party involved in any matter governed by this Code. An advisor may not serve as a witness or a participant in the hearing. Examples of advisors include, but are not limited to, family members, friends, University Employees, and attorneys.
- B. **Appeal Panel:** A panel that hears appeals from the Conduct Officer Hearing or the Hearing Board Hearing as described in Section VII.A.
- C. **Campus Authorities:** Includes, but is not limited to, any campus police or security staff, Investigator, Conduct Officer, Hearing Board, Appeal Panel, or Presidential Appeal Panel members.
- D. **Conduct Officer:** Individual appointed by the University to address alleged violations of this Code.
- E. **Conduct Officer Hearing:** A hearing before the Conduct Officer to determine if a Responding Party has violated any section(s) of this Code.
- F. **Consent:** An individual'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.
 - b. Clear, knowing, and voluntary.
 - 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 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 voluntary

alcohol or drug consumption, being asleep, or unconscious when the Responding Party takes advantage of the other party's incapacitation. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a ~~sober~~, reasonable person., [as defined in Section II.P.](#)

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 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; 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 whether there are any circumstances, known or reasonably apparent to the Responding Party, demonstrating incapacitation or lack of consent.
- G. **Formal Investigation:** The process described in Section V.I.
- H. **Hearing Board:** A board that hears cases of alleged violations of this Code as described in Section VI.B.
- I. **Incapacitation:** An individual who is incapacitated lacks the ability to make informed judgments and cannot consent to sexual contact. Incapacitation is the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Mentally helpless means a person is rendered temporarily incapable of appraising or controlling one's own conduct. Physically helpless means a person is physically unable to verbally or otherwise communicate consent or unwillingness to an act. Where alcohol or other drugs are involved, incapacitation is a state beyond impairment or intoxication. 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:** The process described in Section V.G.
- K. **Notice:** Notice 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 current student's or University Employee email account with confirmation of receipt, or at the University's discretion, another method requested by a Party. Students are expected to regularly monitor their official University email account.
- L. **Party(ies):** May refer to the Reporting Party(ies), Responding Party(ies), or both Parties collectively.
- M. **Preliminary Inquiry:** The process described in Section V.C.
- N. **Preponderance of the Evidence:** A standard that requires a fact or event to have more likely than not to have occurred, e.g., a greater than fifty percent (50%) chance.
- O. **Presidential Appeal Panel:** A panel that hears appeals from the Appeal Panel as described in Section VII.B.
- P. **Reasonable Person:** [A representative individual under similar circumstances and with similar identities to the person in question, who exercises care, skill, and judgment. A standard that reflects what a reasonable sober person in the same or similar circumstance would do.](#)
- Q. **Reporting Party(ies):** Any person who alleges harm or a policy violation under this Code by a person, a student, or student organization as defined in Section I.A.1. In cases of Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, or Discrimination, or Harassment, the words "Reporting Party" shall refer only to the person who has been allegedly harmed by the alleged misconduct. If a Reporting Party declines to participate, at the University's discretion, the University may move forward with the process under this Code.
- R. **Responding Party(ies):** Any person, a student, or student organization as defined in Section I.A.1 or 2., that has been alleged to have violated this Code, is under Formal Investigation, or has been charged with a violation of this Code.
- S. **Support Person:** [a person who provides emotional or personal support or assistance to a party during the investigative and hearing proceedings](#)

- T. **University of Maine System (the “University”)**: Means either collectively or singularly, any of the of following institutions: 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 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 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.
- V. **Violent Crime**: As described in Family Educational Rights and Privacy Act (FERPA).

III. VIOLATIONS

Violations are conduct which contravenes this Code ~~and directly and significantly interfere with the University’s primary educational responsibility or other responsibilities to the University community.~~

Disciplinary action taken under this Code is independent of the awarding of grades (an academic matter), and provisions of this Code cannot be used for changing awarded grades. 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 violations may be defined by other documents, for example, residence hall contracts, student handbooks, or codes of conduct specific to certain courses of study or majors.

~~C. The following violations are provided to give persons, students, and student organizations notice that such conduct or attempted conduct is prohibited.~~

~~B.A.~~ Academic Dishonesty

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 dishonesty**: Assisting another person’s, student’s, or student organization’s academic dishonesty.
5. **Other forms of dishonest academic conduct**: Any actions by which one seeks an unfair academic advantage over others.
6. **Violation of UMS Academic Integrity Policy**

~~C.B.~~ Disruption of University Operations

1. **Causing a Disturbance**: Disturbance resulting in substantial disruption of University activities.
2. **Failure to Comply with Sanction**: Failure to comply with a sanction imposed under this Code.
3. **Failure to Identify**: Failing to accurately identify oneself 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 Employee:** Direct interference with or failure to comply with a University Employee in the performance of their official duties.
6. **Supplying False Information:** Knowingly supplying false information to University Employees in pursuit of their official duties or to an Investigator, Conduct Officer, Hearing Board, Appeal Panel, or Presidential Appeal 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 Contract.**
9. **Violation of Student Activity Regulations:** Violation of a University regulation, policy, standard of conduct, or code of ethics.

D.C. Health & Safety Violations

1. **Creating a Dangerous Condition.**
2. **False Reporting of Dangerous Conditions.**
3. **Endangering Health or Safety.**
4. **Violation of Health or Safety Policies.**
5. **Illegal Possession, Use, or Sale of Drugs.**
6. **Interference with Safety Equipment or Alarms.**
7. **Restricting Traffic Flow.**
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 UMS or Institution Alcohol, Drug, or Tobacco and Smoke Free Policies.**
10. **Violation of UMS or Institution Weapons Policies.**

E.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, gender identity, gender expression, national origin, citizenship status, age, disability, genetic information, or veterans 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. All forms of domestic violence prohibited by applicable law are also included (for example, 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 sex, gender, sexual orientation, gender identity, or gender 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 (including pregnancy), sexual orientation, gender identity, gender expression, national origin, citizenship status, age, disability, genetic information, or veterans status.
- 8. **Hazing:** Any action or situation, including harassing behavior, that recklessly or intentionally endangers the mental or physical health of any University Employee 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.**
- 10. **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.
- 11. **Invasion of Privacy:** The violation of another individual's reasonable expectation of privacy where the circumstances justify that expectation.
- 12. **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.
- 13. **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.
- 14. **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 their age or because of their 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 applicable law are also included (for example, gross sexual assault, unlawful sexual contact, incest, sexual abuse of minors).

- 15. 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.

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; 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.
- 16. 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 STD 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).

17. 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, as defined in II.P.~~
- 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 applicable law are also included.

18. Unauthorized Recording: In general, the unauthorized recording of overall 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.

F.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**
4. **Theft or Unauthorized Use:** Theft, attempted theft, or unauthorized acquisition, removal, distribution, or use of University Property or the property of another.
5. **Trespassing:** Trespassing or unauthorized presence on University Property or the property of another.
6. **Violation of Institution Motor Vehicle Policies or Parking Regulations.**

G.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 (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, Appeal Panel, or Presidential Appeal Panel; or upon determination by the Conduct Officer, Hearing Board, Appeal Panel, or Presidential Appeal Panel that a Responding Party has been found in violation of this Code, one or more of the sanctions found in Board of Trustees Policy 402 Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation and Title IX Sexual Harassment may be imposed and include:

- A. **Assigned Educational Project(s):** This may include educational programming, research projects, reflective essays, presentations, or other related assignments intended to promote learning.
- B. **Community Service.**
- C. **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 institutions or attend any University functions. After five (5) years from the date of the dismissal, the Responding Party may submit a written request to the UMS Coordinator of Student Conduct or designee to be considered for readmission to attend any of the University institutions. The UMS Coordinator of Student Conduct or designee will convene a committee. This committee may draw on the membership of existing committees (such as the Justice Education Development Implementation team); this committee should include representation from any involved university institution. Reviews of such requests should take into account that for external applicants, the University no longer reviews criminal or judicial history.
 2. Responding Parties who have been found responsible for a Violent Crime or Sexual Assault and who request an official transcript from the University, will have a letter attached to their official transcript describing the dismissal. After five (5) years from the date of the dismissal, the Responding Party may submit a written request to the UMS Coordinator of Student Conduct or designee to have the letter attached to their official transcript removed. The UMS Coordinator of Student Conduct or designee will convene a committee. This committee may draw on the membership of existing committees (such as the Justice Education Development Implementation team); this committee should include representation from any involved university institutions. Reviews of such requests should take into account that for external applicants, the University no longer reviews criminal or judicial history.
- D. **Disciplinary Probation:** A specified period of time when any further violation may result in additional sanctions, up to and including dismissal from the University.
- E. **Disciplinary Suspension:** Separation from the University for a specific period of time and until any stated condition(s) is met.
 1. Responding Parties who are suspended will not be permitted to attend any of the University institutions or attend any University functions until all conditions of the suspension are met and the suspension period has ended.
 2. Responding Parties who have been found responsible for a Violent Crime or Sexual Assault and who request an official transcript for the University, will have a letter attached to their official transcript

describing the suspension. After all conditions of the suspension are met and the suspension period has ended the letter describing the suspension will no longer be attached to the official transcript.

- F. **Loss of Contact with a Specific Person(s):** Responding Parties may not initiate direct or indirect contact with a specified person(s).
- G. **Official Warning:** Formal acknowledgment of a violation and the expectation that it will not be repeated.
- H. **Mandatory Counseling.**
- I. **Reassignment, Suspension, or Removal from University Housing.**
- J. **Restitution:** Reimbursement to the owner of the property up to the replacement value of the property damaged, stolen, removed, or used without authority.
- K. **Other action(s)** as the Conduct Officer, Hearing Board, Appeal Panel, or Presidential Appeal Panel may reasonably deem appropriate, examples include but are not limited to:
 - 1. Suspension of an organization's official campus 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. Loss of visitation privileges to designated area(s) of any University Property.
 - 7. Monetary fine for recognized student organizations.

NOTE: The University may choose to defer sanctions on a case-by-case basis as circumstances warrant.

The University may impose a more severe sanction on a Responding Party when the Conduct Officer, Hearing Board, Appeal Panel, or Presidential 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, gender identity, gender expression, national origin, citizenship status, age, disability, genetic information, or veterans status of that person, or the persons in the organization or the owner of the property.

V. PROCEDURES

NOTE WELL: For any alleged violation that involves matters covered by Board of Trustees Policy 402 Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation and Title IX Sexual Harassment Policy, the procedures provided in Board of Trustees Policy 402 [and Title IX Procedures](#) are required to be followed.

An enrolled student may not graduate if they have 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, 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.

As applicable and appropriate, prior to any interim measures or actions, sanctions, or as appropriate other action being taken under this Code, an individualized risk and safety assessment should be conducted to determine whether there is a reasonably foreseeable significant risk to others, or significant risk of self-harm. As applicable and appropriate, the Student Risk Assessment and Safety Intervention Policy should be utilized.

A. Reporting Violations

1. Alleged violations of this Code may be brought to the attention of the University 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.
 3. Reports of Gender Discrimination (including Sexual Harassment, Dating Violence, Domestic Violence, Sexual Assault, or Stalking) are required to be reported directly to the University's Title IX Coordinator or Deputy Coordinator as described in Board of Trustees Policy 402 Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation and Title IX Sexual Harassment Policy.
- B. Notice to Reporting Party:** The Reporting Party will be notified that their report has been received and follow up will occur consistent with UMS policies and procedures [and as permitted by FERPA](#).
- C. Preliminary Inquiry**
1. Reports of alleged violations of this Code will result in the initiation of a Preliminary Inquiry. A Preliminary Inquiry will determine whether there is sufficient information to proceed under this Code. **Before interviewing or questioning of the Parties occurs, Notice must be provided as stated in Section V.I., 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. **Notice Following Preliminary Inquiry**
 - a. Upon the conclusion of the Preliminary Inquiry, the Responding Party, will be provided Notice of whether:
 - i. Any charge(s) will be filed and if so, what charge(s) will be filed.
 - ii. A Formal Investigation will commence.
 - iii. An Alternative Resolution is an option.
 - iv. An Administrative Resolution is an option.
 - v. Any Interim Measure(s) or Action(s) will be implemented.
 3. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking, all Parties will be provided Notice simultaneously.
- D. Conflicts of Interest:** Each Conduct Officer, Hearing Board, Appeal Panel, and Presidential Appeal Panel member 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 Conduct Officer, the Conduct Officer will refer the matter to another Conduct Officer. If any member of the Hearing Board, Appeal Panel, or Presidential Appeal Panel has a conflict of interest, an alternate will be appointed. Any individual, including a Party, has the right to raise any potential conflict of interest concerns with the Conduct Officer or the UMS Coordinator of Student Conduct or designee.
- E. Alternative Resolution**
- Alternative resolution processes such as conflict coaching, mediation, facilitated dialogue, and restorative justice allow individuals involved in a conflict to have significant influence over the resolution process and any outcome.
1. If (1) all persons personally and directly affected by the conduct matter under this Code agree to attempt resolution through one of these processes; and (2) the Conduct Officer believes that the process is an appropriate form of resolution, then the Conduct Officer will make arrangements for the chosen alternative resolution pathway. The nature of some conduct matters, for instance those involving violence, are not suitable for alternative resolution.
 2. Participation in an alternative resolution process is voluntary and may or may not result in an agreement or resolution. When a mutually satisfactory resolution is reached by the Parties, the case is resolved and

Parties are encouraged to use the Conduct Officer as a resource for future questions. Resolutions reached through alternative resolutions are not permitted to be appealed.

3. If resolution is not achieved through an attempt at alternative resolution, including if resolution is not sustained following an alternative resolution agreement, the Parties retain their right to pursue formal resolution through processes outlined elsewhere in this Code.

F. Administrative Resolution

1. At the Conduct Officer's sole discretion and consistent with other requirements of this Code, a conduct matter may be resolved through Administrative Resolution.
2. An Administrative Resolution may only be used when the conduct matter involves the following: facts are not in dispute; OR a University Employee directly observed the conduct violation; and the violation is a minor conduct violation.
3. If a student objects to use of an Administrative Resolution, the student may request a formal review and the University will proceed with a Formal Investigation under this Code.
4. All Administrative Resolutions must be resolved within 30 days. This timeframe does not include the time required for any resultant sanctions to be completed.

G. Interim Measures or Actions

1. A Responding Party may have privileges suspended 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 to 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.
2. Interim Measure(s) or Action(s), including but not limited to: interim suspensions; University Property usage restrictions; University account holds; and academic degree holds, will be implemented with the goal of mitigating negative impact on the Parties while maintaining the safety of the University community and integrity of the investigation.
3. Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, a Responding Party who has been issued an Interim Measure(s) or Action(s) will receive notice of the basis for the Interim Measure(s) or Action(s) and may seek a review hearing of that decision prior to the Interim Measure(s) or Action(s) being imposed. The review hearing will be conducted by a University Employee appointed by the university President or the Dean of the University Of Maine School Of Law. This review hearing will entail questioning of the Parties and reviewing information that may be relevant to the determination of whether Interim Measure(s) or Action(s) would be appropriate under the circumstances. If a review hearing is requested, the University Employee appointed by the university President the Dean of the University Of Maine School Of Law will conduct the review and issue a decision within five (5) business days. If extenuating circumstances exist that preclude the review hearing from occurring within five (5) business days, an update will be provided indicating the estimated timeframe for the hearing.
4. If there is a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Interim Measure(s) or Action(s) may be imposed immediately. In such cases, the Responding Party will be provided notice of the basis for the Interim Measure(s) or Action(s) and notice of the date of the review hearing, which will occur within three (3) business days of the decision. If extenuating circumstances exist that preclude the review hearing from occurring within three (3) business days, an update will be provided indicating the estimated timeframe for the hearing.

H. Notice of Interim Measures or Actions

1. The Responding Party will be provided Notice of:
 - a. Any Interim Measure(s) or Action(s) that will be implemented.
 - b. Their right of review as described in Section V.G.3--4.
2. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking all Parties will be provided Notice simultaneously.
3. [Reporting Parties alleging Discrimination or Harassment will be provided Notice of any Interim Measure\(s\) or Action\(s\) involving the Responding Party that directly relate to the Reporting Party.](#)

I. Notice of Formal Investigation

1. Prior to commencement of a Formal Investigation, the Conduct Officer will provide written Notice to the Responding Party.
2. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking, all Parties will be provided Notice simultaneously.
3. Notice will include the following:
 - a. Alleged Code violation(s) and a description of the alleged conduct constituting each alleged violation:
 - i. Reporting Party; and
 - ii. Location(s) of alleged conduct; and
 - iii. Date(s) of alleged conduct; and
 - iv. Right to have an Advisor present; and
 - v. The name of the Investigator; and
 - vi. The procedures that will be used to address the alleged Code violation(s); and
 - vii. Maximum possible sanction(s) which may be imposed; and
 - b. Any right of appeal for any Responding Party; and
 - c. Any right of appeal for any Responding Party and any Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking.
4. [Reporting Parties alleging Discrimination or Harassment will be provided written Notice of a Formal Investigation, including their right to an advisor, the name of the Investigator, and the procedures that will be used, including any appeal rights.](#)

J. Formal Investigation

1. Upon the Conduct Officer's decision to commence a Formal Investigation, the Conduct Officer will initiate the investigation or assign it to a trained Investigator, who may be internal or external, as soon as reasonably practicable but at least within three (3) business days.
2. The University may, where appropriate, temporarily delay its investigation when criminal charges on the basis of the same conduct are being investigated.
3. Investigations should follow applicable standards, including with regard to objectivity, reliability, thoroughness, impartiality, timeliness, and fairness.
4. In general, investigations should entail interviews with relevant parties and witnesses, obtaining and reviewing available evidence, and identifying sources of expert information, as applicable.
5. The Conduct Officer 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, Stalking, Discrimination, or Harassment) throughout the investigation, as appropriate. Such regular updates should occur at least every 30 calendar days.
6. While investigation times may vary, in general, formal investigations should be completed within 90 calendar days. If a Formal investigation is going to take longer than 90 calendar days, an update will be

provided indicating the estimated timeframe for completion of the investigation. Such updates will be provided 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, Discrimination, or Harassment).

7. The Investigator will summarize the relevant evidence gathered in the investigation, both inculpatory and exculpatory, in a written report. The Investigator will not make determinations as to whether policy violations were found.

K. **Determination of Hearing Format**

1. There are two (2) hearing formats under this Code.
 - a. Conduct Officer Hearing
 - b. Hearing Board Hearing
2. The hearing format should be chosen based on the complexity of the matter, the impact to the Parties and the community, the severity of likely sanctions, and other relevant circumstances.
3. In general, a Conduct Officer Hearing should be considered when:
 - a. Facts are less complex.
 - b. Alleged violation(s) are anticipated to have lower impact to the Parties and the community.
4. In general, a Hearing Board Hearing should be considered when:
 - a. Facts are more complex.
 - b. A diversity of opinions is important to a fair outcome.
 - c. Alleged violation(s) are anticipated to have higher impact to the Parties and the community. For example, cases which could reasonably result in suspension, dismissal, or removal from housing.
5. A Hearing Board Hearing is required for Code violations involving:
 - a. Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment.
 - b. Serious physical, emotional, or psychological harm or the threat thereof.

L. **Notice Following Formal Investigation**

1. Upon the conclusion of the Formal Investigation, the Responding Party, will be provided Notice of whether:
 - a. Any charge(s) will be filed and if so, what charge(s) will be filed.
 - b. A hearing before a Conduct Officer will occur.
 - c. A hearing before a Hearing Board will occur.
 - d. An Informal Resolution may be pursued.
2. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment all Parties will be provided Notice of any further proceedings.
3. If no charges are being brought at the conclusion of the Formal Investigation, the Conduct Officer will provide such notification to the Responding Party. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking, the Parties will receive simultaneous notification of the Conduct Officer's decision not to bring charges and both the Parties will be notified of the right to appeal to the UMS Coordinator of Student Conduct or designee.

VI. **HEARINGS**

A. **CONDUCT OFFICER HEARING**

1. **Notice of Conduct Officer Hearing**

- a. If any Code violation(s) are being filed, the Conduct Officer will provide written Notice within ten (10) business days from the conclusion of the Formal Investigation to the Responding Party.
- b. Notice will include the following:
 - i. Code violation(s) and a description of the alleged conduct constituting each violation; and
 - ii. Reporting Party(ies); and
 - iii. Date(s) of alleged conduct; and
 - iv. Right to have an Advisor of their choice present; and
 - v. Right to review the information that will be used by the Conduct Officer during the Conduct Officer Hearing; and
 - vi. Date and time of the Conduct Officer Hearing; and
 - vii. Name of the Conduct Officer; and
 - viii. Names of witnesses requested to appear by the Conduct Officer; and
 - ix. The procedures that will be used; and
 - x. Maximum possible sanction(s) which may be imposed.

2. Timing of Hearing:

- a. The Conduct Officer Hearing is required to be held not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Conduct Officer Hearing. If extenuating circumstances exist that preclude the Conduct Officer Hearing from occurring within fourteen (14) business days, an update will be provided indicating the estimated timeframe for the hearing.
- b. If a Party is unable to attend the Conduct Officer Hearing related to the constraints of a legal process (for example, a protective order or a no contact order) or is unable to attend related to concerns about trauma or future violence then the Party will be provided alternative means of participation consistent with applicable law and due process.
- c. If any Party is not present at the time of the Conduct Officer Hearing, the Conduct Officer may, taking into account concerns with health and safety, timeliness of the process, and the reason for a Party's absence, and the totality of the circumstances:
 - i. Proceed in a normal manner without a 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.

The Conduct Officer may not rely solely on the absence of any Party in determining the outcome of the matter.

- 3. **Advisor ~~and~~ Support Person:** The Reporting Party and the Responding Party in any proceeding involving allegations of Discrimination or Harassment may be accompanied by an Advisor of their choice 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 Conduct Officer.
 - a. The Conduct Officer should hear and consider as evidence relevant information.
 - b. The Conduct Officer should not consider 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.
 - c. If the Conduct Officer is aware that a criminal prosecution relating to the same violation(s) is being conducted, or such action appears likely, then independent of the hearing, the Conduct Officer will notify the Responding Party in advance of the Responding Party's right to remain silent. The Conduct

Officer will draw no negative inference from the Responding Party's silence including the refusal to give information or consent to a search.

- d. The Conduct Officer will make arrangements for recording the hearing. No recording in any form, other than the one made by the University, is permitted. Conduct Officer Hearing proceedings are considered confidential unless otherwise indicated by law.
- e. Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of the Conduct Officer by submitting written notice to the UMS Coordinator of Student Conduct or designee stating the grounds for the removal at least five (5) business days prior to the scheduled hearing. Removal of Conduct Officer for demonstrated bias or conflict of interest will be within the authority and at the discretion of the UMS Coordinator of Student Conduct or designee.
- f. The names of Parties' witnesses, written statements, or other information should be submitted to the Conduct Officer at least two (2) business days prior to the hearing for inclusion in the materials presented to the Conduct Officer. The Parties may submit additional: names of witnesses; written statements; or other information at the time of the hearing.

4. Conduct Officer Hearing Procedures:

- a. Responsibility for recognizing and permitting persons to speak is the exclusive purview of the Conduct Officer.
- b. Persons disruptive at any stage of the hearing may be asked to leave at the discretion of the Conduct Officer.
- c. The Parties will each have the opportunity to make an opening statement.
- d. The Investigator will present the results of the investigation.
- e. The Conduct Officer may ask questions of any witnesses and the Parties.
- f. The Parties may pose questions to each other and to any witnesses through the Conduct Officer. The Conduct Officer will ask the witness or other Party the question posed if the Conduct Officer determines the question is relevant and appropriate.
- g. Questioning by any Advisor or support person is not permitted.
- h. The Parties will each have the opportunity to make a closing statement, which may include recommendations regarding appropriate sanctions.
- i. Using the Preponderance of the Evidence standard, the Conduct Officer will determine if the Responding Party has violated this Code or has not violated this Code.
- j. If the Responding Party has not violated this Code, the case will be dismissed.
- k. If the Responding Party has violated this Code, the Conduct Officer will impose appropriate sanction(s).

5. Notice of Conduct Officer Hearing Outcome

- a. The Conduct Officer will provide written Notice to the Responding Party.
- b. Notice will include:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. Any right of appeal.
- c. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and

- iii. Any sanction(s) imposed; and
- iv. The reasoning and facts that support any sanction(s) imposed; and
- v. Any right of appeal.
- d. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive written Notice of:
 - i. The outcome and any sanctions that directly relate to the Reporting Party; and
 - ii. Any right of appeal.
- e. In a case of a Violent Crime other than those listed above, 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.

Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Sanctions will take effect only after all University appeals are final or all University appeal periods have ended. Applicable threat assessment procedures should be utilized 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 Conduct Officer.

B. HEARING BOARD

1. Notice of Hearing Before the Hearing Board

- a. If any Code violation(s) are being filed, the Hearing Board Chair will provide written Notice within ten (10) business days from the conclusion of the Formal Investigation to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking).
- b. Notice will include the following:
 - i. Code violation(s) and a description of the alleged conduct constituting each violation.
 - ii. Reporting Party(ies).
 - iii. Date(s) of alleged conduct.
 - iv. Right to have an Advisor and a/ support person of their choice present.
 - v. Right to review the information that will be used by the Hearing Board during the Hearing Board.
 - vi. Date and time of the Hearing Board.
 - vii. Names of the Hearing Board members.
 - viii. Names of witnesses requested to appear by the Hearing Board.
 - ix. The procedures that will be used.
 - x. Maximum possible sanction(s) which may be imposed.
- c. Reporting Parties alleging Discrimination or Harassment will be notified in writing of their right to participate in the Hearing before the Hearing Board, the date and time of the Hearing; the procedures that will be used in the Hearing, and their right to have an advisor and a/ support person of their choice.

2. Hearing Board Composition

- a. The UMS Coordinator of Student Conduct or designee is responsible for appointing the Hearing Board.
- b. The Hearing Board is comprised of at least three (3), five (5), or seven (7) members consisting 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.
- c. All members will be required to sign a conflict of interest and bias form for each hearing. All members are required to avoid both apparent and real conflicts of interest. Any Hearing Board member who has a potential conflict of interest or feels that they are unable to render an unbiased decision is required to decline assignment to the Hearing Board.
- d. The composition of the Hearing Board will represent the diversity of the University community whenever reasonably practicable.
- e. Hearing Board alternate members will be appointed as applicable and appropriate.
- 3. **Timing of Hearing:** The Hearing Board Hearing is required to be held not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Hearing Board Hearing. If extenuating circumstances exist that preclude the Hearing Board Hearing from occurring within fourteen (14) business days, an update will be provided indicating the estimated timeframe for the hearing. Such updates will be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment).
- 4. If a Party is unable to attend the Hearing Board Hearing related to the constraints of a legal process (for example, a protective order or a no contact order) or is unable to attend related to concerns about trauma or future violence then the Party will be provided alternative means of participation consistent with applicable law [and due process](#).
- 5. If any Party is not present at the time of the Hearing, the Hearing Board Chair may, taking into account, concerns with health and safety, timeliness of the process, and the reason for a Party's absence, and taking into account the totality of the circumstances:
 - a. Proceed in a normal manner without a 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.

The Hearing Board may not rely solely on the absence of any Party in determining the outcome of the matter.

- 6. The Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment), may be accompanied by an Advisor of their choice 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 Hearing Board Chair.
- 7. The Hearing Board should hear and consider as evidence relevant information.
- 8. The Hearing Board should not consider 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.
- 9. If the Hearing Board is aware that a criminal prosecution relating to the same violation(s) is being conducted, or such action appears likely, then independent of the hearing, the Hearing Board Chair will notify the Responding Party in advance of the Responding Party's right to remain silent. The Hearing Board will draw no negative inference from the Responding Party's silence including the refusal to give information or consent to a search.

10. The Hearing Board Chair will make arrangements for recording the hearing. No recording in any form, other than the one made by the University, is permitted. Hearing Board proceedings are considered confidential unless otherwise indicated by law.
11. Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of any Hearing Board member by submitting written notice to the UMS Coordinator of Student Conduct or designee stating the grounds for the removal at least five (5) business days prior to the scheduled hearing. Removal of Hearing Board members for demonstrated bias or conflict of interest will be within the authority and at the discretion of the UMS Coordinator of Student Conduct or designee.
12. The names of Parties' witnesses, written statements, or other information should be submitted to the Hearing Board Chair at least two (2) business days prior to the hearing for inclusion in the materials presented to the Hearing Board. The Parties may submit additional: names of witnesses; written statements; or other information at the time of the hearing.
13. **Hearing Board Hearing Procedures**
 - a. Responsibility for recognizing and permitting persons to speak is the exclusive purview of the Hearing Board Chair.
 - b. Persons disruptive at any stage of the hearing may be asked to leave at the discretion of the Hearing Board Chair.
 - c. The Parties will each have the opportunity to make an opening statement.
 - d. The Investigator will present the results of the investigation.
 - e. The Hearing Board may ask questions of any witnesses and the Parties.
 - f. 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 other Party the question posed if the Hearing Board Chair determines the question is relevant and appropriate.
 - g. Questioning by any Advisor or support person is not permitted.
 - h. The Parties will each have the opportunity to make a closing statement, which may include recommendations regarding appropriate sanctions.
 - i. After the closing statements, the Hearing Board will go into a closed session to determine whether the Responding Party has violated this Code. The closed session is not recorded.
 - j. Using the Preponderance of the Evidence standard, the Hearing Board will determine, by majority vote, if the Responding Party has violated this Code or has not violated this Code. If there is a tie vote, the Responding Party will be found to have not violated this Code.
 - k. If the Responding Party has been found to have not violated this Code, the case will be dismissed. Such dismissal will not affect any appeal rights any Party may have.
 - l. If the Responding Party has been found to have violated this Code, the Hearing Board will impose appropriate sanction(s).
14. **Notice of Hearing Board Outcome**
 - a. The Hearing Board Chair will provide written Notice to the Responding Party.
 - b. Notice will include:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. Any right of appeal (e.g., an Appeal Panel).
 - c. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:

- i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. The reasoning and facts that support any sanction(s) imposed; and
 - v. Any right of appeal (e.g., an Appeal Panel).
- d. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive written Notice of:
 - i. The outcome and any sanctions that directly relate to the Reporting Party; and
 - ii. Any right of appeal (e.g., an Appeal Panel).
- e. In a case of a Violent Crime other than those listed above, 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.

Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Sanctions will take effect only after all University appeals are final or all University appeal periods have ended. Applicable threat assessment procedures should be utilized 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 Conduct Officer.

VII. APPEALS

A. APPEAL PANEL

1. **Right of Appeal:** In the event the Conduct Officer or the Hearing Board imposes a sanction of suspension, dismissal, removal from University Housing, academic degree revocation, or loss of recognition of campus organizations, the Responding Party has a right to appeal any finding(s) or sanction(s) to an Appeal Panel. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment, both Parties have the right to appeal any finding(s) or sanction(s) to an Appeal Panel.
2. **Appeal Panel Composition**
 - a. The UMS Coordinator of Student Conduct or designee is responsible for appointing the Appeal Panel.
 - b. The Appeal Panel is comprised of three (3) people consisting of:
 - i. An Appeal Panel chair who is either a faculty or staff member; and
 - ii. One (1) enrolled student; and
 - iii. One (1) Hearing Board member.
 - c. All Appeal Panel members are required to have not had previous involvement with the current matter. All members will be required to sign a conflict of interest and bias form for each hearing. All members are required to avoid both apparent and real conflicts of interest. Any Appeal Panel member who has a potential conflict of interest or feels that they are unable to render an unbiased decision is required to decline assignment to the Appeal Panel.
 - d. The composition of the Appeal Panel will represent the diversity of the University community whenever reasonably practicable.
 - e. Appeal Panel alternate members will be appointed as applicable and appropriate.
3. **Records**
 - a. In cases of a review to an Appeal Panel, the Responding Party charged with the violation and authorized Campus Authorities may have access to the record for purposes of review relating to a

request for appeal. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.

- b. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Reporting Party may have the same access to the recording as the Respondent. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination, or Harassment, the Reporting Party may have access to the portions of the recording pertaining to the Reporting Party. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.
4. **Appeal Panel Procedures:** Appeals must be:
 - a. In writing; and
 - b. State the issue(s) to be reviewed based on at least one of the grounds for appeal listed below in Section VIII.A.; and
 - c. Submitted to the UMS Coordinator of Student Conduct or designee within five (5) business days after the appealing Party has received written notice of the Conduct Officer or Hearing Board finding(s); and
 - d. No longer than ten (10) pages in length plus attachments.
5. **Appeals by Multiple Parties:** If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment the appeal request will be shared with the other Party(ies). Such other Parties may file a response with the Appeal Panel within five (5) business days; this response will be shared with all Parties. Nothing in this Section precludes any Party from filing an appeal as detailed in Sections VII.A.1-5.
6. **Grounds for Appeal:** The Appeal Panel is not intended to be a full rehearing of the allegation(s) before the Conduct Officer or Hearing Board Hearing. The appeal will be limited to the following grounds:
 - a. A substantive error, including a procedural error or omission that substantially impacted the investigation or the outcome of the Conduct Officer or Hearing Board Hearing (for example, bias or failure to follow applicable procedures).
 - b. To consider new evidence, not reasonably available during the investigation or Conduct Officer or Hearing Board Hearing, that could impact the Conduct Officer or Hearing Board finding(s) or sanction(s). A summary of this new evidence and its potential impact must be included in the request for appeal.
 - c. The sanction imposed is disproportionate to the severity of the violation, considering the totality of circumstances.
7. **Timeliness:** Absent extenuating circumstances, the Conduct Officer or Hearing Board finding(s) and sanction(s) will stand if the request for appeal is not timely or is not based on the grounds listed above in Section VII.A.6. Extenuating circumstances are at the discretion of the University and will be determined by the Appeal Panel Chair in conjunction with the Office of General Counsel.
8. **Notice of Appeal Before the Appeal Panel**
 - a. If an appeal is submitted consistent with parameters identified in Sections VII.A.1-5., and 8A.7., the Appeal Panel Chair will provide written Notice within fifteen (15) business days from the finalized request for appeal; such Notice required to be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking).
 - b. Notice will include the following:
 - i. The issue(s) to be reviewed and the ground(s) for appeal.

- ii. Right to review the information that will be used by the Appeal Panel.
 - iii. Date and time of the initial Appeal Panel meeting.
 - iv. Names of the Appeal Panel members.
 - v. The procedures that will be used.
 - vi. Maximum possible sanction(s) which may be imposed.
- 9. [Reporting Parties alleging Discrimination or Harassment will be notified in writing of the Appeal Panel meeting and the procedures to be used.](#)
- 10. **Timing of Appeal:** The Appeal Panel is required to have an initial meeting not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Appeal. If extenuating circumstances exist that preclude the initial Appeal Panel meeting from occurring within fourteen (14) business days, an update will be provided indicating the estimated timeframe for the hearing. Such updates will be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination or Harassment). Any Party may contact the Appeal Panel Chair for general updates on the process.
- 11. **Conflicts of Interest:** Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of any Appeal Panel member by submitting written notice to the UMS Coordinator of Student Conduct or designee stating the grounds for the removal at least five (5) business days prior to the scheduled initial meeting. Removal of Appeal Panel members for demonstrated bias or conflict of interest will be within the authority and at the discretion of the UMS Coordinator of Student Conduct or designee.
- 12. **Functions of Appeal Panel**
 - a. Review the conduct matter file including but not limited to: the investigative report; Conduct Officer or Hearing Board files and recordings; and
 - b. Review any new information provided; and
 - c. Ask clarifying questions as applicable, including but not limited to, as appropriate, asking questions of: the Investigator; Conduct Officer; Hearing Board member; individuals who presented information to the Conduct Officer or 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.
- 13. **Determinations:** The Appeal Panel may make the following determinations:
 - a. Uphold or change the findings of the Conduct Officer or Hearing Board; or
 - b. Uphold or change the sanctions of the Conduct Officer or Hearing Board; or
 - c. Remand for a new or additional investigation with a new or same Investigator; or
 - d. Remand to the same Conduct Officer or Hearing Board for a new hearing; or
 - e. Remand to a different Conduct Officer or Hearing Board for a new hearing.
 - f. A remand to the same or a different Conduct Officer or Hearing Board is final and not subject to appeal.
 - g. The Appeal Panel will provide Notice to the Parties of any determination(s).
- 14. **Notice of Appeal Panel Outcome**
 - a. The Appeal Panel Chair will provide written Notice to the Responding Party.
 - b. Notice will include:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and

- iii. Any sanction(s) imposed; and
 - iv. Any right of appeal (e.g., a Presidential Appeal Panel).
- c. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. The reasoning and facts that support any sanction(s) imposed; and
 - v. Any right of appeal (e.g., a Presidential Appeal Panel).
- d. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive written Notice of:
 - i. The outcome and any sanctions that directly relate to the Reporting Party, and
 - ii. Any right of appeal (e.g., a Presidential Appeal Panel).
- e. In a case of a Violent Crime other than those listed above, 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.

Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Sanctions will take effect only after all University appeals are final or all University appeal periods have ended. Applicable threat assessment procedures should be utilized 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 Conduct Officer.

B. PRESIDENTIAL APPEAL PANEL

1. **Right of Appeal:** In the event the Appeal Panel imposes a sanction of suspension, dismissal, removal from University Housing, academic degree revocation, or loss of recognition of campus organizations, the Responding Party has a right to appeal any finding(s) or sanction(s) to a Presidential Appeal Panel. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment both Parties have the right to appeal any finding(s) or sanction(s) to a Presidential Appeal Panel.
2. **Presidential Appeal Panel Composition:**
 - a. Each university President or the Dean of the University of Maine School of Law is responsible for appointing the Presidential Appeal Panel for their respective institutions.
 - b. The Presidential Appeal Panel is comprised of three (3) people consisting of:
 - i. A Presidential Appeal Panel Chair who is either a faculty or staff member; and
 - ii. One (1) enrolled student; and
 - iii. One (1) UMS System Office Employee.
 - c. All Presidential Appeal Panel members are required to have not had previous involvement with the current matter. All members will be required to sign a conflict of interest and bias form for each hearing. All members are required to avoid both apparent and real conflicts of interest. Any Presidential Appeal Panel member who has a potential conflict of interest or feels that they are unable to render an unbiased decision is required to decline assignment to the Presidential Appeal Panel.
 - d. The composition of the Presidential Appeal Panel will represent the diversity of the University community whenever reasonably practicable.

- e. Presidential Appeal Panel alternate members will be appointed as applicable and appropriate.

3. Records

- a. In cases of a review to a Presidential Appeal Panel, the Responding Party charged with the violation and authorized Campus Authorities may have access to the record for purposes of review relating to a request for appeal. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.
- b. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Reporting Party may have the same access to the recording as the Respondent. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination or Harassment the Reporting Party may have access to the portions of the recording pertaining to the Reporting Party. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.

4. Presidential Appeal Procedures: Presidential Appeals must be:

- a. In writing; and
- b. State the issue(s) to be reviewed based on at least one of the grounds for appeal listed below in Section VII.B.6., and
- c. Submitted to the UMS Coordinator of Student Conduct or designee within five (5) business days after the appealing Party has received written notice of the Appeal Panel finding(s) and
- d. No longer than ten (10) pages in length plus attachments.

5. Appeals by Multiple Parties: If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment the appeal request will be shared with the other Party(ies). Such other Parties may file a response with the Appeal Panel within five (5) business days; this response will be shared with all Parties. Nothing in this Section precludes any Party from filing an appeal as detailed in Sections VII.B.1-5.

6. **Grounds for Presidential Appeal:** The Presidential Appeal Panel is not intended to be a full rehearing -of the allegation(s) before the Conduct Officer or Hearing Board Hearing. The Presidential Appeal Panel need not defer to the determination by the Appeal Panel. However, the appeal will be limited to the following grounds:

- a. A substantive error, including a procedural error or omission that substantially impacted the investigation or the outcome of the Conduct Officer or Hearing Board Hearing (for example, bias or failure to follow applicable procedures).
- b. To consider new evidence, not reasonably available during the investigation or Conduct Officer, Hearing Board Hearing, or the Appeal Panel review, that could impact the Conduct Officer, Hearing Board, or Appeal Panel finding(s) or sanction(s). A summary of this new evidence and its potential impact must be included in the request for appeal.
- c. The sanction imposed is disproportionate to the severity of the violation, considering the totality of circumstances.

7. Timeliness: Absent extenuating circumstances, the Conduct Officer, Hearing Board, or Appeal Panel finding(s) and sanction(s) will stand if the request for appeal is not timely or is not based on the grounds listed above in Section VII.6. Extenuating circumstances are at the discretion of the University and will be determined by the Presidential Appeal Panel Chair in conjunction with the Office of General Counsel.

8. **Notice of Appeal Before the Presidential Appeal Panel**

- a. If an appeal is submitted consistent with parameters identified in Sections VII.1-4. and VII.7., the Presidential Appeal Panel Chair will provide written Notice within fifteen (15) business days from the

finalized request for appeal; such Notice required to be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, Sexual Harassment, or Stalking).

- b. Notice will include the following:
 - i. The issue(s) to be reviewed and the ground(s) for appeal.
 - ii. Right to review the information that will be used by the Presidential Appeal Panel.
 - iii. Date and time of the initial Presidential Appeal Panel meeting.
 - iv. Names of the Presidential Appeal Panel members.
 - v. The procedures that will be used.
 - vi. Maximum possible sanction(s) which may be imposed.
- c. [Reporting Parties alleging Discrimination or Harassment will be notified in writing of the Presidential Appeal Panel meeting and the procedures to be used.](#)

9. **Timing of Presidential Appeal Panel:** The Presidential Appeal Panel is required to have an initial meeting not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Presidential Appeal. If extenuating circumstances exist that preclude the initial Presidential Appeal Panel meeting from occurring within fourteen (14) business days, an update will be provided indicating the estimated timeframe for the hearing. Such updates will be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment).
10. **Conflicts of Interest:** Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of any Presidential Appeal Panel member by submitting written notice to the UMS Coordinator of Student Conduct or designee stating the grounds for the removal at least five (5) business days prior to the scheduled initial meeting. Removal of Presidential Appeal Panel members for cause will be within the authority and at the discretion of the UMS Coordinator of Student Conduct or designee.
11. **Functions of Presidential Appeal Panel:**
 - a. Review the conduct matter file including but not limited to: the investigative report; Conduct Officer, Hearing Board, or Appeal Panel files and recordings; and
 - b. Review any new information provided; and
 - c. Ask clarifying questions as applicable, including but not limited to, as appropriate, asking questions of: the Investigator; Conduct Officer; Hearing Board member; Appeal Panel member, individuals who presented information to the Conduct Officer, Hearing Board, or Appeal Panel, 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.
12. **Determinations:** The Presidential Appeal Panel may make the following determinations:
 - a. Uphold or change the findings of the Conduct Officer, Hearing Board, or Appeal Panel; or
 - b. Uphold or change the sanctions of the Conduct Officer, Hearing Board, or Appeal Panel; or
 - c. Remand for a new or additional investigation with a new or same Investigator; or
 - d. Remand to the same Conduct Officer or Hearing Board for a new hearing; or
 - e. Remand to a different Conduct Officer or Hearing Board for a new hearing.
13. **All decisions of the Presidential Appeal Panel are final.**
14. **Notice of Determination:** The Presidential Appeal Panel will provide notice of any determinations to the applicable university President or the Dean of the University Of Maine School Of Law ("University

President"). The University President may accept the determination of the Presidential Appeal Panel or request further review.

15. After the university President accepts the determination of the Presidential Appeal Panel, the Presidential Appeal Panel Chair will provide Notice to the Parties of any determination(s).

16. Notice of Presidential Appeal Panel Outcome

- a. The President Appeal Panel Chair will provide written Notice to the Responding Party.
- b. Notice will include:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. Any right of appeal.
- c. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:
 - i. The outcome; and
 - ii. The reasoning and facts that support the outcome; and
 - iii. Any sanction(s) imposed; and
 - iv. The reasoning and facts that support any sanction(s) imposed; and
 - v. Any right of appeal.
- d. If the alleged violation Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive written Notice of:
 - i. The outcome and any sanctions that directly relate to the Reporting Party; and
 - ii. Any right of appeal.
- e. In a case of a Violent Crime other than those listed above, 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.

VIII. TRAINING

- A. Each University President and the Dean of University of Maine School of Law in conjunction with the UMS Coordinator of Student Conduct or designee will identify at least three (3) people in each of the following categories to receive annual training to enable them to serve as trained Hearing Board, Appeal Panel or Presidential Appeal Panel members:
 1. Enrolled students; and
 2. Faculty members; and
 3. Staff members; and
 4. System level employees.
- B. Only individuals who have received annual training are permitted to serve as Hearing Board, Appeal Panel, or Presidential Appeal Panel members.
- C. The following individuals will have annual training on issues related to: Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment; trauma informed practices, how to conduct an investigation, and hearing process that protects the safety of individuals involved and promotes accountability:
 1. University Presidents and the Dean of University of Maine School of Law; and
 2. Title IX Coordinator(s) and Deputy Title IX Coordinators; and
 3. UMS Coordinator of Student Conduct or designee; and

4. Individuals responsible for conducting Preliminary Inquiries or Formal Investigations; and
5. Conduct Officers; and
6. Hearing Board, Appeal Panel or Presidential Appeal Panel members; and
7. Any other individuals that University Presidents and the Dean of University of Maine School of Law or the UMS Coordinator of Student Conduct or designee designates to be included in training.

Individuals should receive training commensurate with their role in the process.

IX. STUDENT CONDUCT CODE COMMITTEE

A. The Student Conduct Code Committee is responsible for:

1. Reviewing this Code for potential revision at least once every three (3) years or at any time at the request of:
 - a. Conduct Officers representing at least two (2) institutions of the University; or
 - b. Student government officers representing at least two (2) institutions of the University; or
 - c. Student government officers representing at least one (1) institution of the University and the University of Maine School of Law; or
 - d. The Chancellor.
2. Accepting and responding to feedback that various members of the UMS community may have regarding this Code.
3. Proposing revisions to this Code to the Board of Trustees.

B. Student Conduct Code Committee Composition: [The Student Conduct Code Committee will represent the diversity of the University community whenever reasonably practicable. The following will be invited to participate in the Student Conduct Code Committee.](#)

1. A Committee Chair ~~confirmed~~ appointed by the Chancellor.
2. Up to five (5) faculty, staff, or enrolled students, appointed by the Committee Chair.
3. One (1) Board Trustee appointed by the UMS Board of Trustees Chair.
4. One (1) enrolled distance education program student appointed by the UMS Coordinator of Student Conduct or designee.
5. Two (2) ~~Three (3)~~ graduate students appointed by the UMS Coordinator of Student Conduct or designee. Graduate students from any campus institution may serve in this role.
6. ~~Seven (7)~~ At least three [3] Conduct Officers [representing differing institutions and](#) appointed by the UMS Coordinator of Student Conduct or designee.
7. One (1) Law School staff member, appointed by the Dean of University of Maine School of Law.
8. At least three (3) ~~Seven (7)~~ Hearing Board Chairs, ~~one (1) from~~ representing each institution and appointed by the UMS Coordinator of Student Conduct.
9. Eight (8) enrolled students, one (1) from each institution and the University Of Maine School Of Law.
 - a. Each applicable student government body will nominate a slate of at least three (3) enrolled students.
 - b. Each university President and the Dean of University of Maine School of Law will choose from their respective slate of nominees one (1) enrolled student representative.

X. AMENDING THE STUDENT CONDUCT CODE

The Board of Trustees will act upon proposed revisions to this Code after receiving recommendations from the Student Conduct Code Committee. As provisions of this Code are subject to periodic review and change, the most recent and current copy of this Code may be obtained through the University of Maine System website, the University of Maine System Vice Chancellor for Academic Affairs Office, or the student affairs office of each institution.

Anyone who wishes to request assistance in accessing the information in this Code, may contact the ADA Coordinator at 207-581-1227, adacoordinator@maine.edu, or TTY 711 (Maine Relay System).

Revised by the Student Conduct Code Review Board and accepted by the Board of Trustees, July 26, 2021

Effective Date: August 1, 2021

UNIVERSITY OF MAINE SYSTEM STUDENT CONDUCT CODE

Effective Date: July 26, 2021

Revised by the Student Conduct Code Committee
and
Approved by the Board of Trustees, X Date, 2021

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UNIVERSITY OF MAINE SYSTEM STUDENT CONDUCT CODE

POLICY STATEMENT

The purpose of this University of Maine System Student Conduct Code (this "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 and the individual university campuses and the University of Maine School of Law. This Code seeks to promote the safety of persons engaging in those pursuits, the free and peaceful expression of ideas, and the integrity of academic processes.

Students are expected to conduct themselves with proper regard for their rights and responsibilities, and the rights and responsibilities of others including 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 campus organizations may refer to: University Policies and Procedures; campus student handbooks; campus residence hall agreements and manuals; and other official University 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 this Code or other applicable University policies, handbooks, catalogs, or standards.

In addition to the procedures described in this Code, using fair, objective decision-making processes, the University may implement administrative de-escalation and alternative resolution measures to resolve issues that arise within the University community.

What constitutes an offense and what sanctions may be imposed will be decided using the Student Conduct Code in effect at the time of the offense. With regard to the procedures applicable to the resolution of any alleged offense, the Code procedures in effect at the time of the report will apply to resolution of incidents, regardless of whether the incidents occurred on or off campus, and regardless of when the incident occurred.

If applicable law or regulation changes in a way that impacts this Code, this Code will be construed to comply with applicable law and regulation in its most recent form.

In the implementation of this Code, the University seeks to function in an administrative manner grounded in our educational mission with an emphasis on fundamental fairness, due process, personal responsibilities, and community relationships.

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, gender identity, 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.

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 Conduct Officer. The Conduct 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 Conduct Officer to make a determination.

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 are welcome to contact a Conduct Officer at the university; this may be either the Conduct Officer handling a particular matter or another Student Conduct Officer. If questions or concerns about the Code or the way this Code is being applied remain unresolved following this, the student may contact the Conduct Officer's supervisor or the Director of Student Success Initiatives and UMS Coordinator of Student Conduct. If questions or concerns remain unresolved following this, students may contact the Vice Chancellor for Academic Affairs.

Various timeframes, including for response and submission of information and documents, are outlined throughout this Code. If, at any time, a student would like to request an update or additional information about a particular matter under review, the student may contact the Campus Authority handling the matter.

1. JURISDICTION

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

The University has jurisdiction when the Responding Party is any of the following:

- i. Any person accepted, registered, or enrolled in any course or program offered by the University, including distance courses and who have not been absent from the University greater than one (1) calendar year; or
- ii. Any student currently on probation or currently suspended from the University; or
- iii. Any University recognized student organization, or any student organization not currently recognized, but currently under University probation or suspension.

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.

(NB: Students who have not graduated nor been dismissed, but who have been absent from the University greater than one (1) calendar year, are not covered by this Code as noted in Section 1(A)(i).)

C. This Code may be applied in cases of conduct when the alleged incident occurs:

- i. On any campus of the University, or involves University Property; or
- ii. At an activity pursued under the auspices of the University; or
- iii. In a 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 educational process; or
 - b. Legitimate function of the University; or
 - c. The health or safety of any individual.

D. It is at the University's discretion to determine whether Jurisdiction applies. In general, Jurisdiction is determined on the date of the alleged incident or date of the relevant nexus of events.

2. DEFINITIONS

- A. **Advisor:** A person who is available to advise or support any party involved in any matter governed by this Code. An advisor may not serve as a witness or a participant in the hearing. Examples of advisors include, but are not limited to, family members, friends, University Employees, and attorneys.
- B. **Appeal Panel:** A panel that hears appeals from the Conduct Officer Hearing or the Hearing Board hearing, described in Section 8.
- C. **Campus Authorities:** Includes, but is not limited to, any campus police or security staff, investigator, Conduct Officer, Hearing Board, Appeal Panel, or Presidential Appeal Panel members.
- D. **Conduct Officer:** Individual appointed by the University to address alleged violations of this Code.
- E. **Conduct Officer Hearing:** A hearing before the Conduct Officer to determine if a Responding Party has violated any section(s) of this Code.
- F. **Consent:** An individual's voluntary agreement to engage in specific sexual acts with another person.
 - i. 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.
 - ii. Consent may be withdrawn at any time and when outwardly communicated that consent is withdrawn sexual activity must cease.
 - iii. Silence, passivity, or absence of resistance, in and of itself, cannot be interpreted as consent.
 - iv. 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.
 - v. 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.
 - vi. Consent to engage in one form of sexual activity does not imply consent to engage in any other sexual activity.
 - vii. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with any other person.
 - viii. There is no consent when the exchange involves unwanted physical force, coercion, intimidation and/or threats.
 - ix. 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 the Reasonable Person, there is no consent. This includes conditions resulting from voluntary alcohol or drug consumption, being asleep, or unconscious when the Responding Party takes advantage of the other party's incapacitation. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.
 - x. 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.
 - xi. In evaluating whether consent was given, consideration will be given to the totality of the facts and circumstances, including but not limited to 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; 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 whether there are any circumstances, known or reasonably apparent to the Responding Party, demonstrating incapacitation or lack of consent.
- G. **Formal Investigation:** The process described in Section 5(J).
- H. **Incapacitation:** An individual who is incapacitated lacks the ability to make informed judgments and cannot consent to sexual contact. Incapacitation is the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Mentally helpless means a person is rendered temporarily incapable of appraising or controlling one's own conduct. Physically helpless means a person is physically unable to verbally or otherwise communicate consent or unwillingness to an act. Where alcohol or other drugs are involved, incapacitation is

a state beyond impairment or intoxication. 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.

- I. **Interim Measures or Actions:** The process described in Section 5(G).
- J. **Notice:** Notice 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 current student's or University Employee email account with confirmation of receipt, or at the University's discretion, another method requested by a Party. Students are expected to regularly monitor their official University email account.
- K. **Party(ies):** May refer to the Reporting Party(ies), Responding Party(ies), or both Parties collectively.
- L. **Preliminary Inquiry:** The process described in Section 5(C).
- M. **Preponderance of the Evidence:** A standard that requires a fact or event to have more likely than not to have occurred, e.g., a greater than fifty percent (50%) chance.
- N. **Presidential Appeal Panel:** A panel that hears appeals from the Appeal Panel as described in Section 9.
- O. **Reasonable Person:** A standard that reflects what a reasonable sober person in the same or similar circumstance would do.
- P. **Reporting Party:** A person who alleges harm or a policy violation under this Code by a person, a student, or student organization as defined in Section 1(A)(i). In cases of Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, or Discrimination, or Harassment, the words "Reporting Party" shall refer only to the person who has been allegedly harmed by the alleged misconduct. 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:** A person, a student, or student organization as defined in Section 1(A)(i), that has been alleged to have violated this Code, is under Formal Investigation, or has been charged with a violation of this Code.
- R. **Hearing Board:** A Board that hears cases of alleged violations of this Code as described in Section 7.
- S. **University Employee:** Employees, including faculty, staff, students, Board of Trustees, volunteers, and agents of the University.
- T. **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; University of Maine at Presque Isle; University of Southern Maine; University of Maine School of Law and all University Property.
- U. **University Property:** Includes, but is not limited to, any Real or Personal Property owned, held, rented, licensed, chartered, or at the University's discretion, Real or Personal Property otherwise engaged by the University in any manner or by University Employees or campus organizations as a direct result of and in connection with their service to the University.
 - i. Real Property: Land, buildings, fixtures, improvements, and any interests therein.
 - ii. Personal Property: All property, other than real property, and any interests therein.
- V. **Violent Crime:** As described in Family Educational Rights and Privacy Act (FERPA).

3. VIOLATIONS

Violations are conduct which contravenes this Code and directly and significantly interfere with the University's primary educational responsibility or other responsibilities to the University community.

Disciplinary action taken under this Code is independent of the awarding of grades (an academic matter), and provisions of this Code cannot be used for changing awarded grades. 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 violations may be defined by other documents, for example, residence hall contracts, student handbooks, or codes of conduct specific to certain courses of study or majors.

The following violations are provided to give persons, students, and student organizations notice that such conduct or attempted conduct is prohibited.

A. Academic Misconduct

- i. **Plagiarism:** The submission of another's work as one's own, without adequate attribution. Plagiarism is academic theft.
- ii. **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.
- iii. **Fabrication:** The use of invented information or the falsification of research or other findings in an academic exercise.
- iv. **Contributing to academic dishonesty:** Assisting another person's, student's, or student organization's academic dishonesty.
- v. **Other forms of dishonest academic conduct:** Any actions by which one seeks an unfair academic advantage over others.
- vi. **Violation of UMS Academic Integrity Policy**

B. Disruption of University Operations

- i. **Causing a Disturbance:** Disturbance resulting in substantial disruption of University activities.
- ii. **Failure to Comply with Sanction:** Failure to comply with a sanction imposed under this Code.
- iii. **Failure to Identify:** Failing to accurately identify oneself to a University Employee performing their official duties.
- iv. **Interference with Code Enforcement:** Interference with a Reporting Party, Responding Party, witness, investigation or the carrying out of procedures defined in this Code.
- v. **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 their official duties.
- vi. **Supplying False Information:** Knowingly supplying false information to University Employees in pursuit of their official duties or to a Hearing Board, Appeal Panel, or Presidential Appeal Panel, in the course of a disciplinary proceeding, or knowingly causing false information to be thus supplied.
- vii. **Unauthorized Representation:** Unauthorized representation of the University or University Employee(s).
- viii. **Violation of Residence Hall Contract**
- ix. **Violation of Student Activity Regulations:** Violation of a University regulation, policy, standard of conduct, or code of ethics.

C. Health & Safety Violations

- i. **Creating a Dangerous Condition**
- ii. **False Reporting of Dangerous Conditions**
- iii. **Endangering Health or Safety**
- iv. **Violation of Health or Safety Policies**
- v. **Illegal Possession, Use, or Sale of Drugs**
- vi. **Interference with Safety Equipment or Alarms**
- vii. **Restricting Traffic Flow**
- viii. **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.
- ix. **Violation of UMS or Campus Alcohol, Drug, or Tobacco and Smoke Free Policies**
- x. **Violation of UMS or Campus Weapons Policies**

D. Offenses Involving Other People

- i. **Assault:** Intentionally, knowingly, or recklessly causing bodily injury or offensive physical contact to another person.
- ii. **Causing Fear of Physical Harm:** Intentionally or knowingly places another person in fear of imminent bodily injury.
- iii. **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).

- iv. **Discrimination:** Discrimination based on actual or perceived race, color, religion, sex, sexual orientation, transgender status, gender expression, national origin, citizenship status, age, disability, genetic information, or veterans status.
- v. **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.

All forms of domestic violence prohibited by applicable law are also included (for example, Domestic Violence Assault, Domestic Violence Criminal Threatening, Domestic Violence Terrorizing, Domestic Violence Stalking, and Domestic Violence Reckless Conduct)

- vi. **Gender Discrimination:** Discriminating against an individual on the basis of that individual's gender, gender identity, or gender expression.
- vii. **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 (including pregnancy), sexual orientation, gender identity, gender expression, national origin, citizenship status, age, disability, genetic information, or veterans status.
- viii. **Hazing:** Any action or situation, including harassing behavior, that recklessly or intentionally endangers the mental or physical health of any University Employee 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.
- ix. **Interference with Residential Life:** Significant interference with the normal residential life of others.
- x. **Intimidation:** Intentionally or knowingly places another person in fear of imminent bodily injury.
- xi. **Invasion of Privacy:** The violation of another individual's reasonable expectation of privacy where the circumstances justify that expectation.
- xii. **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.
- xiii. **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.
- xiv. **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 their age or because of their 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 applicable law are also included. (For example, gross sexual assault, unlawful sexual contact, incest, sexual abuse of minors)

- xv. **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.

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.

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; 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.
- xvi. **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 STD 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, Revenge Porn and Sex Trafficking).

- xvii. **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 applicable law are also included.

- xviii. **Unauthorized Recording:** In general, the unauthorized recording of overall 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

- i. **Defacement, Destruction, or Misuse of Property:** Intentionally, knowingly or recklessly misuses, tampers with, damages, destroys, or defaces University Property or the property of others without appropriate authorization.
- ii. **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, uses prohibited by state or federal law, including but not limited to possession or distribution of child pornography.
- iii. **Tampering, Destruction, or Falsification of Official Records**
- iv. **Theft or Unauthorized Use:** Theft, attempted theft, or unauthorized acquisition, removal, distribution, or use of University Property or the property of another.
- v. **Trespassing:** Trespassing or unauthorized presence on University Property or the property of another.
- vi. **Violation of Campus Motor Vehicle Policies or Parking Regulations**

F. General Infractions

- i. **Aiding Infraction:** Knowingly assisting in a Code violation.
- ii. **Continued Infraction:** Continued infractions of this Code.
- iii. **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.
- iv. **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.
- v. **Other Illegal Activity:** Violating any applicable law (e.g., local, state, or federal).

4. SANCTIONS

If a Responding Party admits to a violation of this Code to the Investigator, Conduct Officer, Hearing Board, Appeal Panel, or Presidential Appeal Panel; or upon determination by the Conduct Officer, Hearing Board, Appeal Panel, or Presidential Appeal Panel that a Responding Party has been found in violation of this Code, one or more of the sanctions found in Board of Trustees Section 402 Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation and Title IX Sexual Harassment Policy in Board of Trustees Section 402 Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation and Title IX Sexual Harassment Policy include:

- A. **Assigned Educational Project(s):** This may include educational programming, research projects, reflective essays, presentations, or other related assignments intended to promote learning.
- B. **Community Service**
- C. **Disciplinary Dismissal:** Permanent separation (subject to a right of review after five years) from the University.
 - i. 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 the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee to be considered for readmission to attend any of the University campuses. The Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee will convene a committee. This committee may draw on the membership of existing committees (such as the Justice Education Development Implementation team); this committee should include representation from any involved university campuses. Reviews of such requests should take into account that for external applicants, the University no longer reviews criminal or judicial history.
 - ii. Responding Parties who have been found responsible for a Violent Crime or Sexual Assault and who request an official transcript for the University, will have a letter attached to their official transcript describing the dismissal. After five (5) years from the date of the dismissal, the Responding Party may submit a written request to the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee to have the letter attached to their official transcript be removed. The Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee will convene a committee. This committee may draw on the membership of existing committees (such as the Justice Education Development Implementation team); this committee should include representation from any involved university campuses. Reviews of such requests should take into account that for external applicants, the University no longer reviews criminal or judicial history.
- D. **Disciplinary Probation:** A specified period of time when any further violation may result in additional sanctions, up to and including dismissal from the University.
- E. **Disciplinary Suspension:** Separation from the University for a specific period of time or until a stated condition(s) is met.
 - i. Responding Parties who are suspended will not be permitted to attend any of the University campuses or attend any University functions until all conditions of the suspension are met and the suspension period has ended.
 - ii. Responding Parties who have been found responsible for a Violent Crime or Sexual Assault and who request an official transcript for the University, will have a letter attached to their official transcript describing the suspension. After all conditions of the suspension are met and the suspension period has ended the letter describing the suspension will no longer be attached to the official transcript.
- F. **Loss of Contact with a Specific Person(s):** Responding Parties may not initiate direct or indirect contact with a specified person(s).
- G. **Official Warning:** Formal acknowledgment of a violation and the expectation that it will not be repeated.
- H. **Mandatory Counseling**
- I. **Reassignment, Suspension, or Removal from University Housing**
- J. **Restitution:** Reimbursement to the owner of up to the replacement value of the property damaged, stolen, removed, or used without authority.

K. Other action(s) as the Conduct Officer, Appeal Panel or Presidential Appeal Panel may reasonably deem appropriate, examples include but are not limited to:

- i. Suspension of an organization's official campus recognition.
- ii. Suspension of a student from extracurricular activity(ies).
- iii. Suspension of guest privileges.
- iv. Termination from student employment.
- v. Academic degree revocation.
- vi. Loss of visitation privileges to designated area(s) of any University Property.
- vii. Monetary fine for recognized student organizations.

NOTE: The University may choose to defer sanctions on a case by case basis as circumstances warrant.

The University may impose a more severe sanction on a Responding Party when the Conduct 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, color, religion, sex, sexual orientation, gender identity, gender expression, national origin, citizenship status, age, disability, genetic information, or veterans status of that person, or the persons in the organization or the owner of the property.

5. PROCEDURES

An enrolled student may not graduate if they have 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, 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.

As applicable and appropriate, prior to any interim measures or actions, sanctions, or as appropriate other action being taken under this Code, an individualized risk and safety assessment should be conducted to determine whether there is a reasonably foreseeable significant risk to others, or significant risk of self-harm. As applicable and appropriate, the Student Risk Assessment and Safety Intervention Policy should be utilized.

A. Reporting Violations

- i. Alleged violations of this Code may be brought to the attention of the University by University Employees, students, or members of the general public and will result in the initiation of a Preliminary Inquiry.
- ii. Reports may be made anonymously however anonymous reporting may limit the ability to investigate and respond.
- iii. Reports of Gender Discrimination (including Sexual Harassment, Dating Violence, Domestic Violence, Sexual Assault, or Stalking; Gender Discrimination may also include certain types of Discrimination and Harassment) are required to be reported directly to the University's Title IX Coordinator or Deputy Coordinator as described in Board of Trustees Section 402 Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation and Title IX Sexual Harassment Policy.

B. Notice to Reporting Party: The Reporting Party will be notified that their report has been received and follow up will occur consistent with UMS policies and procedures.

C. PRELIMINARY INQUIRY

- i. Reports of alleged violations of this Code will result in the initiation of a Preliminary Inquiry. A Preliminary Inquiry will determine whether there is sufficient information to proceed under this Code. **Before interviewing or questioning of the Parties occurs, Notice must be provided as stated in Section 5(l), 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.**
- ii. Notice Following Preliminary Inquiry

a. Upon the conclusion of the Preliminary Inquiry, the Responding Party, will be provided Notice of whether:

- (1) Any charge(s) will be filed and if so, what charge(s) will be filed.
- (2) A Formal Investigation will commence.
- (3) An Alternative Resolution is an option.
- (4) An Administrative Resolution is an option.
- (5) Any Interim Measure(s) or Action(s) will be implemented.

b. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment all Parties will be provided Notice simultaneously.

D. Conflicts of Interest: Each Conduct 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 Conduct Officer, the Conduct Officer will refer the matter to another Conduct Officer. If any member of the Committee or Review panel has a conflict of interest, an alternate will be appointed. Any individual, including a Party, has the right to raise any potential conflict of interest concerns with the Conduct Officer or the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or the Designee of Director of Student Success Initiatives and UMS Coordinator of Student Conduct.

E. Alternative Resolution

Alternative resolution processes such as conflict coaching, mediation, facilitated dialogue, and restorative justice allow individuals involved in a conflict to have significant influence over the resolution process and any outcome.

If (1) all persons personally and directly affected by the conduct matter under this Code agree to attempt resolution through one of these processes; and (2) the Conduct Officer believes that the process is an appropriate form of resolution, then the Conduct Officer will make arrangements for the chosen alternative resolution pathway. The nature of some conduct matters, for instance those involving violence, are not suitable for alternative resolution.

Participation in an alternative resolution process is voluntary and may or may not result in an agreement or resolution. When a mutually satisfactory resolution is reached by the Parties, the case is resolved and Parties are encouraged to use the Conduct Officer as a resource for future questions. Resolutions reached through alternative resolution are not permitted to be appealed.

If resolution is not achieved through an attempt at alternative resolution, including if resolution is not sustained following an alternative resolution agreement, the Parties retain their right to pursue formal resolution through processes outlined elsewhere in this Code.

F. ADMINISTRATIVE RESOLUTION

- i. At the Conduct Officer's sole discretion and consistent with other requirements of this Code, a conduct matter may be resolved through Administrative Resolution.
- ii. An Administrative Resolution may only be used when the conduct matter involves the following: facts are not in dispute; a University Employee directly observed the conduct violation; and the violation is a minor conduct violation (for example, noise, minor alcohol infractions).
- iii. If a student objects to use of an Administrative Resolution, the student may request a formal review and the University will proceed with a Formal Investigation under this Code.
- iv. All Administrative Resolutions must be resolved within 30 days. This timeframe does not include the time required for any resultant sanctions to be completed.

G. INTERIM MEASURES OR ACTIONS

- i. A Responding Party may have privileges suspended 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 to 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.
 - ii. Interim Measure(s) or Action(s), including but not limited to: interim suspensions; University Property usage restrictions; University account holds; and academic degree holds, will be implemented with the goal of mitigating negative impact on the Parties while maintaining the safety of the University community and integrity of the investigation.
 - iii. Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, a Responding Party who has been issued an Interim Measure(s) or Action(s) will receive notice of the basis for the Interim Measure(s) or Action(s) and may seek a review hearing of that decision prior to the Interim Measure(s) or Action(s) being imposed. The review hearing will be conducted by a University Employee appointed by the university President or the Dean of the University of Maine School of Law. This review hearing will entail questioning of the Parties, and reviewing information that may be relevant to the determination of whether Interim Measure(s) or Action(s) would be appropriate under the circumstances. If a review hearing is requested, the University Employee appointed by the university President the Dean of the University of Maine School of Law will conduct the review and issue a decision within five (5) business days. If extenuating circumstances exist that preclude the Conduct Officer Hearing from occurring within five (5) business days, an update will be provided indicating the estimated timeframe for the hearing.
 - iv. If there is substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Interim Measure(s) or Action(s) may be imposed immediately. In such cases, the Responding Party will be provided notice of the basis for the Interim Measure(s) or Action(s) and notice of the date of the review hearing, which will occur within three (3) business days of the decision. If extenuating circumstances exist that preclude the Conduct Officer Hearing from occurring within three (3) business days, an update will be provided indicating the estimated timeframe for the hearing.
- H. Notice of Interim Measures or Actions**
- i. The Responding Party will be provided Notice of:
 - a. Any Interim Measure(s) or Action(s) that will be implemented.
 - b. Their right of review as described in Section 5(G)(iii-iv).
 - ii. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment, all Parties will be provided Notice simultaneously.
- I. NOTICE OF FORMAL INVESTIGATION**
- i. Prior to commencement of a Formal Investigation, the Conduct Officer will provide written Notice to the Responding Party.
 - ii. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment all Parties will be provided Notice simultaneously.
 - iii. Notice will include the following:
 - a. Alleged Code violation(s) and a description of the alleged conduct constituting each alleged violation:
 - (1) Reporting Party; and
 - (2) Location(s) of alleged conduct; and
 - (3) Date(s) of alleged conduct; and
 - (4) Right to have an Advisor present; and
 - (5) The name of the investigator; and
 - (6) The procedures that will be used to address the alleged Code violation(s); and
 - (7) Maximum possible sanction(s) which may be imposed; and
 - b. Any right of appeal for any Responding Party; and
 - c. Any right of appeal for any Responding Party and any Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment.
- J. FORMAL INVESTIGATION**

- i. Upon the Conduct Officer's decision to commence a Formal Investigation, the Conduct Officer will initiate the investigation or assign it to a trained investigator, who may be internal or external, as soon as reasonably practicable but at least within three (3) business days.
 - ii. The University may, where appropriate, temporarily delay its investigation when criminal charges on the basis of the same conduct are being investigated.
 - iii. Investigations should follow applicable standards, including with regard to objectivity, reliability, thoroughness, impartiality, timeliness, and fairness.
 - iv. In general, investigations should entail interviews with relevant parties and witnesses, obtaining and reviewing available evidence, and identifying sources of expert information, as applicable.
 - v. The Conduct Officer 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, Stalking, Discrimination, or Harassment) throughout the investigation, as appropriate. Such regular updates should occur at least every 30 calendar days.
 - vi. While investigation times may vary, in general, formal investigations should be completed within 90 calendar days. If a Formal investigation is going to take longer than 90 calendar days, an update will be provided indicating the estimated timeframe for completion of the investigation. Such updates will be provided 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, Discrimination, or Harassment).
- K. Determination of Hearing Format**
- i. There are two (2) hearing formats under this Code.
 - a. Conduct Officer Hearing
 - b. Hearing Board Hearing
 - ii. The hearing format should be chosen based on the complexity of the matter, the impact to the Parties and the community, the severity of likely sanctions, and other relevant circumstances.
 - iii. In general, Conduct Officer Hearing should be considered when:
 - a. Facts are less complex.
 - b. Alleged violation(s) are anticipated to have lower impact to the Parties and the community.
 - iv. In general, Hearing Board Hearing should be considered when:
 - a. Facts are more complex.
 - b. A diversity of opinions is important to a fair outcome.
 - c. Alleged violation(s) are anticipated to have higher impact to the Parties and the community. For example cases which could reasonably result in suspension, dismissal, or removal from housing.
 - v. A Hearing Board Hearing is required for Code violations involving:
 - a. Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment.
 - b. Serious physical, emotional, or psychological harm or the threat thereof.
- L. Notice Following Formal Investigation**
- i. Upon the conclusion of the Formal Investigation, the Responding Party, will be provided Notice of whether:
 - a. Any charge(s) will be filed and if so, what charge(s) will be filed.
 - b. A hearing before a Conduct Officer will occur.
 - c. A hearing before a Hearing Board will occur.
 - d. An Informal Resolution may be pursued.
 - ii. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment all Parties will be provided Notice.
 - iii. If no charges are being brought at the conclusion of the Formal Investigation, the Conduct Officer will provide such notification to the Responding Party. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment, the Parties will receive simultaneous notification of the Conduct Officer's decision not to bring charges and both the Parties will be notified of the right to appeal to the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee.

HEARINGS

6. CONDUCT OFFICER HEARING

A. Notice of Conduct Officer Hearing

- i. If any Code violation(s) are being filed, the Conduct Officer will provide written Notice within ten (10) business days from the conclusion of the Formal Investigation to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment).
 - ii. Notice will include the following:
 - a. Code violation(s) and a description of the alleged conduct constituting each violation; and
 - b. Reporting Party(ies); and
 - c. Date(s) of alleged conduct; and
 - d. Right to have an Advisor of their choice present; and
 - e. Right to review the information that will be used by the Conduct Officer during the Conduct Officer Hearing; and
 - f. Date and time of the Conduct Officer Hearing; and
 - g. Name of the Conduct Officer; and
 - h. Names of witnesses request to appear by the Hearing Board; and
 - i. The procedures that will be used; and
 - j. Maximum possible sanction(s) which may be imposed.
- B. TIMEFRAME OF HEARING:** The Conduct Officer hearing is required to be held not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Conduct Officer Hearing. If extenuating circumstances exist that preclude the Conduct Officer Hearing from occurring within fourteen (14) business days, an update will be provided indicating the estimated timeframe for the hearing.
- C.** If a Party is unable to attend the Conduct Officer Hearing related to the constraints of a legal process (for example, a protective order or a no contact order) or is unable to attend related to concerns about trauma or future violence then the Party will be provided alternative means of participation consistent with applicable law.
- D.** If any Party is not present at the time of the Conduct Officer Hearing, the Conduct Officer may, taking into account, concerns with health and safety, timeliness of the process, and the reason for a Party's absence, and taking into account the totality of the circumstances:
- i. Proceed in a normal manner without a 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.

The Conduct Officer may not rely solely on the absence of any Party in determining the outcome of the matter.

- E.** The Responding Party may be accompanied by an Advisor of their choice 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 Conduct Officer.
- i. The Conduct Officer should hear and consider as evidence relevant information.
 - ii. The Conduct Officer should not consider 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.
 - iii. If the Conduct Officer is aware that a criminal prosecution relating to the same violation(s) is being conducted, or such action appears likely, then independent of the hearing, the Conduct Officer will notify the Responding Party in advance of the Responding Party's right to remain silent. The Conduct Officer will draw no negative inference from the Responding Party's silence including the refusal to give information or consent to a search.

- iv. The Conduct Officer will make arrangements for recording the hearing. No recording in any form, other than the one made by the University, is permitted. Conduct Officer hearing proceedings are considered confidential unless otherwise indicated by law.
- v. Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of the Conduct Officer by submitting written notice to the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee stating the grounds for the removal at least five (5) business days prior to the scheduled hearing. Removal of Conduct Officer for demonstrated bias or conflict of interest will be within the authority and at the discretion of the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee.
- vi. The names of Parties' witnesses, written statements, or other information should be submitted to the Conduct Officer at least two (2) business days prior to the hearing for inclusion in the materials presented to the Conduct Officer. The Parties may submit additional: names of witnesses; written statements; or other information at the time of the hearing.

F. Conduct Officer Hearing Procedures

- i. Responsibility for recognizing and permitting persons to speak is the exclusive purview of the Conduct Officer.
- ii. Persons disruptive at any stage of the hearing may be asked to leave at the discretion of the Conduct Officer.
- iii. The Parties will each have the opportunity to make an opening statement.
- iv. The Investigator will present the results of the investigation.
- v. The Conduct Officer may ask questions of any witnesses and the Parties.
- vi. The Parties may pose questions to each other and to any witnesses through the Conduct Officer. The Conduct Officer will ask the witness or other Party the question posed if the Conduct Officer determines the question is relevant and appropriate.
- vii. Questioning by any Advisor or support person is not permitted.
- viii. The Parties will each have the opportunity to make a closing statement, which may include recommendations regarding appropriate sanctions.
- ix. Using the Preponderance of the Evidence standard, the Conduct Officer will determine if the Responding Party has violated this Code or has not violated this Code.
- x. If the Responding Party has not violated this Code, the case will be dismissed.
- xi. If the Responding Party has violated this Code, the Conduct Officer will impose appropriate sanction(s).

G. NOTICE OF CONDUCT OFFICER HEARING OUTCOME

- i. The Conduct Officer will provide written Notice to the Responding Party.
- ii. Notice will include:
 - a. The outcome; and
 - b. The reasoning and facts that support the outcome; and
 - c. Any sanction(s) imposed; and
 - d. Any right of appeal.
- iii. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:
 - a. The outcome; and
 - b. The reasoning and facts that support the outcome; and
 - c. Any sanction(s) imposed; and
 - d. Any right of appeal.
- iv. If the alleged violation Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive simultaneous written Notice of:
 - a. The outcome and any sanctions that directly relate to the Reporting Party; and
 - b. Any right of appeal.
- v. In a case of a Violent Crime other than those listed above, 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.

Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Sanctions will take effect only after all University appeals are final or all University appeal periods have ended. Applicable threat assessment procedures should be utilized 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 Conduct Officer.

7. HEARING BOARD

A. NOTICE OF HEARING BEFORE THE HEARING BOARD

- i. If any Code violation(s) are being filed, the Hearing Board Chair will provide written Notice within ten (10) business days from the conclusion of the Formal Investigation to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment).
- ii. Notice will include the following:
 - a. Code violation(s) and a description of the alleged conduct constituting each violation.
 - b. Reporting Party(ies).
 - c. Date(s) of alleged conduct.
 - d. Right to have an Advisor of their choice present.
 - e. Right to review the information that will be used by the Hearing Board during the Hearing Board.
 - f. Date and time of the Hearing Board.
 - g. Names of the Hearing Board members.
 - h. Names of witnesses request to appear by the Hearing Board.
 - i. The procedures that will be used.
 - j. Maximum possible sanction(s) which may be imposed.

B. HEARING BOARD COMPOSITION

- i. The Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee is responsible for appointing the Hearing Board.
 - ii. The Hearing Board is comprised of at least three (3), five (5), or seven (7) members 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.
 - iii. All members will be required to sign a conflict of interest form for each hearing. All members are required to avoid both apparent and real conflicts of interest. Any Hearing Board member who has a potential conflict of interest or feels that they are unable to render an unbiased decision is required to decline assignment to the Hearing Board.
 - iv. The composition of the Hearing Board will represent the diversity of the University community whenever reasonably practicable.
 - v. Hearing Board alternate members will be appointed as applicable and appropriate.
- C. TIMEFRAME OF HEARING:** The Hearing Board hearing is required be held not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Hearing Board Hearing. If extenuating circumstances exist that preclude the Conduct Officer Hearing from occurring within fourteen (14) business days, an update will be provided indicating the estimated timeframe for the hearing. Such updates will be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment).
- D. If a Party is unable to attend the Conduct Officer Hearing related to the constraints of a legal process (for example, a protective order or a no contact order) or is unable to attend related to concerns about trauma or future violence then the Party will be provided alternative means of participation consistent with applicable law.
 - E. If any Party is not present at the time of the Hearing, the Hearing Board Chair may, taking into account, concerns with health and safety, timeliness of the process, and the reason for a Party's absence, and taking into account the totality of the circumstances:
 - i. Proceed in a normal manner without a 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.

The Hearing Board may not rely solely on the absence of any Party in determining the outcome of the matter.

- F. The Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment), may be accompanied by an Advisor of their choice 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 Hearing Board Chair.
- G. The Hearing Board should hear and consider as evidence relevant information.
- H. The Hearing Board should not consider 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.
- I. If the Hearing Board is aware that a criminal prosecution relating to the same violation(s) is being conducted, or such action appears likely, then independent of the hearing, the Hearing Board Chair will notify the Responding Party in advance of the Responding Party's right to remain silent. The Hearing Board will draw no negative inference from the Responding Party's silence including the refusal to give information or consent to a search.
- J. The Hearing Board Chair will make arrangements for recording the hearing. No recording in any form, other than the one made by the University, is permitted. Hearing Board proceedings are considered confidential unless otherwise indicated by law.
- K. Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of any Hearing Board member by submitting written notice to the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee stating the grounds for the removal at least five (5) business days prior to the scheduled hearing. Removal of Hearing Board members for demonstrated bias or conflict of interest will be within the authority and at the discretion of the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee.
- L. The names of Parties' witnesses, written statements, or other information should be submitted to the Hearing Board Chair at least two (2) business days prior to the hearing for inclusion in the materials presented to the Hearing Board. The Parties may submit additional: names of witnesses; written statements; or other information at the time of the hearing.
- M. Hearing Board Hearing Procedures**
 - i. Responsibility for recognizing and permitting persons to speak is the exclusive purview of the Hearing Board Chair.
 - ii. Persons disruptive at any stage of the hearing may be asked to leave at the discretion of the Hearing Board Chair.
 - iii. The Parties will each have the opportunity to make an opening statement.
 - iv. The Investigator will present the results of the investigation.
 - v. The Hearing Board may ask questions of any witnesses and the Parties.
 - vi. 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 other Party the question posed if the Hearing Board Chair determines the question is relevant and appropriate.
 - vii. Questioning by any Advisor or support person is not permitted.
 - viii. The Parties will each have the opportunity to make a closing statement, which may include recommendations regarding appropriate sanctions.
 - ix. After the closing statements, the Hearing Board will go into a closed session to determine whether the Responding Party has violated this Code. The closed session is not recorded.
 - x. Using the Preponderance of the Evidence standard, the Hearing Board will determine, by majority vote, if the Responding Party has violated this Code or has not violated this Code. If there is a tie vote, the Responding Party will be found to have not violated this Code.
 - xi. If the Responding Party has been found to have not violated this Code, the case will be dismissed. Such dismissal will not affect any appeal rights any Party may have.

- xii. If the Responding Party has been found to have violated this Code, the Hearing Board will impose appropriate sanction(s).

N. NOTICE OF HEARING BOARD OUTCOME

- i. The Hearing Board Chair will provide written Notice to the Responding Party.
- ii. Notice will include:
 - a. The outcome; and
 - b. The reasoning and facts that support the outcome; and
 - c. Any sanction(s) imposed; and
 - d. Any right of appeal (e.g. an Appeal Panel).
- iii. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:
 - a. The outcome; and
 - b. The reasoning and facts that support the outcome; and
 - c. Any sanction(s) imposed; and
 - d. Any right of appeal (e.g. an Appeal Panel).
- iv. If the alleged violation Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive simultaneous written Notice of:
 - a. The outcome and any sanctions that directly relate to the Reporting Party; and
 - b. Any right of appeal (e.g. an Appeal Panel).
- v. In a case of a Violent Crime other than those listed above, 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.

Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Sanctions will take effect only after all University appeals are final or all University appeal periods have ended. Applicable threat assessment procedures should be utilized 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 Conduct Officer.

APPEALS

8. APPEAL PANEL

- A. In the event the Conduct Officer or the Hearing Board imposes a sanction of suspension, dismissal, removal from University Housing, academic degree revocation, or loss of recognition of campus organizations, the Responding Party has a right to appeal any finding(s) or sanction(s) to an Appeal Panel. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment, both Parties have the right to appeal any finding(s) or sanction(s) to an Appeal Panel.
- B. **APPEAL PANEL COMPOSITION**
 - i. The Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee is responsible for appointing the Appeal Panel.
 - ii. The Appeal Panel is comprised of three (3) people consisting of:
 - a. A Appeal Panel chair who is either a faculty or staff member; and
 - b. One (1) enrolled student; and
 - c. One (1) Hearing Board member.
 - iii. All Appeal Panel members are required to have not had previous involvement with the current matter. All members will be required to sign a conflict of interest form for each hearing. All members are required to avoid both apparent and real conflicts of interest. Any Appeal Panel member who has a potential conflict of interest or feels that they are unable to render an unbiased decision is required to decline assignment to the Appeal Panel.
 - iv. The composition of the Appeal Panel will represent the diversity of the University community whenever reasonably practicable.
 - v. Appeal Panel alternate members will be appointed as applicable and appropriate.

- C. In cases of a review to an Appeal Panel, the Responding Party charged with the violation and authorized Campus Authorities may have access to the record for purposes of review relating to a request for appeal. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.
- D. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Reporting Party may have the same access to the recording as the Respondent. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination, or Harassment the Reporting Party may have access to the portions of the recording pertaining to the Reporting Party. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.
- E. Appeals must be:
 - i. In writing; and
 - ii. State the issue(s) to be reviewed based on at least one of the grounds for appeal listed below in Section 8(G); and
 - iii. Submitted to the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee within five (5) business days after the appealing Party has received written notice of the Conduct Officer or Hearing Board finding(s); and
 - iv. Not longer than ten (10) pages in length plus attachments.
- F. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment the appeal request will be shared with the other Party(ies). Such other Parties may file a response with the Appeal Panel within five (5) business days; this response will be shared with all Parties. Nothing in this Section precludes any Party from filing an appeal as detailed in Sections 8(A-E).
- G. **Grounds for Appeal:** The Appeal Panel is not intended to be a full rehearing (de novo) of the allegation(s). The appeal will be limited to the following grounds:
 - i. A substantive error, including a procedural error or omission, that substantially impacted the investigation or the outcome of the Conduct Officer or Hearing Board Hearing (for example, bias or failure to follow applicable procedures).
 - ii. To consider new evidence, not reasonably available during the investigation or Conduct Officer or Hearing Board hearing, that could impact the Conduct Officer or Hearing Board finding(s) or sanction(s). A summary of this new evidence and its potential impact must be included in the request for appeal.
 - iii. The sanction imposed is disproportionate to the severity of the violation, considering the totality of circumstances.
- H. Absent extenuating circumstances, the Conduct Officer or Hearing Board finding(s) and sanction(s) will stand if the request for appeal is not timely or is not based on the grounds listed above in Section 8(G). Extenuating circumstances are at the discretion of the University and will be determined by the Appeal Panel Chair in conjunction with the Office of General Counsel.
- I. **NOTICE OF APPEAL BEFORE THE APPEAL PANEL**
 - i. If an appeal is submitted consistent with parameters identified in Sections 8(A-E), the Appeal Panel Chair will provide written Notice within fifteen (15) business days from the finalized request for appeal; such Notice required to be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment).
 - ii. Notice will include the following:
 - a. The issue(s) to be reviewed and the ground(s) for appeal.
 - b. Right to review the information that will be used by the Appeal Panel.
 - c. Date and time of the initial Appeal Panel meeting.
 - d. Names of the Appeal Panel members.
 - e. The procedures that will be used.
 - f. Maximum possible sanction(s) which may be imposed.
- J. **TIMEFRAME OF APPEAL:** The Appeal Panel is required have an initial meeting not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Appeal. If

extenuating circumstances exist that preclude the initial Appeal Panel meeting from occurring within fourteen (14) business days, an update will be provided indicating the estimated timeframe for the hearing. Such updates will be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination or Harassment). Any Party may contact the Appeal Panel Chair for general updates on the process.

- K. Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of any Appeal Panel member by submitting written notice to the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee stating the grounds for the removal at least five (5) business days prior to the scheduled initial meeting. Removal of Appeal Panel members for demonstrated bias or conflict of interest will be within the authority and at the discretion of the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee.
- L. Functions of Appeal Panel:
 - i. Review the conduct matter file including but not limited to: the investigative report; Conduct Officer or Hearing Board files and recordings; and
 - ii. Review any new information provided; and
 - iii. Ask clarifying questions as applicable, including but not limited to, as appropriate, asking questions of: the Investigator; Conduct Officer; Hearing Board member; individuals who presented information to the Conduct Officer or Hearing Board, and other individuals who have information relevant to the process; and
 - iv. Make a determination based on the information reviewed. Determinations are based on majority vote.
- M. 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 investigation with a new or same investigator; or
 - iv. Remand to the same Conduct Officer or Hearing Board for a new hearing; or
 - v. Remand to a different Conduct Officer or Hearing Board for a new hearing.
- N. A remand to the same or a different Conduct Officer or Hearing Board is final and not subject to appeal.
- O. The Appeal Panel will provide Notice to the Parties of any determination(s).
- P. **NOTICE OF APPEAL PANEL OUTCOME**
 - i. The Appeal Panel Chair will provide written Notice to the Responding Party.
 - ii. Notice will include:
 - a. The outcome; and
 - b. The reasoning and facts that support the outcome; and
 - c. Any sanction(s) imposed; and
 - d. Any right of appeal (e.g. a Presidential Appeal Panel).
 - iii. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:
 - a. The outcome; and
 - b. The reasoning and facts that support the outcome; and
 - c. Any sanction(s) imposed; and
 - d. Any right of appeal (e.g. a Presidential Appeal Panel).
 - iv. If the alleged violation Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive simultaneous written Notice of:
 - a. The outcome and any sanctions that directly relate to the Reporting Party, and
 - b. Any right of appeal (e.g. a Presidential Appeal Panel).
 - v. In a case of a Violent Crime other than those listed above, 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.

Absent a substantial threat to health, safety, or well-being of the campus, individuals on campus, or the campus community, Sanctions will take effect only after all University appeals are final or all University appeal periods have ended. Applicable threat assessment procedures should be utilized 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 Conduct Officer.

9. PRESIDENTIAL APPEAL PANEL

- A. In the event the Appeal Panel imposes a sanction of suspension, dismissal, removal from University Housing, academic degree revocation, or loss of recognition of campus organizations, the Responding Party has a right to appeal any finding(s) or sanction(s) to a Presidential Appeal Panel. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment both Parties have the right to appeal any finding(s) or sanction(s) to a Presidential Panel.
- B. **PRESIDENTIAL APPEAL PANEL COMPOSITION**
 - i. Each university President or the Dean of the University of Maine School of Law is responsible for appointing the Presidential Appeal Panel.
 - ii. The Presidential Appeal Panel is comprised of three (3) people consisting of:
 - a. Presidential Appeal Panel Chair who is either a faculty or staff member; and
 - b. One (1) enrolled student; and
 - c. One (1) UMS System Office Employee.
 - iii. All Presidential Appeal Panel members are required to have not had previous involvement with the current matter. All members will be required to sign a conflict of interest form for each hearing. All members are required to avoid both apparent and real conflicts of interest. Any Presidential Appeal Panel member who has a potential conflict of interest or feels that they are unable to render an unbiased decision is required to decline assignment to the Presidential Appeal Panel.
 - iv. The composition of the Presidential Appeal Panel will represent the diversity of the University community whenever reasonably practicable.
 - v. Presidential Appeal Panel alternate members will be appointed as applicable and appropriate.
- C. In cases of a review to a Presidential Appeal Panel, the Responding Party charged with the violation and authorized Campus Authorities may have access to the record for purposes of review relating to a request for appeal. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.
- D. If the alleged violation is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Reporting Party may have the same access to the recording as the Respondent. If the alleged violation is Gender Discrimination, Sexual Harassment, Discrimination or Harassment the Reporting Party may have access to the portions of the recording pertaining to the Reporting Party. The Advisor may have access to the same information as the Party they are advising, provided the Party has given appropriate authorization.
- E. Presidential Appeals must be:
 - i. In writing; and
 - ii. State the issue(s) to be reviewed based on at least one of the grounds for appeal listed below in Section 9(G), and
 - iii. Submitted to the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee within five (5) business days after the appealing Party has received written notice of the Appeal Panel finding(s) and
 - iv. Not longer than ten (10) pages in length plus attachments.
- F. If the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment the appeal request will be shared with the other Party(ies). Such other Parties may file a response with the Appeal Panel within five (5) business days; this response will be shared with all Parties. Nothing in this Section precludes any Party from filing an appeal as detailed in Sections 9(A-E).
- G. **Grounds for Appeal:** The Presidential Appeal Panel is not intended to be a full rehearing (de novo) of the allegation(s). The appeal will be limited to the following grounds:
 - i. A substantive error, including a procedural error or omission, that substantially impacted the investigation or the outcome of the Conduct Officer or Hearing Board Hearing (for example, bias or failure to follow applicable procedures).
 - ii. To consider new evidence, not reasonably available during the investigation or Conduct Officer or Hearing Board hearing, that could impact the Conduct Officer or Hearing Board finding(s) or

- sanction(s). A summary of this new evidence and its potential impact must be included in the request for appeal.
- iii. The sanction imposed is disproportionate to the severity of the violation, considering the totality of circumstances.
- H. Absent extenuating circumstances, the Conduct Officer, Hearing Board, or Appeal Panel finding(s) and sanction(s) will stand if the request for appeal is not timely or is not based on the grounds listed above in Section 9(G). Extenuating circumstances are at the discretion of the University and will be determined by the Presidential Appeal Panel Chair in conjunction with the Office of General Counsel.
- I. **NOTICE OF APPEAL BEFORE THE PRESIDENTIAL APPEAL PANEL**
- i. If an appeal is submitted consistent with parameters identified in Sections 9(A-E), the Presidential Appeal Panel Chair will provide written Notice within fifteen (15) business days from the finalized request for appeal; such Notice required to be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment).
 - ii. Notice will include the following:
 - a. The issue(s) to be reviewed and the ground(s) for appeal.
 - b. Right to review the information that will be used by the Presidential Appeal Panel.
 - c. Date and time of the initial Presidential Appeal Panel meeting.
 - d. Names of the Presidential Appeal Panel members.
 - e. The procedures that will be used.
 - f. Maximum possible sanction(s) which may be imposed.
- J. **TIMEFRAME OF APPEAL:** The Presidential Appeal Panel is required have an initial meeting not earlier than seven (7) business days and not later than fourteen (14) business days after issuance of the Notice of Presidential Appeal. If extenuating circumstances exist that preclude the initial Presidential Appeal Panel meeting from occurring within fourteen (14) business days, an update will be provided indicating the estimated timeframe for the hearing. Such updates will be provided to the Responding Party (and the Reporting Party, if the alleged violation is Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment).
- K. Any Party has the right to, for demonstrated bias or conflict of interest, petition for the removal of any Presidential Appeal Panel member by submitting written notice to the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee stating the grounds for the removal at least five (5) business days prior to the scheduled initial meeting. Removal of Presidential Appeal Panel members for cause will be within the authority and at the discretion of the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee.
- L. Functions of Presidential Appeal Panel:
- i. Review the conduct matter file including but not limited to: the investigative report; Conduct Officer or Hearing Board files and recordings; and
 - ii. Review any new information provided; and
 - iii. Ask clarifying questions as applicable, including but not limited to, as appropriate, asking questions of: the Investigator; Conduct Officer; Hearing Board member; Appeal Panel member, individuals who presented information to the Conduct Officer, Hearing Board, or Appeal Panel, and other individuals who have information relevant to the process; and
 - iv. Make a determination based on the information reviewed. Determinations are based on majority vote.
- M. The Presidential 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 investigation with a new or same investigator; or
 - iv. Remand to the same Conduct Officer or Hearing Board for a new hearing; or
 - v. Remand to a different Conduct Officer or Hearing Board for a new hearing.
- N. **All decisions of the Presidential Appeal Panel are final.**
- O. The President Appeal Panel will provide notice of any determinations to the applicable university President. The university President may accept the determination of the Presidential Appeal Panel or request further review.

P. After the university President accepts the determination of the Presidential Appeal Panel, the Presidential Appeal Panel Chair will provide Notice to the Parties of any determination(s).

Q. NOTICE OF PRESIDENTIAL APPEAL PANEL OUTCOME

- i. The President Appeal Panel Chair will provide written Notice to the Responding Party.
- ii. Notice will include:
 - a. The outcome; and
 - b. The reasoning and facts that support the outcome; and
 - c. Any sanction(s) imposed; and
 - d. Any right of appeal.
- iii. If the alleged conduct is Dating Violence, Domestic Violence, Sexual Assault, or Stalking, the Parties will receive simultaneous written Notice of:
 - a. The outcome; and
 - b. The reasoning and facts that support the outcome; and
 - c. Any sanction(s) imposed; and
 - d. Any right of appeal.
- iv. If the alleged violation Gender Discrimination, Sexual Harassment, Discrimination or Harassment, the Reporting Party shall receive simultaneous written Notice of:
 - a. The outcome and any sanctions that directly relate to the Reporting Party; and
 - b. Any right of appeal.
- v. In a case of a Violent Crime other than those listed above, 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.

10. TRAINING

- A. Each university President and the Dean of University of Maine School of Law in conjunction with the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or the Designee of the Director of Student Success Initiatives and UMS Coordinator of Student Conduct will identify at least three (3) people in each of the following categories to receive annual training to enable them to serve as trained Hearing Board, Appeal Panel or Presidential Appeal Panel members:
 - i. Enrolled students; and
 - ii. Faculty members; and
 - iii. Staff members; and
 - iv. System level employees.
- B. Only individuals who have received annual training are permitted to serve as Hearing Board, Appeal Panel or Presidential Appeal Panel members.
- C. The following individuals will have annual training on issues related to: Dating Violence, Domestic Violence, Gender Discrimination, Sexual Assault, Sexual Harassment, Stalking, Discrimination, or Harassment; how to conduct an investigation; and hearing process that protects the safety of individuals involved and promotes accountability:
 - i. University Presidents and the Dean of University of Maine School of Law; and
 - ii. Individuals responsible for conducting Preliminary Inquiries or Formal Investigations; and
 - iii. Conduct Officers; and
 - iv. Hearing Board, Appeal Panel or Presidential Appeal Panel members; and
 - v. Any other individuals university Presidents and the Dean of University of Maine School of Law or the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or the Designee of the Director of Student Success Initiatives and UMS Coordinator of Student Conduct designates to be included in training.

Individuals should receive training commensurate with their role in the process.

11. STUDENT CONDUCT CODE COMMITTEE

- A. The Student Conduct Code Committee is responsible for:

- i. Reviewing this Code for potential revision at least once every three (3) years or at any time at the request of:
 - a. Conduct Officers representing at least two (2) campuses of the University; or
 - b. Student government officers representing at least two (2) campuses of the University; or
 - c. Student government officers representing at least one (1) campus of the University and the University of Maine School of Law; or
 - d. The Chancellor.
 - ii. Accepting and responding to feedback that various members of the UMS community may have regarding this Code.
 - iii. Proposing revisions to this Code to the Board of Trustees.
- B. The Student Conduct Code Committee will be composed of the following:
- i. A Committee Chair appointed by the Chancellor.
 - ii. Up to five (5) faculty, staff, or enrolled students, appointed by the Committee Chair.
 - iii. One (1) Board Trustee appointed by the UMS Board of Trustees Chair.
 - iv. One (1) enrolled distance education program student appointed by the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or their designee.
 - v. Three (3) graduate students appointed by the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or the Designee of the Director of Student Success Initiatives and UMS Coordinator of Student Conduct. Graduate students from any campus may serve in this role.
 - vi. Seven (7) Conduct Officers, one (1) from each campus, appointed by each university President.
 - vii. One (1) Law School staff member, appointed by the Dean of University of Maine School of Law.
 - viii. Seven (7) Hearing Board Chairs, one (1) from each campus, appointed by the Director of Student Success Initiatives and UMS Coordinator of Student Conduct or the Designee of the Director of Student Success Initiatives and UMS Coordinator of Student Conduct.
 - ix. Eight (8) enrolled students, one (1) from each campus and the University of Maine School of Law.
 - a. Each applicable student government body will nominate a slate of at least three (3) enrolled students.
 - b. Each university President and the Dean of University of Maine School of Law will choose from their respective slate of nominees one (1) enrolled student representative.

12. AMENDING THE STUDENT CONDUCT CODE

The Board of Trustees will act upon proposed revisions to this Code after receiving recommendations from the Student Conduct Code Committee. As provisions of this Code are subject to periodic review and change, the most recent and current copy of this Code may be obtained through the University of Maine System website, the University of Maine System Vice Chancellor for Academic Affairs Office, or the student affairs office on each campus.

Anyone who wishes to request assistance in accessing the information in this Code, may contact the ADA Coordinator at 207-581-1227, adacoordinator@maine.edu, or TTY 711(Maine Relay System).

**Revised by the Student Conduct Code Review Board and accepted by the Board of Trustees, X Date, 2021
Effective Date: July 26, 2021**

**UNIVERSITY OF MAINE SYSTEM
STUDENT CONDUCT CODE**

Effective Date: 1 July 2018

**Revised by the Conduct Code Review Board
and**

Accepted by the Board of Trustees, 19 March 2018

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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.

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 tommery, 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.H(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.H(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

University of Maine System
Board of Trustees

AGENDA ITEM SUMMARY

NAME OF ITEM: Student Conduct Code

INITIATED BY: Lisa Marchese Eames, Chair

BOARD INFORMATION: X

BOARD ACTION:

BOARD POLICY:

UNIFIED ACCREDITATION CONNECTION:

BACKGROUND:

The University of Maine System has been working with students and student success advisors to assess the impact of a health insurance coverage mandate for full time students that was established in 2014 in response to the individual coverage mandates in the Affordable Care Act provisions. The insurance industry has been moving toward mandatory enrollment plans for student groups. The UMS implemented a mandatory plan with a new provider last year. The change was a great burden on students and caused many students' hardship. Student voices were loud and clear that this mandate was impeding their ability to seek a higher education. The UMS created a subcommittee to look into the issue. Moving forward we will no longer mandate insurance. However, the UMS is partnering with the State of Maine to provide advisors to students who need an insurance option. These advisors will help our students find a solution on the public market place. We are being responsive to our student body's feedback and at the same time we will continue to assist students and explore additional options for students who still need health insurance. Robert Placido, Vice Chancellor of Academic Affairs will update the committee.

7/1/2021

University of Maine System
Board of Trustees

AGENDA ITEM SUMMARY

NAME OF ITEM: Faculty Governance Council Update

INITIATED BY: Lisa Marchese Eames, Chair

BOARD INFORMATION: X

BOARD ACTION:

BOARD POLICY:

UNIFIED ACCREDITATION CONNECTION:

As outlined in the Guiding Principles and pursuant to UMS Board Policy 212 and the UMS Statement on Shared Governance, faculty will retain all rights to academic freedom and shared governance.

BACKGROUND:

To facilitate and formalize the establishment of a unifying System-wide mechanism for shared governance, the Chancellor convened the university faculty senate/assembly leaders to meet with him, and members of his senior staff, in January 2020.

At that meeting, the faculty leaders agreed that during these nascent stages of a unified approach to shared governance the seven senate/assembly presidents, with the Vice Chancellor of Academic Affairs (VCAA) participating in an ex-officio capacity, would form a UMS Faculty Governance Council to address issues of multi-university academic and curricular policy and programming.

The shared system of governance structure should be viewed as a faculty-to-faculty process that includes an active governing body with sufficient autonomy to assure institutional integrity and to fulfill its responsibilities of program development consistent with the missions of the participating institutions. Carolyn Dorsey, Associate Vice Chancellor for Academic Affairs, will brief the Academic and Student Affairs Committee of the Board of Trustees on progress to date.

7/1/2021

University of Maine System
Board of Trustees

4

AGENDA ITEM SUMMARY

NAME OF ITEM: Unified Accreditation Update

INITIATED BY: Lisa Marchese Eames, Chair

BOARD INFORMATION: X

BOARD ACTION:

BOARD POLICY:

UNIFIED ACCREDITATION CONNECTION:

Board engagement/transparency

BACKGROUND:

Associate Vice Chancellor for Accreditation and Strategic Initiatives Jeff St. John will share two brief updates on the Fall 2022 NECHE self study:

1) Formation of data teams.

2) Development of a plan for seeking and collecting UMS community input on the self-study in the 2021-22 academic year.

7/1/2021

University of Maine System
Board of Trustees

AGENDA ITEM SUMMARY

5

NAME OF ITEM: Data Governance Update

INITIATED BY: Lisa Marchese Eames, Chair

BOARD INFORMATION: X

BOARD ACTION:

BOARD POLICY:

UNIFIED ACCREDITATION CONNECTION:

Alignment of course coding details supports a common course catalog and enables student registration across UMS institutions.

BACKGROUND:

The University of Maine System established a Data Governance Program in 2017 to protect and leverage data assets to benefit all UMS institutions and stakeholders. The mission of the program is to improve consistency, integrity, and access for the use of data.

Rachel Groenhout, Director of Institutional Data Management, will give a brief update on projects that directly impact Academic and Student Affairs.

7/1/2021



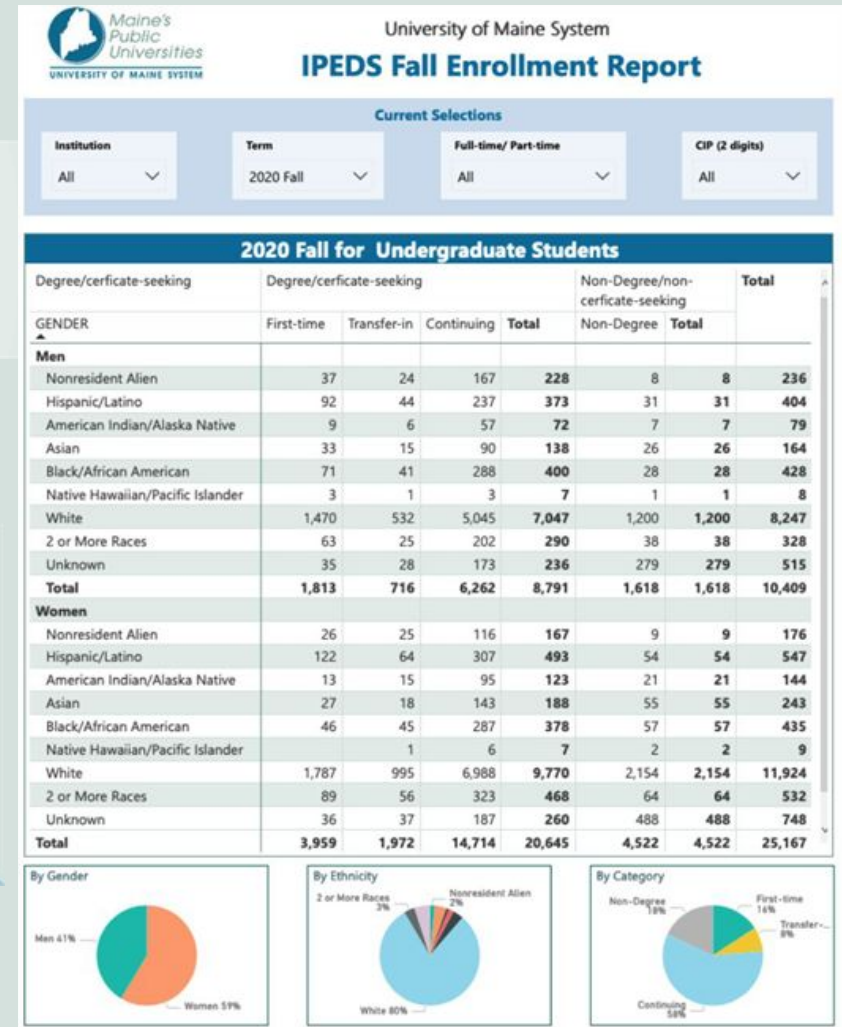
UMS Data Governance

UMS Board of Trustees: 5.1 Academic & Student Affairs July 2021





Data-Informed Decision Making



5.1



Data in Everyday Activities

5.1

Browse Classes

Term: 2021 Summer Career: Undergraduate Subject Search

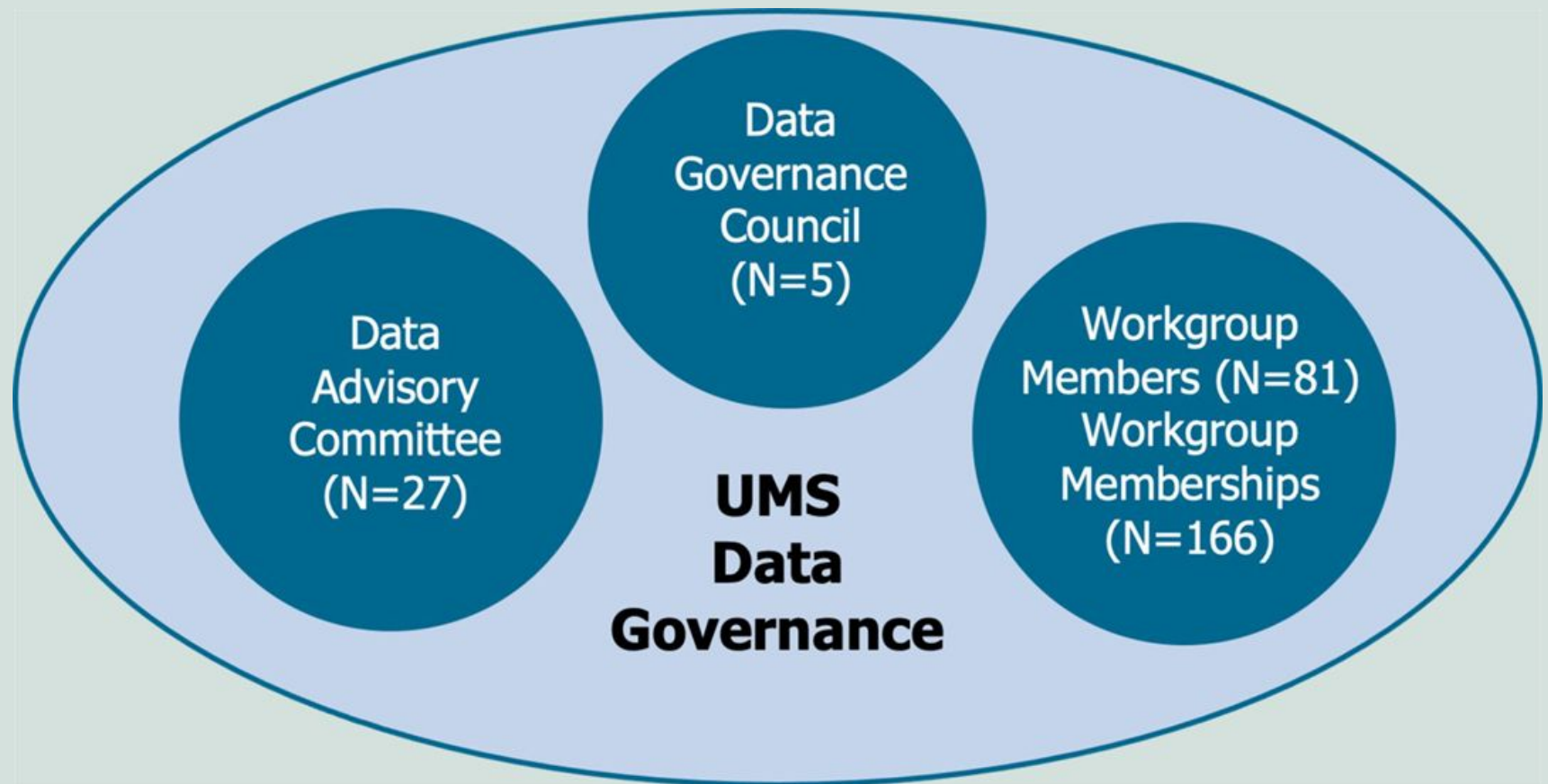
* Required

| CLASS | DESCRIPTION | |
|---------|--------------------------------|-------------------------------|
| ACC 201 | Prin of Financial Acct | View Sections |
| ACC 202 | Prin of Managerial Acct | View Sections |
| ACC 396 | Field Experience/Internship | View Sections |
| ACC 400 | Introduction to Accounting | View Sections |
| ANT 120 | Religions of the World | View Sections |
| ANT 245 | Sex & Gender Cross-Cult Persp | View Sections |
| ARH 155 | Art & Vis Cul Anct & Med World | View Sections |
| ARH 156 | Art/Visual Culture Modern Era | View Sections |
| ARH 497 | Ind Study in Art History | View Sections |



Data Governance Participation

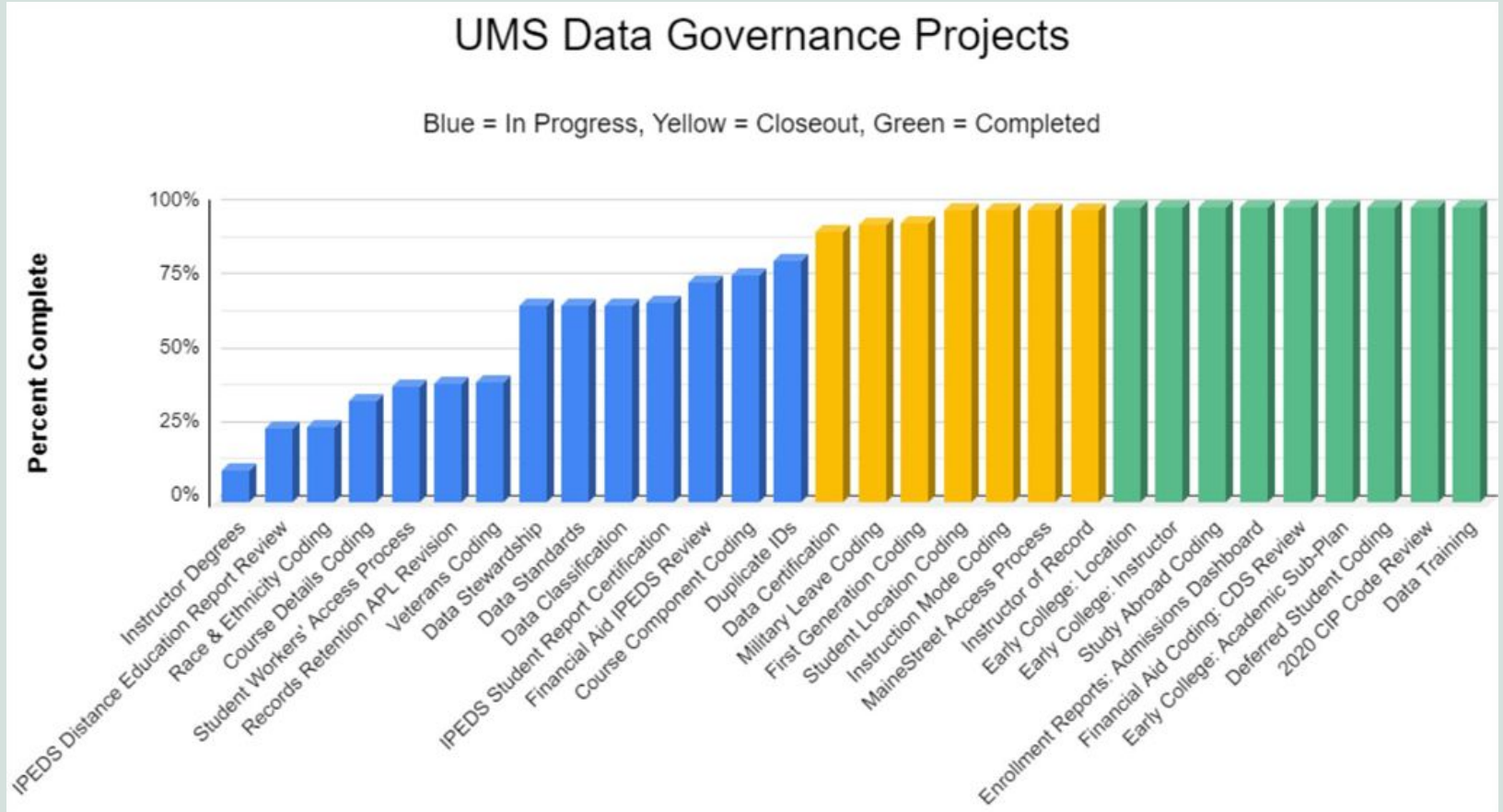
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Project Portfolio

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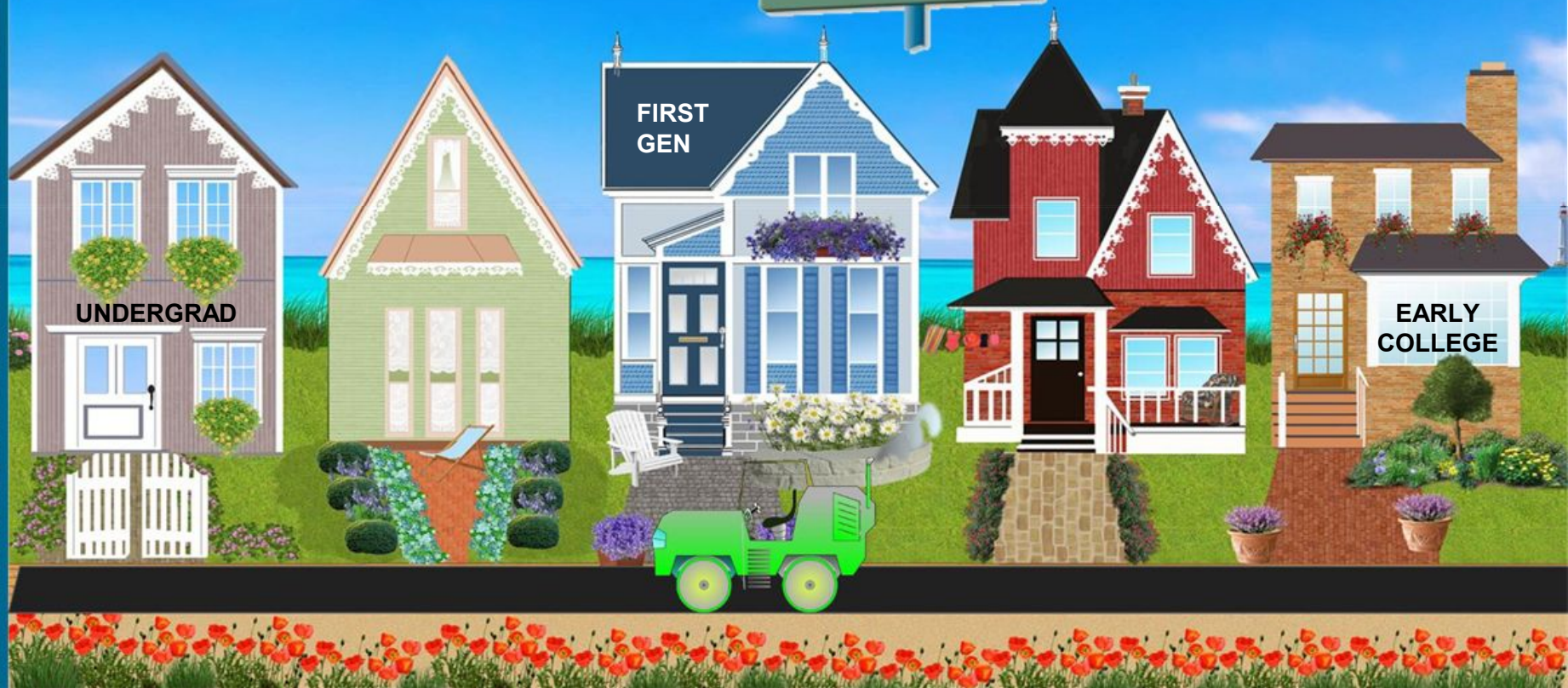




Opportunities for Students

5.1

Repaving **Maine Street**





Course Logistics

5.1



- Increased accuracy of course search results
- Consistent interpretation of course search results
- Reduced effort integrating course data
- Easier and more accurate reporting on course offerings & enrollment

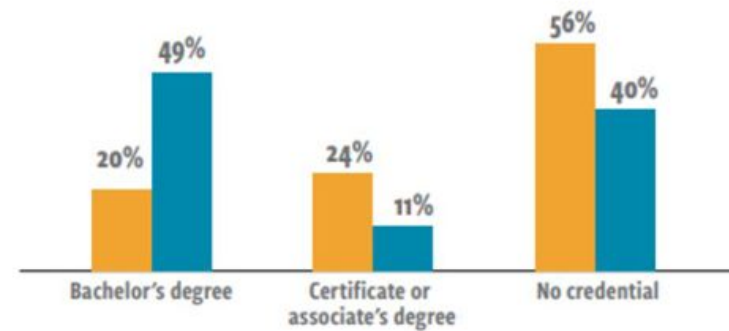


First Generation

5.1



Attainment 6 Years After Entering Postsecondary Education*



* Higher percentages of first-generation than continuing-generation students first enrolled in certificate and associate degree programs.

First-generation students **Continuing-generation students**

From Center for First-Generation Student Success, fact sheet 2



Race & Ethnicity

5.1

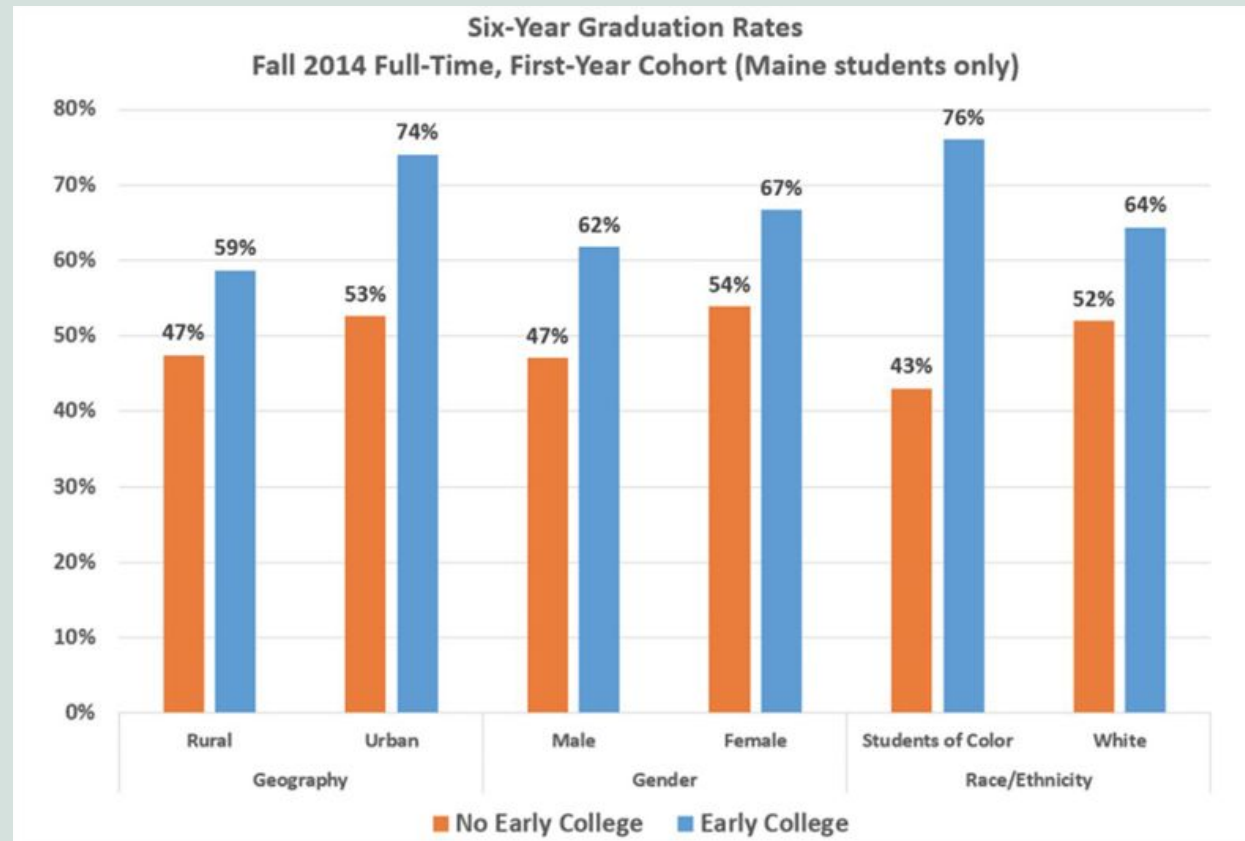


- Sense of belonging
- Fewer unknowns
- More accurate federal reporting
- A more inclusive future



UMS Early College Outcomes

5.1





Thank You!

5.1

Contact Us

maine.edu/data-governance | UMS.Data.Governance@maine.edu

Data Advisory Committee

Rachel Groenhout, Co-Chair

Director of Institutional Data Management
rachel.groenhout@maine.edu

Robert Placido, Co-Chair

Vice Chancellor for Academic Affairs
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Corina Larsen, Communications Manager

Data Documentation & Training Coordinator
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Data Governance Council

Robert Placido, Chair

Vice Chancellor for Academic Affairs
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University of Maine System
Board of Trustees

AGENDA ITEM SUMMARY

NAME OF ITEM: Faculty Representatives: Discussion

INITIATED BY: Lisa Marchese Eames, Chair

BOARD INFORMATION: X

BOARD ACTION:

BOARD POLICY:

UNIFIED ACCREDITATION CONNECTION:

BACKGROUND:

The Faculty Representatives to the Board of Trustees would like to reserve the opportunity to have a brief discussion on current matters.

7/1/2021

University of Maine System
Board of Trustees

AGENDA ITEM SUMMARY

NAME OF ITEM: Student Representatives: Discussion

INITIATED BY: Lisa Marchese Eames, Chair

BOARD INFORMATION: X

BOARD ACTION:

BOARD POLICY:

UNIFIED ACCREDITATION CONNECTION:

BACKGROUND:

The Student Representatives to the Board of Trustees would like to reserve the opportunity to have a brief discussion on current matters.

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7/1/2021