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## STUDENT CONDUCT CODE

### Policy Statement

It is the purpose of the University of Maine System Student Conduct Code 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 (hereinafter referred to as "University") and the individual campuses. It is also the purpose of this Code 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.

It is expected that students will 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 the University Policies and Procedures manual; campus student handbooks; campus residence hall agreement and manual; 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 the campus. In addition, the student may be subject to disciplinary action by the University pursuant to this 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, it must rely upon the rules and procedures described in this Code. IN THE ENFORCEMENT OF THIS 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.

### I. Jurisdiction

- A. The University of Maine System Student Conduct Code (hereinafter referred to as "Code") shall apply to the following:
  1. Any person(s) registered or enrolled in any course or program offered by the University or any person accepted to the University. A person is deemed to be enrolled in any such course or program until such time as he or she has officially graduated from the University or has been suspended or dismissed or has not been enrolled in any course or program within the University for one calendar year. Students taking distance courses provided by or presented at a University shall be deemed enrolled for the purposes of this Code.
  2. Any recognized student organization or any group of students not currently recognized but under probation or suspension.
- B. The Code may be applied only in cases of conduct:
  1. occurring on any campus of the University, on any other University real property, or on University-related real property, or
  2. involving University personal property or University-related personal property, or
  3. at activities pursued under the auspices of the University, or
  4. in which the University can demonstrate a clear and distinct interest as an academic institution regardless of where the conduct occurs and which seriously threatens (a) any educational process or legitimate function of the University or (b) the health or safety of any individual.

## II. Definitions

1. **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 shall not be construed so as to limit the University's jurisdiction under I(B)(4).
2. **Advisor:** A person who advises or supports any party involved in the Code violation investigation and adjudication process. Examples of advisors include, but are not limited to, family members, friends, University staff or faculty, and legal counsel.
3. **Complainant:** Any person or student organization who submits a charge alleging that a student violated the Code. When a person alleges s/he has been harmed by a student's misconduct, the person who alleges s/he has been harmed will also be considered to be a Complainant, even if another person submitted the charge itself. In cases of gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, however, the word "Complainant" shall refer only to the person who alleges s/he has been harmed by the Respondent's misconduct.
4. **Conduct Officer:** Person(s) or designee(s) responsible for adjudicating alleged violations of the Code, herein referred to as "Officer."
5. **Consent:** Agreement to engage in sexual contact. Consent must be informed, freely and actively given, and consist of a mutually agreeable and understandable exchange of words or actions. Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. 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. Any consent that is given is invalid or moot when the exchange involves unwanted physical force, coercion, intimidation, and/or threats. 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.
6. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Whether or not a dating relationship exists is determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
7. **Domestic Violence:** Intentionally, knowingly or recklessly causing bodily injury or offensive physical contact to a family or household member (as defined below).
8. **Employee of the University:** Employees, including faculty, staff, students, board of trustees, volunteers, and agents of the University, herein referred to as "Employee."
9. **Family or Household Members:** Spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, natural parents of the same child, adult household members related by consanguinity or affinity or minor children of a household member when the Respondent is an adult household member, individuals presently or formerly living together, and individuals who are or were sexual partners.
10. **Gender Identity or Expression:** Actual or perceived gender or gender-related characteristics.
11. **Preponderance of the Evidence:** The standard of evidence used to determine whether a violation of the Code has been committed. Under the preponderance of the evidence standard, a violation will be determined to have occurred if, based upon the evidence presented, University authorities conclude that it is more likely than not that the violation was committed.
12. **Respondent:** A student or organization that has been charged with allegedly violating provisions of the Code.
13. **Sexual Assault:** Subjecting another person to sexual contact to which that person has not consented (as that term is defined above), to which that person has only consented due to compulsion, or to which that person cannot legally consent due to age or physical or mental incapacity.

14. **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual; or such conduct interferes with an individual's academic or work performance or creates an intimidating, hostile, or offensive employment, educational, or living environment.
15. **Sexual Orientation:** A person's actual or perceived sexuality.
16. **Stalking:** Intentionally or knowingly engaging in a course of conduct directed at or concerning a specific person that would cause a reasonable person to suffer serious inconvenience or emotional distress, to fear bodily injury or to fear bodily injury to a close relation, to fear death or to fear the death of a close relation, to fear damage or destruction to or tampering with property, or to fear injury to or the death of an animal owned by or in the possession and control of that specific person.
17. **Student Conduct Code:** This entire document.
18. **Student Conduct Code Committee:** Committee or designee(s) responsible for deciding original cases referred directly by the Officer and/or reviewing the decisions made by the Officer, herein referred to as "Committee."
19. **Student Hearing Panel:** An all-student panel that may hear certain minor violations of the Conduct Code rather than the Conduct Officer, at the discretion of each University institution.
20. **University Personal Property:** All property, other than real property, and any interests therein owned or held by the University in any manner, including, but not limited to, rented, licensed, chartered, or otherwise engaged. The University's computer network and all its component parts, which are not real property, shall be considered University personal property for the purposes of this Code.
21. **University Real Property:** Land, buildings, fixtures, improvements, and any interests therein, owned or held by the University in any manner, including but not limited to, owned, rented, licensed, chartered, or otherwise engaged.
22. **University-Related Personal Property:** All property, other than real property, and any interests therein held by University employees and/or campus organizations as a direct result of and in connection with their service to the University. University-related personal property shall also include any document or record issued or purporting to be issued by the University.
23. **University-Related Real Property:** Land, buildings, fixtures, improvements, and any interests therein, held by University employees and/or campus organizations as a direct result of and in connection with their service to the University.
24. **Violent Crime:** Arson, assault offenses, burglary, manslaughter, murder, destruction/damage/vandalism of property, kidnapping/abduction and 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.

Upon satisfactory proof that a student organization has violated a University policy or procedure the organization may be subject to disciplinary action.

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 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 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.

**Those listed have been delineated in such a way as to give reasonable warning to students that such conduct or attempted conduct is forbidden. These definitions of violations should not be rigidly construed.**

#### **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.

#### **Disruption of University Operations:**

4. **Causing a Disturbance:** Disturbance resulting in substantial disruption of authorized activities.
5. **Failure to Comply with Sanction:** Failure to comply with or attempts to circumvent a sanction(s) imposed by the Student Hearing Panel, Officer, Committee, President or designee.
6. **Failure to Identify:** Failing to properly identify one's self to an employee of the University in pursuit of his/her official duties.
7. **Interference with Code Enforcement:** Interference with a complainant, witness, investigation or the carrying out of procedures defined in this Code.
8. **Interference with or Failure to Comply with a University Official:** Direct interference with or failure to comply with an employee of the University in the performance of his/her official duties.
9. **Supplying False Information:** Knowingly supplying false information to employees in pursuit of their official duties or to a Committee in the course of a disciplinary proceeding, or knowingly causing false information to be thus supplied.
10. **Unauthorized Representation:** Unauthorized representation of the University or an employee of the University.
11. **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.
12. **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.

#### **Health & Safety Violations:**

13. **Creating a Dangerous Condition:** Creation of a fire hazard or other dangerous condition.
14. **Endangering Health or Safety:** Conduct which threatens or endangers the health or safety of any individual.
15. **False Reporting of Dangerous Conditions:** Giving or causing to be given false reports of fire or other dangerous conditions.

16. **Illegal Possession, Use, or Sale of Drugs:** Possession, use, or sale of illegal drugs or drug paraphernalia or the misuse of legal prescription drugs.
17. **Interference with Safety Equipment or Alarms:** Tampering with, disabling, or causing malfunction of fire and safety equipment or alarm systems.
18. **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.
19. **Restricting Traffic Flow:** Restriction of normal traffic flow into or out of University facilities.
20. **Use or Possession of Chemicals or Explosives:** Unauthorized use or possession of explosive components, chemicals, etc., such as fireworks, explosives, gas or compressed air.
21. **Violation of Alcohol Policies:** Violations of University or State alcoholic beverage regulations or laws.
22. **Violation of Health or Safety Policies:** Violation of University health or safety regulations.

#### **Offenses Involving Other People:**

23. **Causing Fear of Physical Harm:** Intentionally or recklessly placing a person or persons in reasonable fear of imminent physical harm.
24. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Whether or not a dating relationship exists is determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
25. **Domestic Violence:** Intentionally, knowingly or recklessly causing bodily injury or offensive physical contact to a family or household member.
26. **Gender/sex discrimination:** Discriminating against an individual on the basis of that individual's gender, including, but not limited to, sexual harassment, sexual assault, domestic violence, dating violence, or stalking.
27. **Harassment or Intimidation:** Unwelcome behavior that creates a hostile or intimidating working, educational, or living environment or behavior that unreasonably interferes with an individual's academic or job performance and opportunities.
28. **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.
29. **Interference with Residential Life:** Significant interference with the normal residential life of others.
30. **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 Respondent was a party to the conversation or event is not determinative of another individual's reasonable expectation of privacy.
31. **Lewd or indecent behavior:** Exhibition of the genitals, anus or pubic area of a person other than for legitimate academic purposes.
32. **Physical assault:** Intentionally, knowingly or recklessly causing bodily injury or offensive physical contact to another person.
33. **Retaliation:** Taking retaliatory action against an individual for notifying campus authorities of a violation of the code, and/or filing or participating in a complaint under the Code.
34. **Sexual Assault:** Subjecting another person to sexual contact to which that person has not consented (as that term is defined above), to which that person has only consented due to compulsion, or to which that person cannot legally consent due to age or physical or mental incapacity.
35. **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;

submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual; or such conduct interferes with an individual's academic or work performance or creates an intimidating, hostile, or offensive employment, educational, or living environment.

36. **Sexual Misconduct:** Includes, but not limited to, prostituting another student, nonconsensual image capturing of sexual activity, presentation or unauthorized viewing of a nonconsensual videotaping of sexual activity, letting others watch you have sex without the knowledge or consent of your sexual partner, possession of child pornography, peeping tommy, incest, and/or knowingly transmitting an STD or HIV to another person.
37. **Stalking:** Intentionally or knowingly engaging in a course of conduct directed at or concerning a specific person that would cause a reasonable person to suffer serious inconvenience or emotional distress, to fear bodily injury or to fear bodily injury to a close relation, to fear death or to fear the death of a close relation, to fear damage or destruction to or tampering with property, or to fear injury to or the death of an animal owned by or in the possession and control of that specific person.
38. **Discriminatory Harassment:** Harassment or discrimination based on actual or perceived race, color, religion, sexual orientation, gender identity or expression, national origin or citizenship status, age, disability, genetic information or veteran status.
39. **Unauthorized Recording of a Conversation:** Intercepting, recording or image-capturing a faculty or staff member in a classroom, office or over the telephone without that faculty or staff member's consent unless it is part of an approved reasonable accommodation.

#### **Offenses Involving Property:**

40. **Defacement, Destruction, or Misuse of University Property:** Intentional or reckless misuse, destruction, or defacement of University property as defined above or of the property of other people.
41. **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.
42. **Motor Vehicle Violation:** Violation of motor vehicle policies established for each campus.
43. **Tampering, Destruction, or Falsification of Records:** Tampering with, destroying or falsifying official records.
44. **Theft or Unauthorized Use:** Theft, attempted theft, or unauthorized acquisition, removal, or use of property.
45. **Trespassing:** Trespassing or unauthorized presence on any University held or related property, including residence halls.

#### **General Infractions:**

46. **Aiding Infraction:** Knowingly assisting in the violation of any of the provisions of this Code.
47. **Continued Infraction:** Continued infractions of the Code.
48. **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 member of any individual.
49. **Other Illegal Activity:** Violating local, state, or federal laws otherwise not covered under this Code.

#### **IV. Sanctions**

If a Respondent admits to a violation of this Code to the Officer or the Committee or upon determination by the Officer or Committee that the Respondent has committed a violation of the Code, one or more of the following sanctions may be imposed by the campus where the Respondent is currently enrolled or attending, in accordance with the provisions of this 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 Respondent's continued enrollment or housing contract at the University is clearly in jeopardy. Any further violation of the Code during that time will minimally result in the imposition of the deferred sanction and any additional sanctions deemed necessary.
- D. **Disciplinary Dismissal:** Permanent separation (subject to the right of review after five years) from the University.
- E. **Disciplinary Probation:** A period of time when a Respondent is under closer scrutiny of the University. It may include the loss of one or more privileges.
- F. **Disciplinary Suspension:** Separation from the University for a stated period of time and/or until a stated condition(s) is met.
- G. **Fine:** Payment of money. Respondents 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 campus.
- 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 as the Committee or Officer may reasonably deem appropriate (e.g., suspension of an organization's official campus recognition or suspension of a student from an extracurricular activity).**

The institution may impose a harsher sanction on the Respondent when the Officer or Committee determines that the Respondent 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 or expression, national origin or citizenship status, age, disability, genetic information or veteran status of that person, the persons in the organization or the owner of the property.

Respondents who are suspended will not be permitted to attend any of the University institutions during the sanction period. After the sanction period has been completed and all requirements of the suspension have been met, the Respondent is eligible for readmission to any University institution. For a Respondent 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 Respondent is transferring to a non-University institution after the sanction has been completed the letter will not be attached to the transcript.

Respondents who are dismissed will not be permitted to attend any of the University institutions. After five (5) years from the date of the dismissal, the Respondent may submit a written request to be readmitted to attend one of the University institutions. For a Respondent 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 his/her transcript explaining that he/she has been dismissed. After five (5) years from the date of the dismissal, the Respondent may submit a written request to have the letter attached for transfer applications to non-University institutions removed from his/her transcript. Requests for readmission or removal of the letter attached for transfer applications must be submitted to the Officer of the institution from which the

Respondent was dismissed. The Officer will convene the institutional committee designated by the President to review such requests pursuant to the campus written procedures.

## **V. Procedures**

Each of the University institutions may adopt procedures for carrying out the provisions of this Code within the guidelines set forth by the Code as described below and consistent with the Code. University institutions having a professional code of ethics may adopt additional procedural provisions to be applicable to their own students. When a Respondent is alleged to have violated this Code on a System campus other than that in which he/she is enrolled, the case will be referred to the Respondent's home institution for disposition. Each campus President shall designate a campus official(s) to perform the functions of the Officer(s) and shall establish a Committee. The Officer shall not be a member of the Committee.

ADMINISTRATION AND INTERPRETATION OF THE STUDENT CONDUCT CODE SHALL BE SOLELY WITHIN THE JURISDICTION OF THE STUDENT HEARING PANEL, THE OFFICER, THE COMMITTEE AND THE PRESIDENT OR HIS/HER DESIGNEE ON EACH CAMPUS, SUCH INTERPRETATION BEING PURSUANT TO THE PROCEDURES OF THIS CODE.

### **A. Responsibilities of Officer**

1. The Officer may initiate and supervise investigations of possible violations of this Code which are brought to his/her attention by employees, students, or members of the general public. The Officer may conduct an investigation to determine if the charges have merit and/or if they can be disposed of informally by mutual consent of the parties involved on a basis acceptable to the Officer. The Complainant shall have the right to end the informal process at any time and begin the formal complaint process. In cases of sexual assault, informal resolution will not be used even on a voluntary basis.
2. Upon concluding the investigation, the Officer shall notify the Respondent (and the Complainant, if the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking) in writing of the Officer's decision on whether charges will be filed.
3. If charges are being filed the Officer shall notify the Respondent (and the Complainant, if the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking) in writing of the charge(s), the complaint(s), the date(s) of alleged occurrence(s), the Code section(s) which is (are) alleged to have been violated, the maximum possible sanction which may be imposed, date of hearing, and the Respondent's (and, if the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the Complainant's) rights of review.
  - a. This notice shall indicate if the hearing is to be before the Officer or Committee.
  - b. This notice may be hand delivered, mailed to the Respondent's last known address, or delivered through the use of the Respondent's University e-mail account. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the Complainant shall receive a simultaneous notification. If the hearing is to be before the Committee, this notice will afford the Respondent (and the Complainant, if the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking) the opportunity to meet with the Officer prior to the hearing of the alleged violation(s).
4. If no charges are being brought the Officer shall notify the Respondent in writing that no charges are being brought by the Officer. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the Complainant shall receive a simultaneous notification of the Officer's decision not to bring charges and both the Respondent and Complainant shall be notified of the Complainant's right of review.

5. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the Officer shall have had annual training on the issues related to gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, and stalking and how to conduct an investigation and hearing process that protects the safety of individuals involved and promotes accountability.

## **B. Administrative Hearing Before Officer**

1. If the Respondent or any other party is not present at the time appointed for the hearing, the Officer shall first attempt to determine the reason for that person's absence. The Officer may then proceed in a normal manner without Respondent's attendance or any other 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. The Officer may not consider the absence of Respondent or any other party as relevant to whether the Respondent committed the alleged violation of the Code.
2. During the meeting or hearing with the Respondent (which, if the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, shall include the Complainant) no party present shall be accompanied by legal counsel, except when the Respondent also faces criminal charges for the same incident. If the Respondent faces criminal charges for the incident, both the Respondent and the Complainant shall be permitted to bring legal counsel to the hearing if they so choose. All parties may be accompanied by an advisor or support person, such as a parent(s), legal guardian(s), advocate, or member of the University community.
3. During the hearing, the Officer may hear and consider as evidence any relevant information. Efforts will be made to obtain the most reliable information available. The Officer may not consider:
  - a. Information obtained directly or indirectly through a search of a Respondent's person, effects, or room without his/her consent, unless obtained pursuant to a warrant or other legal search. Nothing in this section shall be deemed to prohibit routine inspection or maintenance of a Respondent's room and nothing in this section shall be deemed to prohibit forcible entry of any place or constraint of any person in order to prevent harm or damage to person or property when made with reasonable belief that such damage or harm is occurring, has just occurred, or is about to occur.
  - b. The Respondent's refusal to consent to a search or to give information concerning the alleged facts. 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 Respondent in advance of the right to remain silent, and the Officer shall draw no inference from the Respondent's refusal to give information.
4. The Officer shall then:
  - a. Make a determination that the Respondent is In Violation of the Code if convinced by a preponderance of the evidence presented that the Respondent has committed the act(s) as alleged, or Dismiss the case if the Officer determines the respondent is Not In Violation of the Code, or
  - b. Refer the matter to the Committee if the Officer is in doubt as to whether acts have been committed which constitute a violation of this Code, or
  - c. Refer the matter to the Committee if the Officer is in doubt of which, if any, sanction ought to be imposed, or
  - d. Refer the matter to the Committee or other designated hearing Officer if there is a conflict of interest for the Officer, and
  - e. Inform the Respondent, in writing, of the outcome, of any sanctions imposed, and of his/her right of review. If the alleged violation is a violent crime, gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking the Complainant shall receive simultaneous written notification of the outcome, of any sanctions that directly relate to the Complainant, and of the Complainant's right of review if the alleged violation is

gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking.

5. If the Officer determines the Respondent is In Violation of the Code, the Officer shall impose appropriate sanctions. Sanctions shall become operative immediately after written notice thereof has been given to the Respondent. Sanctions may be stayed in the event the Respondent submits a request for review by the Committee in accordance with this Code.
6. Notwithstanding the above, a Respondent 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 Respondent'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 Respondent 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 will make a judgment on interim action based on the review of the alleged conduct. Ordinarily, the Officer will converse with the Respondent when interim action is considered. A Respondent sanctioned under this section may seek review of that decision by requesting the President or his/her designee to review the decision within 5 calendar days after the Respondent has received notice of the interim action. The Respondent may request that a formal Committee hearing be held as soon as practicable. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the Officer shall inform the Complainant of any interim action that directly relates to the Complainant.

### **C. Administrative Hearing Before Student Hearing Panel**

1. At the discretion of each University institution, certain minor violations committed by a student may be heard before a panel of the student's peers rather than before an Officer. The composition of the panel shall have equitable gender representation whenever practicable.
2. If an institution elects to establish a Student Hearing Panel, that institution shall provide its students with information regarding the types of violations that a Respondent may elect to have heard before the panel. In no event shall an institution permit a Student Hearing Panel to adjudicate a complaint involving a violent crime, gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, stalking, or any other violation of a private or sensitive nature.
3. If a Respondent elects to have a complaint heard by the Student Hearing Panel, any such hearing shall be in lieu of a hearing before the Officer and:
  - a. The rules and administrative procedures applicable to the Officer, as set forth in Section V(B) above, shall also apply to the Student Hearing Panel; and
  - b. The Officer or a designee of the Officer shall attend the hearing to ensure compliance with the administrative procedures set forth in this Code and with any supplemental policies the institution may issue regarding the Student Hearing Panel.
4. Any appeals from the Student Hearing Panel's decision shall be handled according to the same procedures applicable to appeals arising from the Officer's decision, as set forth in Section V(D) below.

### **D. Right of Review Beyond Officer or Student Hearing Panel**

1. The Respondent (or the Complainant, if the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking) may direct a request for review of the Officer or Student Hearing Panel's findings or actions to the Committee, for any of the following reasons:
  - a. Review of the procedures followed.
  - b. Review of the appropriateness of the sanction.
  - c. Consideration of new information that was not available at the time of the hearing with the Officer or Student Hearing Panel.

- d. Reconsideration of existing information and whether it supports the Officer or Student Hearing Panel's finding. (This review may result in a higher sanction, a lower sanction, the same sanction, or no sanction at all being imposed.)
2. Requests for review shall be in writing and shall state the issue(s) to be reviewed and provide a detailed rationale for the request. This written request for a review shall be submitted to the Officer (regardless of whether the initial hearing occurred before the Officer or before the Student Hearing Panel) and must be received by the Officer within seven calendar days after the Respondent/Complainant has received notice of the findings. The Officer shall promptly forward the request for review to the Committee.

## **E. Responsibilities of the Committee**

1. After notification from the Officer, the Chair of the Committee shall, as soon as practicable:
  - a. Notify, in writing, the Officer and the Respondent (and the Complainant, if the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking) of a date, place, and time for hearing with the hearing normally to be held not earlier than five calendar days and not later than 14 calendar days after issuance of notification by the Committee. Notification will be in the same manner as set forth in Section V.A.(3)(b) above.
  - b. List in the notice to the Respondent/Complainant the names of the Committee member(s) conducting the review and witnesses being invited by the Officer.
  - c. Make arrangements for the keeping of a recorded record of the proceedings. In cases of a review, the Respondent charged with the violation, his/her representative and authorized University officials may have access to the record for purpose of review relating to a request for review but no copies shall be made except by the University. Such record shall be kept by the University campus for at least three years after all review rights have been exhausted at which time such record may be destroyed. Such records of hearings are deemed to be Student Education Records under the Family Educational Rights and Privacy Act of 1974 and may not be disclosed publicly except as provided in such Act. No recording in any form, other than the one made by the Committee, is permitted at the hearing. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the Complainant may have access to the portions of the recording pertaining to the Complainant.
2. Composition of Committee
  - a. The Committee shall consist of at least three, but no more than seven, members, at least one of whom shall be a student and one a Presidential designee. The number of Committee members, the composition of the Committee, and the method of selection shall be determined by each campus in a manner approved by the President or his/her designee. The President or his/her designee shall also appoint the Chair from among the Committee members. The composition of the committee shall have equitable gender representation whenever practicable.
  - b. The Respondent charged with the violation, the Officer, and the Complainant shall have the right to challenge for cause any member of the Committee by submitting to a designated official a written memorandum stating the grounds for this challenge at least two days prior to the scheduled meeting. Removal of members for cause shall be within the authority and at the discretion of the Chair of the Committee or another member of the Committee if the Chair is unable to exercise that function or is challenged for cause.
  - c. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, all members of the Committee shall have had annual training on the issues related to gender discrimination, sexual harassment, sexual assault,

domestic violence, dating violence, and stalking and how to conduct an investigation and hearing process that protects the safety of individuals involved and promotes accountability.

### 3. Hearing Preliminaries

- a. At any proceeding before the Committee, the Officer, the Respondent, the Complainant or any other party to the hearing may have the assistance of an advisor, which may include legal counsel.
- b. The hearing shall be closed. The Committee Chair may permit, in addition to the party's advisor, two support people for each the Respondent or Complainant to observe the proceedings. When the hearing is opened to any of the above mentioned people, the Committee Chair reserves the right to close the hearing or any portion thereof in order to protect any party participating.
- c. If the Respondent or any other party is not present at the time appointed for the hearing, the Committee shall first attempt to determine the reason for that person's absence. The Committee may proceed in a normal manner without Respondent's attendance or any other 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. The Committee may not consider the absence of a party as relevant to whether the Respondent committed the alleged violation of the Code.

### 4. Hearing Procedures

- a. Responsibility for recognizing and permitting persons to speak lies exclusively with the Chair.
- b. Persons disruptive to any stage of the hearing may be evicted at the reasonable discretion of the Chair.
- c. The Officer shall first present the results of the investigation and/or the charges against the Respondent.
- d. The Officer and/or the Complainant may present oral testimony and/or written statements from any person(s) including the Respondent, and all relevant documents, records and exhibits.
- e. The Respondent may then present written documentation or oral testimony from the Respondent him/herself and/or other witnesses, and all relevant documents, records and exhibits. The names of such witnesses and/or copies of written statements must be submitted to the Officer at least one working day prior to the hearing for inclusion in the materials presented to the Committee. At the discretion of the Chair, the Respondent (and the Complainant, if the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking) , may submit written documents, oral testimony of witnesses, and all relevant documents, records, and exhibits at the time of the hearing.
- f. 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 Chair. Questioning by any advisor is not permitted. The advisors may not speak at the hearing.
- g. After the presentation of all the information to the Committee, the Officer and the Respondent (and the Complainant if the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking) may present arguments to the Committee on the applicability of this Code or the interpretation of any sections herein.
- h. At this time, the Officer and the Respondent (and the Complainant if the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking) may make recommendations to the Committee as to the appropriate sanctions should a violation(s) be found to have been committed.

- i. During the hearing the Committee may consider any relevant information, shall 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 shall go into closed session to determine whether the Respondent has committed the alleged violation and/or, if so, the sanction(s) to be imposed. Deliberations are not recorded. A Committee member should vote that the Respondent is In Violation of the Code only if convinced by a preponderance of the information presented that the Respondent has committed the act(s) as alleged. A simple majority vote of In Violation or Not in Violation of the Code by the Committee members present shall prevail. If the majority of the Committee votes for Not In Violation or there is a tie, the Respondent shall be found Not In Violation and the process shall end.
- k. If a Respondent is found to be In Violation of the Code, the Committee will deliberate on sanctions. Deliberations are not recorded. A majority vote of the Committee members voting shall prevail.
- l. After making its decision, the Committee shall inform the Respondent in writing of the disposition of the case as soon as practicable in the same manner as set forth in Section V.A.(3)(b) above. Any disciplinary sanctions imposed by the Committee shall be operative immediately upon notification, unless otherwise specified.
- m. The notice to the Respondent of the finding of the Committee shall include:
  - i. The section(s) of this Code found to have been violated;
  - ii. The disciplinary sanction imposed or other sanction to be taken; and
  - iii. Minority report and recommendations, if any.
- n. If the alleged violation is a violent crime, gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the Committee shall inform the Complainant of the outcome of the proceeding at the same time as notice is provided to the Respondent. Notification will occur in the same manner as set forth in V.A.(3)(b) above.
- o. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, 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. Notification will occur in the same manner as set forth in V.A.(3)(b) above.

## **F. Right of Review Beyond Committee**

1. In the event the Committee approves a sanction of suspension or dismissal, or loss of recognition of campus organizations, the Respondent may request review by the President or his/her designee. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the Complainant or Respondent may direct a request for review of the Committee's decision to the President or his/her designee. Such request for review must be made within seven calendar days of notification of imposition of sanction. The request for review shall be in writing and limited to:
  - a. Review of the procedures followed. In the event of a significant procedural error, the President or his/her designee shall reverse and remand the case to the Committee for a new hearing as set forth in section V.D. above.
  - b. Appropriateness of the sanction. The President or his/her designee may impose a more severe sanction in the case of gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking. The decision of the President or his/her designee shall be final and shall be communicated to the Respondent in the same manner as set forth in Section V.A.(3)(b) above.

- c. Consideration of new information that was not available at the time of the hearing with the Committee.
  - d. If the alleged violation is a violent crime, gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the President or his/her designee shall inform the Complainant of the outcome of the proceeding at the same time as notice is provided to the Respondent. Notification will occur in the same manner as set forth in V.A.(3)(b) above.
  - e. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, in addition to informing the Complainant of the outcome of the proceedings the President or his/her designee shall inform the Complainant of any sanctions imposed upon the Respondent that directly relate to the Complainant. Notification will occur in the same manner as set forth in V.A.(3)(b) above.
  - f. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the President or his/her designee or any person/group designated to hear a review shall have had annual training on the issues related to gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, and stalking and how to conduct an investigation and hearing process that protects the safety of individuals involved and promotes accountability.
2. If the Committee decided a case referred directly by the Officer, the President or his/her designee shall designate a new person/group to hear the first review. The respondent may direct a request for review of the Committee's findings or actions to the person/group designated to hear the first review. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the Complainant may direct a request for review of the Committee's findings or actions to the person/group designated to hear the first review. The outcome of this review may result in a higher sanction, a lower sanction, the same sanction, or no sanction at all being imposed. Requests for review will be in accordance with V.C.2 above. For these reviews, the responsibilities of the person/group are to review all documents submitted to the Committee, the recording of the Committee hearing, and the Committee's decision. The decision of the person/group may then be reviewed according to section V. E.1 above.
- a. The decision of the person/group designated to hear the first review shall be communicated to the Respondent in the same manner as set forth in Section V.A.(3)(b) above.
  - b. If the alleged violation is a violent crime, gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, the person/group designated to hear the first review shall inform the Complainant of the outcome of the proceedings in the same manner as set forth in Section V.A.(3)(b) above.
  - c. If the alleged violation is gender discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking, in addition to informing the Complainant of the outcome of the proceedings the President or his/her designee shall inform the Complainant of any sanctions imposed upon the Respondent that directly relate to the Complainant in the same manner as set forth in Section V.A.(3)(b) above.

### **G. Specific Procedures with Respect to Sexual Assault, Domestic Violence, Dating Violence, and Stalking**

The University prohibits sexual assault, domestic violence, dating violence, and stalking. In cases of alleged sexual assault, domestic violence, dating violence, or stalking the University will provide a prompt, fair, and impartial investigation and resolution. This process will be conducted by University officials who receive annual training on the issues related to sexual assault, domestic violence, dating violence, and stalking and how to conduct an investigation and hearing process that protects the safety of individuals involved and promotes accountability.

1. Reporting a Violation
  - a. Victims may elect to report an incident to campus authorities, local law enforcement, both, or neither;
  - b. Should a victim elect to report an incident to local law enforcement, campus authorities are available to assist the victim with this process at the victim's request.
2. Standard of Evidence
  - a. Students who believe they have been the victim of an act of sexual assault, domestic violence, dating violence, or stalking should, if possible, attempt to preserve any evidence of the act. This evidence could prove crucial should the student choose to report a violation of this Code, report a criminal act to local law enforcement, or seek an order of protection from abuse or harassment from the courts.
  - b. As with other violations of the Code, and in accordance with federal law, in cases of sexual assault, domestic violence, dating violence, or stalking, the standard of evidence used to determine whether a violation occurred shall be a preponderance of the evidence.
  - c. Under the preponderance of the evidence standard, a violation will be determined to have occurred if, based upon the evidence presented, University authorities conclude that it is more likely than not that the violation was committed.
3. Sanctions and Protective Measures
  - a. In addition to the sanctions outlined in Section IV, it is within the University's power to impose remedial measures to protect the victim.
  - b. Even if a victim chooses not to pursue disciplinary proceedings under the Code or report the incident to law enforcement s/he should consider talking to University officials 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.
  - c. Examples of possible remedial measures include:
    - i. Helping a victim change housing, classes, or transportation in order to avoid contact with his/her alleged perpetrator;
    - ii. Prohibiting an alleged perpetrator from having contact with the victim; and
    - iii. Helping connect the victim to victim's services on campus and in the community, including counseling.
  - d. Additional information on resources for victims, 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.
4. Confidentiality
  - a. 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 victims as confidential and, to the extent permissible by law, withholds any other information that may serve to identify the victim.
  - b. If a Complainant requests that his/her name or other identifiable information not be disclosed to the alleged perpetrator, the University's ability to respond to the incident and pursue disciplinary action against the alleged perpetrator may be limited. Potential Complainants should note that, under Title IX of the Education Amendments of 1972, retaliation against a Complainant is prohibited. University officials will take steps to prevent retaliation and will take strong responsive action if retaliation does occur.

## **VI. Student Conduct Code Review Board**

There shall be established a board, known as the Student Conduct Code Review Board. It shall be composed as follows:

1. Three persons from each institution of the University: the Officer, the Chair of the Campus Conduct Code Committee, and one student named by the President or his/her designee after seeking nominations from student representatives for this appointment;
2. One student who is a participant in a distance education program shall be appointed by the Vice Chancellor for Academic and Student Affairs or his/her designee; and
3. One representative each from the Board of Trustees and the Chancellor's Office.

The Chancellor's representative shall be responsible for calling the Review Board into session. This Review Board shall meet at least once every three years, but may meet more often if necessary under the following procedures:

- A. When requested by Officers representing at least two institutions of the University System.
- B. When requested by Student Government Officers representing at least two institutions of the University System.
- C. When requested by the Chancellor of the University System.

The Review Board shall:

- A. Consider all proposed amendments to this Code and act as an advisor to the Board of Trustees in matters pertaining to the Code.
- B. Send its recommendations on proposed amendments of the Code to the Presidents Council and Chancellor for transmission to the Board of Trustees.
- C. Review the relationship between violations and sanctions in order to encourage consistency throughout the University System.

## **VII. Amending the Student Conduct Code**

The Board of Trustees shall act upon proposed amendments to the Code after receiving recommendations of the Review Board, the Presidents' Council of the University System, and the Chancellor. 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 Student Affairs Office and/or the Office of the President on each campus.

**Revised by the Conduct Code Review Board and  
accepted by the Board of Trustees, November 18, 2013.**

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*In complying with the letter and spirit of applicable laws and in pursuing its own goals of pluralism, the University of Maine System does not discriminate on the grounds of race, color, religion, sex, sexual orientation, including transgender status and gender expression, national origin, citizenship status, age, disability, genetic information or veterans status in employment, education, and all other programs and activities. The following person has been designated to handle inquiries regarding non-discrimination policies: Sally Dobres, Director of Equity & Diversity, 16 Central Street, Bangor, Maine 04401, voice (207) 973-3372, TTY (207) 973-3262.*

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