STUDENT CODE OF CONDUCT

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Section I. Student Code of Conduct Authority

Ultimate authority for student discipline is vested in the Board of Trustees of the University of Massachusetts. Disciplinary authority is delegated to the Chancellor of the University of Massachusetts Boston, who in turn has delegated authority over student conduct to the Vice Chancellor for Student Affairs and authority for student academic dishonesty to the Provost and Vice Chancellor for Academic Affairs. Records of student conduct actions are maintained in the Office of the Dean of Students in compliance with the Family Educational Rights and Privacy Act (“FERPA”) See below link.

http://www.umb.edu/life_on_campus/policies/regulations/student_right_to_review_the_University_of_Massachusetts_Boston’s_records) and other privacy laws.

The Student Code of Conduct (the “Code”) is administered by the Office of the Dean of Students. The University of Massachusetts Boston, (the “University”) responds when a student is believed to have violated the University’s community standards of honesty, integrity, civility, respect, and safety as set forth in this Code.

Questions, comments, and suggestions should be forwarded to the Office of the Dean of Students, Campus Center, 4th floor, Room 4015, or to dean.students@umb.edu.

The Student Code of Conduct may be reviewed annually by the Office of the Dean of Students.

Section II. Purpose

The University is in an urban setting, and is therefore an inseparable part of the local community and surrounding neighborhoods. The Code is established to set clear community standards of respect for persons, property, the University”) community, and the process and procedures addressing unacceptable conduct in which these standards will be governed. This Code reflects the University's mission and identity, and it exists to maintain and protect an environment conducive to learning. Consistent with that purpose, reasonable efforts will be made to take an educational approach to address violations of University policies in order to help students learn from their mistakes and understand how their behavior impacts others while the University maintains the welfare of the community as a whole. The Code is set forth in writing to give students general notice of prohibited conduct. The descriptions of prohibited conduct should be read broadly and are not designed to defined expectations or misconduct in exhaustive terms.

The Code is neither a criminal nor a civil code and does not operate like one. Because the Code is based on shared values among members of our community, it sets a broad range of expectations for students no matter where or when their conduct may take place. The Code is not limited to behavior within the formal boundaries of University premises. Therefore, the University reserves the right to take necessary and appropriate action to protect the safety and well-being of the University community, to protect the continuing operation of the University, and to serve as a model representative of the greater Boston community.

Each student and student organization is responsible for reading, reviewing, and abiding by the standards of conduct set forth in the Code as well as the rules, regulations, policies, and procedures contained in other official University publications and announcements. Notification of a Code violation or decision of a Code violation is issued to a student through the student's University email account.

- The Code is generally broken down into two categories of misconduct: academic and social. These two areas are then further categorized by specific types of policy violations. While not all forms of policy violations may be represented by the Code, it does serve as a general

University of Massachusetts Boston Student Code of Conduct, revised 5-14-14
guideline in the establishment of community standards and the determination of what constitutes inappropriate student behavior. This Code should not be regarded as an exhaustive definition of policy violations or normative standards, and it should not be construed an express or implied contract between the student and the University.

**Standards of conduct and procedures for Academic Honesty violations under this Code are provided under section XI.**

- The University reserves the right to change the provisions of the Code in accordance with University policies whenever such action is deemed appropriate or necessary. The University will publish such amendments in relevant campus publications and on the Office of the Dean of Students website.

**General Assumptions**

Each member of the University of Massachusetts Boston community enjoys the same basic rights and is expected to respect the rights of others. Those rights include but are not limited to:

- freedom from personal abuse and threats of violence;
- access to all University services and opportunities;
- a supportive learning environment that enables all to participate fully within the University.

**Section III. Jurisdiction**

The Code is applicable to any student and student organization. The Code shall also apply to student behavior that occurs when students are (1) participating in off-campus internships, study-abroad programs, field trips, class projects; or (2) at University-sponsored or -supervised activities or events. The University reserves the right to address behavior that occurs on or off University premises, when in the University's judgment, the behavior involves or affects the University or members of the University community such as behavior that:

- adversely affects the University’s educational mission and purpose;
- constitutes a criminal offense as defined by state or federal law, regardless of the existence or outcome of any criminal proceeding;
- disrupts the rights, property, or achievements of others or unreasonably breaches the peace and/or privacy of a student(s), the University community, and/or causes social disorder;
- causes or threatens harm to the health, safety, well-being, or property of the University or members of the University community, including the student (himself or herself);

Each student shall be responsible for his/her behavior from the time of admission through the actual awarding of a degree even though that conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.

Any behavior which may have been influenced by a student's mental state or use of drugs or alcoholic beverages shall not in any way limit the responsibility of the student for the consequences of his or her actions.
Organizations

In the event that a student organization engages in conduct that violates this Code, the University may hold that organization responsible for the actions of its members when the behavior or activity is related to the organization. In those instances, the University may revoke or suspend the student organization’s right to remain active or right to participate in certain activities. In addition, the individual members of student organizations will be held accountable for violations of the Code.

Section IV. Definitions

The following selected terms are defined in an effort to facilitate a more thorough understanding of the Code. Definitions of other terms may appear within the sections of this Code. This list is not intended to be a complete list of the terms referenced in the Code that might require interpretation or clarification.

- “Academic week” is defined for the purpose of this Code as a week within a semester (fall or spring) that has campus-wide instruction as scheduled on the University’s Academic Calendar. Compressed academic periods such as summer and winter sessions will not be defined or considered as an academic week in conjunction with disciplinary sanctions.

- “Accused” student or “Respondent” student is defined as any student accused of violating the Code.

- “No Contact Order” is a written notification issued by the Dean of Students or designee to a student to have no direct and/or indirect contact with another member of the University community, including in person, by telephone, electronically, in writing, through a third party, or by any other means as may be specified by the Dean of Students or designee. The duration of the order is determined by the Dean of Students or designee, and students may request to have the order lifted after an appropriate sustained period of compliance. A No Contact Order is used when the Dean of Students or designee has reasonable cause to believe that an order would be in the best interest of one or all parties, the community, or when he/she believes the order will deescalate a situation. A violation of the No Contact Order may result in the offending student being charged with Failure to Comply. These measures will not affect the student’s ability to attend class. The Dean of Students or designee will determine in writing to both the complainant and respondent the conditions of the No Contact Order or if it is modified following the determination of the Student Conduct process. Due to the small footprint of our campus some contact may be unavoidable, for example when students share a class together. If unavoidable contact occurs it should be done civilly and without incident.

- “Advisor” means any person who accompanies an accused student, a complainant, or a victim to any stage of the disciplinary proceedings including related meetings and the Student Conduct hearing for the limited purpose of providing support and guidance. An advisor shall not directly address the hearing officer, the hearing body, question witnesses, or otherwise actively participate in related meetings or any aspect of the hearing process. An advisor shall not be a witness in the hearing. Only where criminal charges are pending, or in complaints alleging a sexual offense, domestic violence, dating violence, or stalking against a respondent student, may a lawyer be allowed as an advisor (as the term “advisor” is defined in this Code) for both the respondent and complainant, at the option and expense of the student. A student should select an advisor whose schedule allows attendance at the scheduled date and time for the hearing, because delays will not normally be allowed due to the scheduling conflicts of an advisor.
• “Appellate body” means any person or persons authorized by the Vice Chancellor for Student Affairs, Provost and Vice Chancellor for Academic Affairs, or designee to conduct a review of a decision reached by a hearing officer or board.

• “Business day” means any day, Monday through Friday, that the University is open.

• “Code” means the Student Code of Conduct.

• “Community restitution” means required service, without compensation, performed for the benefit of the community that is sanctioned to a student through the Student Conduct Process.

• “Community Review Board” are members of the University Community authorized by the Dean of Students or designee to determine whether a student or student organization has violated the Code and to recommend sanctions in accordance with the Code. The Community Review Board shall consist of five (5) members. One member will serve as Chair. The Chair’s role is to ensure efficiency and fairness throughout the hearing process and may only vote in the event of a tie. The Chair will be selected by the Dean of Students or designee. No student shall comprise the Community Review Board when the complaint alleges a claim of sexual offense, domestic violence, dating violence, or stalking.

• “Complainant” is defined as any person who submits a charge against a student or student organization alleging that a student or student organization violated the Code.

• “Consent”

  1. General definition: Acceptance or approval of what is planned or done by another; acquiescence.

  2. Consent as it relates to sexual activity, domestic violence, dating violence, or stalking: It is the responsibility of the person seeking to initiate the sexual activity or conduct to affirmatively obtain consent, not the intended recipient of such contact or conduct to affirmatively deny such consent. An affirmative, informed decision to engage in mutually acceptable sexual activity must be given by clear actions or words. It is an informed decision made freely and actively by all parties.

    a. Relying solely upon nonverbal communication can lead to miscommunication. It is important not to make assumptions; if confusion or ambiguity on the issue of consent arises anytime during the sexual interaction, it is essential that each participant stops and clarifies, verbally, willingness to continue.

    b. Students should understand that consent may not be inferred from silence, passivity, or lack of active resistance alone.

    c. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity.

    d. When substance use is involved, a person is not considered able to give consent when the degree of intoxication is such that the victim’s judgment is so impaired that he or she would not be capable of making rational decisions about his or her welfare, and as such the person would not be able to give consent to engage in sexual activity.

    e. When an individual is incapable of giving consent because of his/her temporary
or permanent mental or physical incapacity.

f. Consent is not indefinite and may be withdrawn at any time. Once consent is withdrawn, all sexual activity must cease unless and until additional effective consent is given.

- “Dean of Students” means the administrative officer responsible for administration of the Student Conduct Process bearing this or a similar title and includes his/her designee.

- “Expulsion” is a permanent separation of a student from the University. A notification of “expulsion” will be recorded on the student’s transcript. An expelled student may also be barred from University premises.

- “Hearing officer” is a University staff or faculty member who is authorized to:
  
a. investigate a complaint of an alleged violation of the Code;

b. establish charges against a student;

c. facilitate a disciplinary hearing;

d. determine the appropriate resolution of an alleged violation of the Code, including imposing sanctions, mediation, or other remedies as appropriate; and

- “Intermediary solution” is an approach that engages victims, student respondents, and their affected communities in search of a mutually beneficial solution that promotes repair, reconciliation, and the rebuilding of relationships. **This process shall not be used for alleged Code violations of sexual offense, dating violence, domestic violence, or stalking.**

- “Member of the University community” includes any person who is a student, administrator, instructor, faculty member, University staff member, or any other person working for the University, either directly or indirectly (e.g., private enterprise on campus). A person’s status in a particular situation shall be determined by the Office of the Dean of Students.

- “Preponderance of the Evidence” Standard: The burden of proof standard used in determining a violation of the Student Conduct Code. A preponderance of the evidence standard means that it is “more likely than not” that a violation of the Student Conduct Code occurred.

- “Student” is any person who:
  
  - has an active University student record through the Registrar’s Office;
  - is enrolled in or registered in any course or academic program at the University regardless of credits or matriculation status;
  - has completed a term and is eligible for reenrollment;
  - is on an approved leave;
  - has been suspended.

- “Student Conduct file” means the printed/written/electronic file that may include but is not limited to incident report(s), Notice of Violation, witness statements, Notice of Decision, and Student Conduct history. Student Conduct files are centrally maintained in the Office of the Dean of Students and are governed by the privacy rights under the Family Educational Rights and Privacy Act of 1974, 20 USC 1232 (g), (“FERPA”) and other applicable privacy laws.
• “Student organization” means an association or group of persons that has complied with the formal requirements for University recognition.

• “Suspension” is a separation of the student from the University for a specified period of time not less than the remainder of the semester in which the incident took place. Suspensions that take effect during a semester will result in the loss of academic credit for that semester. During the suspension, the student may not participate in any University-sponsored activities and may be barred from University premises.

• “University” means the University of Massachusetts Boston.

• “University official” is any person employed by the University to perform administrative, instructional, or professional duties.

• “University premises” includes all land, buildings, facilities, and other property in the possession of or owned, used, leased, or controlled by the University, either solely or in conjunction with another entity.

• “Witness” is a person who has firsthand personal knowledge of the incident at issue.

Section V. Standards of Conduct

Any student or student organization found to have engaged, or attempted to engage, in any of the following conduct will be subject to appropriate disciplinary action under this Code. Please note that this list is not exhaustive:

A. Prohibited Conduct

The following is a list of prohibited behaviors and activities which may result in student conduct action under the Code.

1. “Discrimination” - No student shall be denied or deny the rights or privileges of a member of the University Community or other individual on the basis of a protected class such as race, color, religion, gender, gender identity or expression, age, sexual orientation, national origin, ancestry, disability, marital status, military status, or genetic information in the admission to and participation of the University’s academic programs, activities, services, or employment. This Code adheres to the University’s Affirmative Action Plan. http://www.umb.edu/odi/aa_policy).

2. “Harassment” is conduct (physical, verbal, graphic, written, or electronic) that is sufficiently severe, pervasive, or persistent so as to threaten an individual or unreasonably interferes with the ability of an individual to participate in or benefit from the services, activities, or opportunities of the University. Harassing conduct includes but is not limited to:

   a. the posting of threatening words directed at a community member;

   b. harassing or threatening telephone calls, email, voice mail, posting of materials in online communities, instant messaging.

3. “Physical assault” includes, but is not limited to, physical attack upon or physical interference with a person which prevents the person from conducting his or her customary or usual affairs; puts the person in fear for his or her physical safety; or causes the person to suffer actual physical injury.
4. “Dating violence” a form of physical assault, which includes sexual and/or physical abuse, committed by a person who has a romantic or intimate relationship with the individual physically assaulted. The length of the relation, type of relationship, and frequency of interactions between the individuals will be considered.

5. “Domestic violence” a form of physical assault, which includes sexual and/or physical abuse, committed by a student who has been or is in a romantic or intimate relationship with the individual physically assaulted; and

   (i) cohabitated with or has cohabited with the individual physically assaulted; and/or

   (ii) is a current or former spouse of the individual physically assaulted; and/or

   (iii) has a child in common

6. “Stalking” is any pattern of unwanted conduct directed specifically at another person that threatens or endangers the physical or mental safety or property of that person (or a member of that person’s family or household) or creates a reasonable fear or intimidation of such a threat or action.

7. “Hazing,” is any conduct or method of initiation, admission into, or as a condition of membership into any group, organization or Student Organization as defined under this Code, or maintaining membership in a group, organization, or Student Organization, which willfully or recklessly endangers the physical or mental health or safety of any student or other person. Consent to hazing will not be a defense under this Code. Examples of such behavior include but are not limited to any other brutal treatment or forced physical activity which is likely to adversely affect the physical health of any such student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation or forced violation of the law or University policy.

8. “Sexual offense” includes rape, sexual assault, sexual harassment, or any other unwanted behavior of a sexually explicit nature (see http://www.umb.edu/life_on_campus/policies/regulations/sexual_offense/).

   a. Rape: A form of sexual assault involving sexual intercourse or the penetration of any orifice by any object, however slight, against the will or consent of the victim.

   b. Sexual assault: any sexual activity that is forced, coerced, unwanted, or without consent.

   c. Sexual harassment: unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic work, 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual, or 3) such conduct has the purpose or effect of
unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working or academic environment. (See [http://www.umb.edu/odi/policies/](http://www.umb.edu/odi/policies/)).

Examples of sexual harassment include, but are not limited to the following behaviors when they are unwelcome or unwanted, and are both objectively and subjectively offensive:

- sexual flirtations, advances or propositions;
- verbal abuse or innuendo of a sexual nature;
- uninvited physical contact such as touching, hugging, patting, brushing or pinching;
- verbal comments of a sexual nature about an individual’s body or sexual terms used to describe an individual;
- display of sexually suggestive pictures, posters or cartoons;
- jokes, language, epithets or remarks of a sexual nature;
- making obscene gestures or suggestive or insulting sounds;
- demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment or academic status indecent exposure.

**Allegations of a Sexual Offense by a Staff Member or Faculty Member of a Student Will Be Investigated and Determined Under the Procedures Set Forth by the Office of Diversity and [http://www.umb.edu/odi/](http://www.umb.edu/odi/).**

9. Representing oneself as another person, including a University official, with or without that person's permission, to gain a benefit improperly.

10. Representing the University, any student organization or chartered group, or any official University group without the explicit prior consent of the officials of that group.

11. No student or student organization may represent itself as acting for or on behalf of the University in any commercial enterprise or in the solicitation or collection of funds for any purpose whatsoever without approval in advance by the appropriate University authority. (This applies to all means of communication, including but not limited to mail, email, telephone, electronic devices, or other means.)

12. Furnishing false information includes but is not limited to:

   a. The submission of false information or concealment of previous academic information at the time of the admission process
   b. Providing forged, false, or improper documents to the University
   c. Misrepresenting the truth during a University hearing
   d. Unauthorized alteration of University documents

13. Tampering with or falsifying any University records, official documents, computer files, storage units, terminals or programs which contain electronic records, or student
discipline records. (Knowingly submitting false information for inclusion in these records is interpreted as tampering with the official record system. Health Service records are herein included.)

14. False reports, either by intentionally initiating or causing any false report, unless it results from reasonable error or accident; including, but not limited to the failure to report a fire or other dangerous conditions, failure to report a fire property, or any interference with the response of University or City officials to such emergency calls.

15. Unauthorized accessing of the records of any individual, whether such access is obtained through paper records, computer files or systems, or other means, where such information is protected by the University policies concerning privacy and confidentiality and/or is otherwise protected by law.

16. Dishonesty or misrepresentation, either orally or in writing, regarding charges brought under the Code before Hearing Officers or the Community Review Board. This shall not include a denial of the charge(s) by a student during an Administrative Conduct Hearing or Community Review Board.

17. Refusal to identify oneself to any properly identified (by name and position) member of the University staff acting in performance of their duties, when appropriately requested to do so. The preferred form of identification shall be a current, valid University Identification Card.

18. Altering, improperly possessing, or lending a University Identification Card to another person for any reason not expressly authorized by the University. A University Identification Card falling into any of these categories may be confiscated by any student worker, staff member, or faculty member in the course of his/her charged work responsibilities.

19. Misrepresentation. This includes, but is not limited to, misuse of purchasing authority, accepting unearned funds, and submitting false time sheets.

20. Willful interruption or disturbance of the day-to-day conduct of the business of the University, including but not limited to:
   a. Disrupting a classroom by engaging in behavior that may substantially or repeatedly interrupt either the instructor’s ability to teach or students’ ability to learn. The definition of “classroom” extends to any setting where a student is engaged in work toward academic credit or satisfaction of program-based requirements or related activities.
   b. Any behavior, in class or out of class, which for any reason materially disrupts the class work of others, invades the rights of others, or otherwise disrupts the regular activities of the University.
   c. Demonstrations and actions which violate the policy called University of Massachusetts Boston Guidelines for Responses to Demonstrations on University Property (see Appendix 42 and http://www.umb.edu/life_on_campus/policies/regulations/responses_to_demonstrations_on_university_property).

21. Failure to comply with the proper and lawful directive of a University official.
22. Failure to comply with any authorized Student Code of Conduct sanction(s).

23. Creating an off-campus community disturbance, including, but not limited to, excessive or unreasonable noise, excessively large parties, and/or rude and abusive language or behavior.

24. No student shall host or participate in activities that violate the Laws of the Commonwealth of Massachusetts pertaining to gambling.

NOTE: All members of the University community are expected to report all violations of the Code to the Office of the Dean of Students, maintain appropriate privacy for investigations and proceedings, and refrain from filing complaints in bad faith, or in retaliation against any individual.

B. Alcohol and Other Drugs

Violations of University policies and regulations include but are not limited to the Alcoholic Beverage, Drug and Smoke-Free Policies. These policies are set forth in their entirety at (http://www.umb.edu/life_on_campus/policies/regulations/alcohol and http://www.umb.edu/smoke_free.html)

a. The improper use, possession, possession for the purpose of sale, or distribution of any controlled substance as defined in Mass. Gen. Laws, ch. 94C, section 31, etc.

b. Possession of drug paraphernalia as defined in Mass. Gen. Laws, ch. 94, section 32; this includes objects used or primarily intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, including but not limited to pipes, water pipes, bongs, roach clips, and vials. Determination of whether an item is drug paraphernalia will be made by considering all relevant facts, including but not limited to the proximity of the item to controlled substances.

c. The unauthorized possession of a hypodermic syringe, hypodermic needle, or any instrument adapted for the administration of controlled substances by injection, as provided by Mass. Gen. Laws, ch. 94C, section 27.

THE UNIVERSITY CONTINUES TO COMPLY WITH FEDERAL REGULATIONS REGARDING MARIJUANA POSSESSION OR USE REGARDLESS OF ANY CONTRARY STATE REGULATIONS.

C. Safety Violation

1. The possession, storing, carrying, or use of any weapon, ammunition, or explosive, as defined in Mass. Gen. Laws, ch. 269, Section 10 et. seq., by any person is prohibited on all University premises except by authorized law enforcement officers and other persons specifically authorized by the University.

   a. Examples include, but are not limited to, firearms, BB guns, any knife with a locking blade, any knife having a double-edged blade, any knife having an automatic spring-release device by which the blade is released from the handle, a blade of over one and one-half inches, a nunchaku, etc.

2. Endangering behavior, which includes but is not limited to:
a. Endangering the safety of persons or property, or any action that might lead to loss of life or serious physical harm to others, including, but not limited to, operating a motor vehicle under the influence of alcohol (OUI, DUI, DWI), throwing or dropping objects from buildings, sitting on windowsills, tampering with or damaging elevator equipment or other machinery, and damaging or removing a fire extinguisher or any part of a fire alarm.

b. Engaging with others in, or inciting others to engage in, harmful or destructive behavior, in the context of a group of persons disturbing the peace. Specific behaviors may include, but are not limited to, using violence or threatening violence to others, damaging or destroying property, stealing or looting, setting fires, throwing bottles or other projectiles, impeding or impairing emergency personnel services or equipment, obstructing traffic, refusing to leave when asked by an authorized person, or otherwise engaging in any action that might lead to intentionally or recklessly harming or endangering the physical safety or property of another.

3. Failure to evacuate any University building after a fire alarm has sounded or other notice has been given.

4. The creation of a fire hazard, including the improper use of electrical appliances or the improper use or possession of inflammable or hazardous substances.

   a. Tampering with or misuse of fire extinguishers or fire-safety systems.

D. Care of Property

Property is defined as belongings, equipment, or materials. In addition, property may include the belongings, equipment, or materials produced, owned, or in possession of students, faculty, staff, guests, vendors, contractors, or members of the community.

1. Theft, unauthorized possession, use, removal of, defacing, or tampering with property, or damage to or destruction of such property.

2. Unauthorized presence in or use of University premises, facilities, or property.

3. Violation of the Responsible/Acceptable Use of Computing and Data Resources Standards that are in place to protect University data, computers, and computer-related resources (see http://media.umassp.edu/massedu/policy/AcceptableUse.pdf).

University property that is damaged or removed and not returned will be billed to the individual or group responsible for such damage at the standard rate established by the University for repair and replacement.

Section VI. Conduct Review and Hearing Process

A. Initiating a Complaint

Any person wishing to initiate a complaint regarding any University of Massachusetts Boston student or student organization is encouraged to do so in writing as soon as possible following the incident. The University may independently investigate an allegation of student misconduct whether or not it has been submitted in writing and whether or not it is beyond the three hundred sixty-five days provided in this paragraph. A complaint will be investigated when it is submitted in writing (independently by the University) within three hundred sixty-five
(365) days of the alleged violation or discovery of the alleged violation is presented to the Office of the Dean of Students. The complainant should include the following information, if available:

1. Date of the incident
2. Name(s) of the accused
3. Description of the incident, including location
4. Names, addresses, and telephone numbers of witnesses
5. Names, addresses, and telephone numbers of those filing the complaint

Response to allegations of sexual offense, domestic violence, dating violence, or stalking
In addition to this complaint procedure, the Dean of Students or designee will provide the complainant with written explanations of the complainant’s rights and options. A copy of these rights and options are also available at http://www.umb.edu/odi/.

ALLEGATIONS OF A SEXUAL OFFENSE BY A STAFF MEMBER OR FACULTY MEMBER OF A STUDENT WILL BE INVESTIGATED AND DETERMINED UNDER THE PROCEDURES SET FORTH BY THE OFFICE OF DIVERSITY AND INCLUSION.

The University will take prompt and appropriate measures available to the University to address allegations of a sexual offense, domestic violence, dating violence, or stalking. The University will provide a prompt, fair, and impartial investigation and resolution of claims brought under this Code, including claims for a sexual offense, domestic violence, dating violence, or stalking involving. Investigations for claims of sexual offense, domestic violence, dating violence, or stalking will be conducted by Hearing Officers, Community Review Boards or members of the Office of Diversity and Inclusion, who receive annual training on the issues related to sexual offenses, domestic violence, dating violence, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

NOTE: All members of the University community are expected to report all violations of the Code to the Dean of Students Office, maintain appropriate privacy for investigations and proceedings, and refrain from filing complaints in bad faith, or in retaliation against any individual.

B. Basis for Determining Code Violations

The student respondent will be presumed “not responsible” until proven otherwise by a preponderance of the evidence presented during the Student Conduct process. The formal rules of evidence applicable to civil and criminal cases shall not apply, nor shall deviations from prescribed procedures necessarily invalidate a decision, unless significant prejudice to an accused student or the University results.

C. Determination of Charges

Upon the receipt of a complaint, the Dean of Students or designee will evaluate the complaint and determine whether there is sufficient merit to charge the respondent student with a violation of the Code. If there is sufficient merit to charge the respondent, a Notice of Violation will be issued to the respondent.

D. Hearings

1. Hearing Notification
If the Dean of Students or designee determines after evaluating the complaint that the Code may have been violated, a Notice of Violation will be issued to the student respondent through the student’s University email account. The Notice of Violation will provide the student respondent a brief summary of the allegations, the violation he/she is being charged with, notice of the right to identify witnesses, the time frame within which the student respondent has to set a date for his/her Administrative Conduct Hearing, and the location of the Hearing. The complainant will receive notice of the right to identify witnesses, and the date and location of the Community Review hearing.

a. Complaints alleging claims of a sexual offense, domestic violence, dating violence, or stalking will be noticed to proceed to a Community Review Board hearing.

Any Hearing Officer or member of the Community Review Board may recuse himself/herself for a particular hearing for reasons of possible conflict of interest by informing the Dean of Students or designee within twenty-four (24) hours of the hearing. In addition, a respondent or complainant may challenge the bias of a Hearing Officer or Community Review Board member to the Dean of Students at least twenty-four (24) hours prior to the time set for the hearing.

a. The Administrative Conduct Hearings will be scheduled not less than two (2) business days and typically no more than fifteen (15) business days after the student respondent has been notified of the charges (time may be altered at the discretion of the Hearing Officer, taking into consideration of mitigating circumstances).

b. Student respondents may request to delay an Administrative Conduct hearing in cases where criminal charges related to the alleged Code violation are pending. In these cases, a reasonable delay shall be granted to secure the advice of legal counsel.

2. Administrative Conduct Hearing Process

a. The Administrative Conduct Hearing is a formal disciplinary hearing. The Hearing Officer will explain the Student Conduct procedures, provide a copy of any report that details the charge, discuss the charges with the student respondent, and the range of possible sanctions. The student respondent will have the opportunity to speak in his/her own defense and explain his/her version of events.

b. If a student respondent acknowledges responsibility for violating the Code during the Administrative Conduct hearing, the case will be resolved immediately, resulting in appropriate sanctions. In this case, the outcome of an Administrative Conduct hearing is final and there is no appeal or further conduct proceedings regarding the findings or the sanction.

c. Students that are not subject to a potential sanction of suspension or expulsion who choose not to schedule and/or participate in an Administrative Conduct Hearing may be subject to a Hearing Officer making a decision on the case without the student’s input. A student found responsible may have the right to appeal.
d. Students who do not acknowledge responsibility and are not subject to a potential sanction of suspension or expulsion may be found responsible at the conclusions of the Administrative Conduct Hearing.

e. Students who do not acknowledge responsibility and are subject to a potential sanction of suspension or expulsion will proceed to a Community Review Board hearing after the Administrative Conduct hearing is conducted.

f. Whether or not a student is subject to a potential sanction of suspension or expulsion, when the student respondent has been found responsible under the Code within the past academic year, even if an appeal is pending, a Community Review Board hearing will be conducted after the Administrative Conduct Hearing.

g. In some cases, alternative dispute resolution such as an Intermediary Solution may be offered by mutual consent of the parties involved and on a basis acceptable to the Dean of Students or designee and when students involved have not previously engaged in mediation (under the same or similar set of facts or circumstances) through this process. Upon mutual consent of the parties involved to participate in mediation, the parties will enter into a binding agreement, which will set forth the terms of the mediation. Once the agreement is rendered, it is not subject to appeal. A copy of the agreement will be provided to all parties. If mediation fails, the case will be assigned to an administrative hearing. Information gathered through the mediation process shall not be submitted as evidence in an Administrative or a Community Board Hearing. Failure to abide by the agreement may result in the situation being returned through the Student Conduct process for possible disciplinary action. **Intermediary Solutions may not be used in cases involving forms of sexual offense.**

3. Notice of Community Review Hearings

a. A Community Review Hearing will be scheduled not less than two (2) business days and typically no more than fifteen (15) business days after either the student respondent has received a Notice of Decision at the conclusion of an Administrative Conduct Hearing or a Notice of Violation in the case of a complaint alleging a sexual offense, domestic violence, dating violence or stalking (time may be altered at the discretion of the Hearing Officer, taking into consideration mitigating circumstances). In instances where the student respondent is noticed to attend an Administrative Conduct hearing and the student respondent does not attend the scheduled Administrative Conduct hearing, the Community Review Hearing may go forward and be scheduled as provided above, from the date of the scheduled Administrative Conduct hearing sent to student respondent in writing.

i. If a student respondent acknowledges responsibility for violating the Code prior to the Community Review hearing, the case will be resolved by a Hearing Officer in an Administrative Conduct hearing resulting in appropriate sanctions. In this case, the outcome is final and there is no appeal or further conduct proceedings regarding the findings or the sanction, unless the complaint alleged a sexual offense, domestic violence, dating violence or stalking. In those such cases, the respondent and complainant may have a right of appeal.

b. Student respondents may request to delay a Hearing in cases where criminal charges related to the alleged Code violation are pending. In these cases, a reasonable delay shall be granted to secure the advice of legal counsel.
4. Community Review Board Hearing
   
a. A Community Review Board Hearing is a formal disciplinary process that provides students charged with violating the Code the opportunity to be heard in a fair and impartial environment by a board of their peers and administrators and/or faculty. The Chair will explain the Student Conduct procedures, provide a copy of any report that details the charge, state the charges to the student respondent, and the range of possible sanctions. The student respondent and complainant will have the opportunity to speak and explain his/her version of events.


   The Community Review Board will consist of five (5) members of the University’s faculty and/or staff and students selected by the Dean of Students or designee. Where the alleged Code violation involves a sexual offense, as defined in the Code, domestic violence, dating violence, or stalking, no student will be a member of the Community Review Board.

E. Student Rights

   ADDITIONAL RIGHTS MAY BE AFFORDED THE COMPLAINANT WHERE THE COMPLAINT ALLEGES A SEXUAL OFFENSE, DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING AS PROVIDED IN PARAGRAPH C BELOW.

F. Rights of the Respondent

   The respondent shall receive advanced notification of the specific charge(s) and the date, time and place of the scheduled hearing (“Notice of Violation”). The Notice of Violation will be delivered to the respondent’s University-e-mail account.

   1. Rights of the Complainant and the Respondent

      • The respondent and complainant will be provided with the names of the Community Review Board members (or Administrative Hearing Officer) twenty-four (24) hours prior to the hearing. The respondent and complainant may challenge the bias of a Community Review Board member (or Administrative Hearing Officer) to the Dean of Students at least twenty-four (24) hours before the time set for the hearing.

      • The respondent and complainant will be afforded reasonable access to review the reports and text of statements made by witnesses, respondent, and complainant as permitted by FERPA.

      • The respondent and complainant may request an extension of time to prepare for the hearing. The request must be in writing and received by the Dean of Students, or designee at least 24 hours prior to the scheduled time for the hearing. The hearing may be extended at the discretion of the Dean of Students or designee, taking into consideration mitigating circumstances.

      • The respondent and complainant may elect not to participate in the hearing process or chose not to answer questions, with the understanding that a decision will be made without the respondent’s or complainant’s participation or input.
• The respondent and complainant may present letters of support from up to two (2) character witnesses. If the student respondent is found responsible the letters will be presented to the Appeal Board, if there is an appeal.

• The respondent and complainant will be given an opportunity to describe the incident from his/her perspective and answer questions from the Hearing Officer or members of the Community Review Board.

• The respondent and complainant may be accompanied by an advisor, as defined under this Code.

The respondent and complainant shall provide the Dean of Students or designee of his/her advisor in writing of the name, address and phone number of all witnesses who have relevant and necessary information pertaining to the incident; and the advisor, no later than twenty-four (24) hours in advance of the time set for the hearing. The respondent and complainant must also provide the written statement of each witness. Written statements should include the general nature of the witness’ testimony and their consent to appear at the hearing. It is the responsibility of the respondent and complainant to provide this information. Failure to provide said information as provided may prohibit the participation of the witness(es) and/or advisor, at the discretion of the Hearing Officer.

• The respondent and complainant may only ask questions of any witnesses and/or the complainant/respondent indirectly through written questions presented to the Chair, (or Administrative Hearing Officer). The Chair (or Administrative Hearing Officer), at his/her discretion may ask the question(s) presented in writing. The Chair (or Administrative Hearing Officer) may at his/her discretion recall a witness and ask questions. The Chair (or Administrative Hearing Officer) may also call as a witness any member of the University community, as well as any other person. The Chair (or Administrative Hearing Officer) reserves the right to interview witnesses separately at the hearing.

• The respondent and complainant may not discuss any part of this case, including witnesses statements with any Board members named in the hearing notification letter prior to the hearing or outside of the hearing process.

• The respondent will be found responsible only if the evidence presented during the Student Conduct process meets the preponderance of the evidence standard as stated in this Code.

• The respondent will receive the final results of the hearing consisting of the University’s findings, rationale for the findings, the violation committed, and any sanction imposed by the University, (“Notice of Decision”). ONLY WHEN THE COMPLAINT INVOLVES A CLAIM OF A SEXUAL OFFENSE, DATING VIOLENCE, DOMESTIC VIOLENCE, OR STALKING WILL THE COMPLAINANT AND RESPONDANT, SIMULTANEOUSLY BE SENT A COPY OF THE NOTICE OF DECISION, AND ANY CHANGE IN THE DECISION BEFORE IT BECOMES FINAL, SUBJECT TO FERPA.

• The respondent may appeal a University hearing decision in accordance with this Code. ONLY WHEN THE COMPLAINT INVOLVES A CLAIM OF A SEXUAL OFFENSE, DATING VIOLENCE, DOMESTIC VIOLENCE, OR STALKING WILL THE COMPLAINANT BE GIVEN THE RIGHT OF APPEAL AND BOTH RESPONDENT AND COMPLAINANT WILL BE SIMULTANEOUSLY SENT A COPY OF THE RIGHTS OF APPEAL, SUBJECT TO FERPA.
G. Additional Rights of Complainant. In addition to the above rights that may be afforded a complainant when the complaint alleges a sexual offense, domestic violence, dating violence, or stalking as defined under this Code, the following additional rights shall apply:

• The complainant shall have the right to submit in writing a victim statement, which will be read at the hearing and provided to the Community Review Board members, (or Administrative Hearing officer).

• The complainant may request in writing to the Dean of Students or designee at least twenty-four (24) hours prior to the time specified for the hearing, an opportunity to attend the hearing via phone, in back of a screen, videoconference at a location convenient to the complainant and the University, or other reasonable means, when the complainant expresses concern for personal safety, well being and/or fears of confrontation of the respondent.

H. Responsibilities of complainant, respondent, and witnesses.

• Respondent, complainant, witnesses, Hearing Officers, Community Review Board members, and Administrative Hearing Officers are expected to keep all proceedings confidential.

  o Hearing Officers or Community Review Board members found to have violated confidentiality will be removed from the case and may face disciplinary action.

• Community Review Board and Administrative hearings are closed; an audiotape of the proceedings may be retained for appeal purposes. Students will not be permitted to record or in any way copy the proceedings through any mechanism.

• A person who serves as a witness may not serve in any other capacity during the hearing.

• Should any witness intentionally mislead a Hearing Officer or Community Review Board, the witness may face charges for violations of the Code.

• If a student respondent, complainant, or witness is disruptive or disorderly during a hearing, the Board may have him/her removed and may proceed without his/her input.

If a complainant, respondent, witness or student organization chooses not to participate in any part of the process or fails to appear for a scheduled hearing, the Hearing Officer or Chair of the Community Review Board has the option to: (1) set a new hearing date; or (2) make a decision based on the information available to the Hearing Officer or Chair without the benefit of that complainant’s, respondent’s, witness’ or student organization’s input. Respondents and student organizations will be held accountable for any sanctions issued as a result of a hearing.

I. Evidence Presented at Hearings
The University Hearing Officer or Chair of a Community Review Board will decide whether to admit evidence in a hearing. Information from an anonymous source will not be admitted as evidence. However, information stemming from an anonymous source can be used to launch an investigation. Hearing Officers or the Chair of a Community Review Board will agree to consider evidence that is relevant to the subject matter of the hearing and is fair and reliable under the circumstances of the case.
Section VII. Student Conduct Process During Criminal Proceedings

Disciplinary proceedings through the Student Conduct Process may be instituted against a student charged with conduct that potentially violates a criminal law and this Code (if the violation results from the same or a similar set of facts). The University’s disciplinary process may proceed prior to, simultaneously with, or following the criminal proceedings at the discretion of the Hearing Officer or Chair of the Community Review Board. Determinations made or sanctions imposed under this Code shall not be subject to challenge or change on the ground that criminal charges involving the same incident have been dismissed, reduced, or resolved.

- When related criminal charges are filed or pending, Hearing Officers or the Chair of the Community Review Board shall permit a lawyer to serve as an advisor (as the term “advisor” is defined in this Code) at the expense of the student.

1. Results of Administrative and Community Review Board Hearings

When the hearing is concluded, the Community Review Board members (or Administrative Hearing Officer) will begin closed deliberations. The Administrative Hearing Officer will deliberate to determine whether or not the respondent is responsible for the violation(s) and separately whether sanction(s) are appropriate. The Chair in a hearing with a Community Review Board will oversee the deliberations to determine whether or not the respondent is responsible for the violation(s) and separately whether sanction(s) are appropriate. The Administrative Hearing Officer or the Community Review Board will make a finding on the charges based upon the preponderance of the evidence standard (whether it is more likely than not that the alleged Code violation occurred).

a. Within five (5) business days of the conclusion of the hearing, the Community Review Board or Administrative Hearing Officer shall render a written Notice of Decision on the disciplinary matter consisting of the University’s finding, the violation committed, rationale for the finding, and any sanction imposed by the University. Notices of Decision will be sent to the student respondent’s University email account and will be included in the student’s conduct record.

In cases of a Student Conduct proceeding involving allegations of a sexual offense or dating violence, domestic violence or stalking, both the complainant and respondent will simultaneously be sent the Notice of Decision, rights of Appeal, and any change in the decision before it becomes final to the extent permitted by the FERPA.

Section VIII. Appeals

In certain circumstances the outcome of a student conduct proceeding may be appealed by both the complainant and the respondent. Appeals may be taken from determinations reached by the Community Review Board or an Administrative Hearing in writing by either the Accused student, or in certain instances as provided in this Code, the Complainant, to the Dean of Students or his/her designee within five (5) business days of receipt of the Notice of Decision. The appeal must specify grounds that would justify consideration. General dissatisfaction with the outcome of the student conduct proceeding and/or an appeal for mercy is not an appropriate basis for appeal. The written appeal must specifically address at least one of the below grounds for appeal. The University Appeals Board (“UAB”) will be convened by the Dean of Students or designee when the criteria have been met.

All decisions by the Dean of Students or his/her designee are final and may not be appealed. Such decisions will be made in writing within ten (10) business days of receipt of appeal.

A. Grounds for Appeal
Grounds for appeal from the determinations of the Community Review Board or Administrative Hearing Officer shall be limited to one or more of the following claims:

1. Significant procedural errors of the Student Conduct Process occurred that were substantial enough to effectively and detrimentally affect the outcome.

2. New and significant evidence that significantly alters the findings of fact, not previously known to the appellant has been discovered and is available during the appeal process.
   a. The new evidence could not have been discovered through the exercise of reasonable diligence, and the absence of which was sufficient to materially affect the outcome.
      i. Example: During an investigation of vandalism, a student respondent was found “not responsible” based on lack of evidence. One week after the Student Conduct Process was completed, a witness came forward with a video of the student respondent performing the alleged act of vandalism. This witness and the video were previously not known to the student, even though the hearing officer actively sought out all witnesses. Furthermore, this new information significantly altered the findings of fact and materially affected the outcome of “not responsible,” because it was clear the student respondent violated the Code.

3. The sanction imposed is unsupported by the charges. The severity of a sanction is not in and of itself legitimate grounds for an appeal. Note that sanctions will be determined based upon the nature, severity, and impact of the violation and imposed with progressive levels.

B. University Appeals Board

The University Appeals Board (UAB) consists of three to five community members (students, professional staff, and faculty) selected by the Dean of Students or designee, and is chaired by the Dean of Students or designee, who is a nonvoting member of the board unless it is necessary to break a tie. No student shall comprise the UAB when the complaint alleges a claim of a sexual offense, domestic violence, dating violence, or stalking.

1. Appeal Procedures: In cases heard by the UAB, the following procedures apply:
   a. The Dean of Students or designee will notify the respondent student(s) and complainant(s) in writing, via their University email, of the date, time, and location of the hearing, as appropriate.
   b. Except as required to explain the basis of new information, a UAB Hearing shall be limited to a review of the Student Conduct file unless new information is presented.
   c. Where new information is presented, both the student respondent(s) and complainant(s) will be allowed to be present.
      i. Before the hearing, the student respondent(s) and complainant(s) may review any new evidence that will be introduced to the appeal hearing.
      ii. Both the student respondent and the complainant may have an advisor of his/her choice based on the guidelines for advisors listed in Section VI of this Code.
      iii. The complainant, the student respondent, and the Appeal Board Chairperson may arrange for witnesses to present or explain new pertinent information to the University Appeals Board in accordance with this Section.
d. Appeals are not re-hearings. The focus of the Appeal Board will be on the facts surrounding the grounds of appeal and any pertinent new information.

2. When necessary, the Chair will try to arrange the attendance of requested witnesses who are members of the University community, if reasonably possible, and who are identified by the complainant and/or student respondent at least three (3) business days prior to the University Appeals Board Hearing.

Witnesses will provide information to and answer questions from the UAB. Written questions may be presented to the UAB by the student respondent and/or complainant to be answered by each other or by other witnesses. The UAB through the Chairperson will ask questions of the witnesses, which are submitted prior to or during the course of the hearing, in writing by the student respondent and/or complainant, at the discretion of the Chairperson. This method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. Questions of whether potential information will be received shall be resolved at the discretion of the Chairperson of the UAB.

The UAB will make its decision promptly and communicate it to the student respondent in writing, via University email, within three (3) business days of the completion of deliberations. The decision of the UAB is final and may not be further appealed. In complaints involving a sexual offense, domestic violence, dating violence, or stalking, the complainant and respondent will be simultaneously sent the final decision.

3. Cases that could involve a student's expulsion will result in the UAB presenting their recommendation to the Vice Chancellor for Student Affairs.

4. All decisions by the Vice Chancellor for Student Affairs or his/her designee are final and may not be appealed further. Such decisions will be made in writing within ten (10) business days of receipt of appeal.

In complaints involving a sexual offense, domestic violence, dating violence, or stalking, the complainant and respondent will be simultaneously sent the final decision.

5. Appeals Process Potential Outcomes

a. Affirm the finding and sanction originally determined.
b. Affirm the finding and modify the sanction. In cases where the student respondent/ student organization is the appealing party, the sanction may not be increased. In cases where the aggrieved party is the appellant, the sanction may be increased or reduced by UAB as it deems appropriate.
c. Remand the case for a new hearing, except in cases where the aggrieved party is the appellant.
d. Dismiss the case, except in cases where the aggrieved party is the appellant.

Section IX. Sanctions

In determining a sanction, a designated University Hearing Officer or Community Review Board may consider the student's present demeanor and past disciplinary record, the nature of the offense, the severity of any damage, injury, or harm incurred, and other factors, including aggravating and mitigating circumstances. The University has a special concern for incidents in which persons are subject to harassment because of membership in a protected class (see the University's policy on intolerance in Appendix C and at http://www.umb.edu/intolerance/). Such incidents damage not only individuals but also the free and open academic environment of the University. More severe sanctions are appropriate for such conduct. The list below is not
inclusive or complete, and other sanctions may be imposed at the discretion of the Hearing Officer or the Hearing Board.

A. When students or student organizations are found in violation of the Code, the responsible University Hearing Officer may impose one (1) or more of the following sanctions:

- **Behavioral Agreement**: An agreement developed by the student and the Hearing Officer or Community Review Board that specifically outlines how the student will alter his or her behavior to maximize personal responsibility and adherence to community standards.

- **Deferred Suspension**: When significant mitigating factors are present, suspension may be deferred in order to provide a student with one final opportunity to change their behavior before he/she is suspended. If the student is found responsible for another violation of the Code during the sanction period, the student will be immediately suspended from the University.

- **Disciplinary Probation**: A specified period of time to allow the student or organization to modify unacceptable behavior, complete specific assignments, and to demonstrate a positive contribution to the University Community. During probation, any further violations of the Code may subject the student to suspension or expulsion and student organizations to a loss of recognition.

- **Expulsion**: As defined in the Definitions section. The notation of "expulsion" will be recorded on the student’s transcript. The student may also be barred from University premises.
  - No refunds are available to students who are expelled.
  - Parents or guardians of dependent students who have been expelled will be notified as allowed by the Federal Educational Rights and Privacy Act (FERPA).
  - A student may petition the Dean of Students five years or more after the imposition of the sanction to have the notation of expulsion removed from his or her transcript. Under no circumstances will the record of the expulsion be removed from the student’s disciplinary record maintained by the Office of the Dean of Students.

- **Fines**: Fines will be assessed for violations of the Code that would result in fines through the Commonwealth. Any funds assessed shall be deposited in the general scholarship fund administered by the University.

- **Group Sanctions**: Student Organizations may receive sanctions, which may include restrictions on access to University facilities, programs, funding, and services.

- **Interim Restrictions**: The Dean of Students or designee may impose restriction(s) upon a student pending disciplinary proceedings to protect the health, safety, and well-being of a student or member of the University Community or property of the University or University Community. Such interim restrictions become effective immediately, without prior notice, whenever there are grounds to believe that:

  the continued presence of the student at the University poses an imminent threat to the student, to others, to property, or to the stability and continuance of normal functions and operations of the University or the University community
➢ After oral (followed by written notice) or written notice to the student of the alleged conduct violation and interim restriction, a meeting between the student and the Dean of Students or designee will be held within two (2) business days. At the meeting, the Dean of Students or designee will describe the basis of the allegation, outline the specifics of interim restriction, detail the Student Conduct process and review the student’s rights as listed within this Code.

➢ If there is reason to believe that any of the interim restrictions imposed have been violated, the Dean of Students or designee may request an expedited hearing. Violation of interim restrictions may result in suspension from the University.

**Interim restrictions may include, but are not limited to, the following:**

- immediate suspension;
- limitation of access to designated University facilities and/or buildings;
- restriction of communication with named individuals or Student Organizations within the University community;
- the requirement to secure advance authorization to engage in a specified activity.

**• Loss of Recognition:** Loss of all University privileges for Student Organizations for a designated period of time. Loss of recognition for more than two (2) consecutive semesters requires an organization to reapply for University recognition. Conditions for future recognition may be specified.

**• No Contact Order:** An Administrative Directive as defined in the Definitions. If this is violated, the responsible party will be immediately separated from the University (interim suspension).

**• Restitution:** The student is required to make payment to the University or another for loss of, or damage to, property. Restitution not paid may result in a financial hold, which prevents students from registering for classes, graduating, and/or obtaining an official transcript.

**• Sanction Held in Abeyance:** If there are sufficiently extenuating circumstances, a Hearing Officer or Board may determine that a certain sanction is appropriate, but strong mitigating circumstances warrant holding the formal sanction in abeyance for a specific time period. This means that, if the student is found responsible for any violation of the Code during that specified time period, he or she will be subject to the deferred sanction without further review, in addition to the disciplinary action appropriate to the new violation.

**• Suspension:** A separation of the student from the University for a specified period of time not less than the remainder of the semester.

  - A suspension for disciplinary reasons is not subject to any refund or adjustment.
  - Suspensions that take effect during a semester will result in the loss of academic credit for that semester.
  - The student will not be able to make any academic progress toward his/her degree during the suspension period, i.e., a student may not take classes at another institution during the suspension period and transfer the credits to the University of Massachusetts Boston.
  - The student may not participate in any University-sponsored activity and will be banned from University premises.
Students who are suspended must apply for readmission to the University, which is not guaranteed. In order to enroll, the student must:

- file a readmission application, including the readmission fee, with the Registrar by the appropriate readmission deadline;
- submit a letter to the Dean of Students explaining the reason for wanting to return and how the student has addressed any issues that resulted in the suspension;
- be interviewed by the Dean of Students.

Parents or guardians of dependent students who have been suspended will be notified as allowed by the Federal Educational Rights and Privacy Act (FERPA).

Students on financial aid who are suspended should note that they are ineligible for aid reconsideration until after they have made up for credits lost. Eligibility would then be dependent on the availability of aid and applicant need.

- **Warning Letter:** An official written notification that the student’s behavior is in violation of the Code. The student is advised that any further violation of the Code may result in more severe disciplinary action.

- **Other Sanctions:** Other sanctions may be imposed instead of, or in addition to, those specified above, such as:
  - Community restitution
  - Restrictions upon privileges, activities, areas on campus, or events for a specified period
  - Reflection Essays
  - Loss of social, co-curricular, or academic privileges (example: study abroad)

### B. Parental Notification and Disclosure of an Educational Record

The Federal Educational Rights and Privacy Act (FERPA) permits parent notification without their student’s consent under any of three exceptions:

1. To the parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986. The term “Parent” includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

2. The University may disclose a violation of any federal, state, or local law, or of any rule or policy of the University, governing the use or possession of alcohol or a controlled substance if:
   - The University determines that the student has committed a disciplinary violation with respect to that use or possession; and
   - The student is under the age of 21 at the time of the disclosure to the parent.

3. The University may disclose personally identifiable information from an education record to appropriate parties, including:

   **A. Parents of a dependent student as defined by the Internal Revenue Service.**

   **B. University officials with legitimate educational interest.**
   - A University official has a legitimate educational interest if, in the judgment of the data custodian responsible for requested information, the official needs to review an education record in order to fulfill his or her professional responsibility. The information sought and provided must be pertinent to and used within the
context of official University business and not for a purpose extraneous to the official’s area of responsibility. Release of a student’s education record to a University official having legitimate education interest does not constitute institutional authorization to transmit, share, or disclose any or all of the information to a third party, within or outside the University.

C. Officials of another school in which a student seeks or intends to enroll, upon the request of such officials.

D. Appropriate parties in connection with an emergency, if knowledge of the information is necessary to protect the health or safety of the student or other individuals. The information disclosed may include disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community. The University, in making its determination to disclose personally identifiable information in connection with an emergency, may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the University determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

http://www.umb.edu/life_on_campus/policies/regulations/student_right_to_review_university_records

C. Sanction Guide for Code of Conduct Violations

In the interest of creating a clear and transparent educational policy, the following list establishes potential sanctions that the University may impose to address first-time violations for specific behavior. Please note that this list is not exhaustive. The University reserves the right to make modifications to sanctions based on the circumstances of the incident. Also, the University reserves the right to administer any appropriate interim sanctions pending the outcome of the Student Conduct Process. Sanctions will be determined based on the nature, severity, and impact of the violation, and they will be imposed with progressive levels.

Conduct that presents a clear and present danger to members of the University community is prohibited and will result in a minimum sanction of suspension or expulsion.

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<th>Potential Sanctions for First Offenses</th>
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<td></td>
<td>16 Academic Weeks Disciplinary Probation</td>
</tr>
<tr>
<td></td>
<td>Financial Restitution (if applicable)</td>
</tr>
<tr>
<td>Furnishing alcohol and/or a location for consumption to minors</td>
<td>32 Week Disciplinary Probation upon return to the University</td>
</tr>
<tr>
<td></td>
<td>Parental notification for students under the age of 21</td>
</tr>
<tr>
<td></td>
<td>$100 (Massachusetts State Law has a $2,000 maximum fine)</td>
</tr>
<tr>
<td>Theft</td>
<td>32 Week Disciplinary Probation upon return to the University</td>
</tr>
<tr>
<td></td>
<td>Conditions may be set to assist in the student’s success upon return to the University community after suspension</td>
</tr>
<tr>
<td>Destruction of University or private property/Vandalism</td>
<td>32 Week Disciplinary Probation</td>
</tr>
<tr>
<td></td>
<td>Financial restitution</td>
</tr>
<tr>
<td>Physical assault</td>
<td>Suspension or Expulsion</td>
</tr>
<tr>
<td></td>
<td>32 Week Disciplinary Probation upon return to the University</td>
</tr>
<tr>
<td></td>
<td>Conditions may be set to assist in the student’s success upon return to the University community after suspension</td>
</tr>
<tr>
<td>Hazing</td>
<td>Suspension or Expulsion</td>
</tr>
<tr>
<td></td>
<td>32 Week Disciplinary Probation upon return to the University</td>
</tr>
<tr>
<td></td>
<td>Conditions may be set to assist in the student's success upon return to the University community after suspension</td>
</tr>
<tr>
<td>Dangerous weapons possession</td>
<td>Suspension or Expulsion</td>
</tr>
<tr>
<td></td>
<td>32 Week Disciplinary Probation upon return to the University</td>
</tr>
<tr>
<td>Category</td>
<td>Sanction(s)</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| Hate crime                                   | • Suspension or Expulsion  
• 32 Week Disciplinary Probation upon return to the University  
• Conditions may be set to assist in the student’s success upon return to the University community after suspension |
| Endangering behavior                         | • 32 Week Disciplinary Probation  
• Fine for discharge of fire extinguisher or creating a fire hazard, such as disabling a smoke detector or other safety devices |
| Altering/falsifying University documents     | • Suspension or Expulsion  
• 32 Week Disciplinary Probation upon return to the University  
• Conditions may be set to assist in the student’s success upon return to the University community after suspension |
| Marijuana possession (over one [1] ounce)    | • Suspension or Expulsion  
• Parental notification for students under the age of 21  
• Conditions may be set to assist in the student’s success upon return to the University community after suspension  
• 32 Week Disciplinary Probation upon return to the University |
| Illegal drug use and/or possession (other than marijuana) | • Suspension or Expulsion  
• Parental notification for students under the age of 21  
• Conditions may be set to assist in the student’s success upon return to the University community after suspension  
• 32 Week Disciplinary Probation upon return to the University |
| Operating a motor vehicle under the influence of alcohol (OUI, DUI, DWI) | • Suspension or Expulsion  
• Loss of driving/parking privileges on University premises for not less than one (1) academic year  
• 32 Week Disciplinary Probation upon return to the University |
| Manufacture, distribution, sale, offer for sale of illegal/controlled substances | • Suspension or Expulsion  
• Parental notification for students under the age of 21  
• 32 Week Disciplinary Probation upon return to the University |
| Sexual Offense, Dating Violence, Domestic Violence or Stalking | • Suspension or Expulsion  
• 32 Week Disciplinary Probation upon return to the University |

D. How to Complete Your Sanctions

1. **Reflective Essays:** typically assigned to give students the opportunity to reflect on their decisions and actions and the steps they plan on taking to avoid similar mistakes. Essays should detail what a student learned through the incident and the Student Conduct Process.
   a. Essays will be assigned with a specific page-length requirement.
b. Essays must be typewritten in 12-point font, with one-inch margins, single-spaced, grammatically correct, and contain proper spelling.
c. Essays must be submitted to the Office of the Dean of Students.

E. Readmission to the University

1. Students who have been suspended from the University for disciplinary reasons must meet the following requirements for readmission:

   a. Submit a letter to the Dean of Students explaining the reason for wanting to return and how they have addressed any issues that resulted in the suspension,

   b. Have an interview with the Dean of Students or designee.

If accepted for readmission, students must complete a readmission form from The One Stop and meet all stated conditions for readmission.

Section X. Maintenance of Disciplinary Records

The Office of the Dean of Students shall maintain the official disciplinary records and a disciplinary tracking system, which shall include, but not be limited to, the student's name and related identifying information, description of the incident and other parties involved, sanction(s), expiration dates, agreements or restrictions, and any other data deemed relevant.

Disciplinary records and related information shall be made available to hearing boards and University personnel designated in the Code, as necessary.

Students may arrange to review their own disciplinary records and related information by contacting the Office of the Dean of Students. Disciplinary records maintained by the University are bound by the confidentiality set forth by FERPA regulations (see Appendix B and http://www.umb.edu/life_on_campus/policies/regulations/student_right_to_review_university_records) Except as detailed in the Student Code of Conduct, the University shall not communicate a student's disciplinary record and related information to any person or agency without the prior written consent of the student, except as required by law. Disciplinary proceedings under the Student Code of Conduct shall be confidential to University officials outside of the Student Conduct Process.

A. Removal of Notation of Expulsion on Transcript

A student may petition the Dean of Students five years or more after the imposition of the sanction to have the notation of expulsion removed from his or her transcript. Under no circumstances will the record of the expulsion be removed from the student's disciplinary record maintained by the Office of the Dean of Students.

B. Record Retention

The Massachusetts Statewide Records Retention Schedule 01-11 (2011 Edition) details the following record-retention period:

- Expulsion records: Retain 25 years
- All other records: Retain 3 years after separation

Any question as to the interpretation or application of this Code shall be referred to the Dean of Students or his/her designee for final determination.
Section XI. Academic Honesty
It is the expressed policy of the University that every aspect of academic life not only formal coursework situations, but all relationships and interactions connected to the educational process shall be conducted in an absolutely and uncompromisingly honest manner. The University presumes that any submission of work for academic credit indicates that the work is the student’s own and is in compliance with University policies. In cases where academic dishonesty is discovered after completion of a course or degree program, sanctions may be imposed retroactively, up to and including revocation of the degree. Any student who reasonably believes another student has committed an act of academic dishonesty should inform the course instructor of the alleged violation.

Section XII. Academic Honesty Violations
The University defines violations to include, but not be limited to, the following:

1. Submitting as one’s own an author’s published or unpublished work (e.g. material from a journal, Internet site, newspaper, encyclopedia), in whole, in part, or in paraphrase, without fully and properly crediting the author.
2. Submitting as one’s own work or materials obtained from another student, individual, or agency without full and proper attribution.
3. Submitting as one’s own work material that has been produced through unacknowledged or unauthorized collaboration with others.
4. Submitting substantially the same work to more than one course without prior approval from all instructors involved: i.e., dual or multiple submission.
5. Using any unauthorized material during an examination, such as notes, tests, calculators, cell phones, PDAs, or other electronic or mechanical communication devices. Abuse of cellular devices with photographic capabilities and use of devices for purposes of photographing test questions or other notes and materials are also prohibited.
6. Obtaining answers to examination questions from another person with or without that person’s knowledge; furnishing answers to examination questions to another student; using or distributing unauthorized copies of or notes from an examination.
7. Submitting as one’s own an examination taken by another person; or taking an examination in another person’s place.
8. Gaining or seeking to gain unauthorized access to, or altering or destroying the paper or electronic files of a student, faculty member, or staff member for the purpose of gaining better academic standing and success.
9. Failing to adhere to professional standards or ethics of a discipline and/or violating the rules of an agency in the course of completing field work, internship, practicum, student teaching, or clinical placement.
10. Interfering with an instructor’s ability to evaluate accurately a student’s competence or performance; misleading any person in connection with one’s academic work.

Section XIII. Academic Dishonesty Procedures
1. Prior to reporting a suspicion of academic dishonesty, the faculty member may discuss the matter with the student and/or the faculty member’s chair (in cases involving undergraduate students) or graduate program director (in cases involving graduate students), or otherwise investigate the circumstances of the alleged violation. If, after such consultation and investigation, the faculty member determines that academic dishonesty
did not, in fact, occur, no formal charge of academic dishonesty will be made.

2. To initiate formal proceedings, a faculty member who suspects a student of academic dishonesty must inform the student in writing of that fact within ten (10) business days of the discovery of the alleged violation. Such written notice should inform the student of the factual basis for the charge, and the specific sanctions the faculty member proposes to impose and any University Sanctions he/she may recommend to the Director of Undergraduate Education or the Dean of Graduate Studies, as appropriate. The letter should also inform the student that s/he may be subject to University Sanctions imposed directly by the Dean/Director beyond those recommended by the faculty member. The faculty member shall offer to meet with the student and the faculty member’s chair (in cases involving undergraduate students) or graduate program director (in cases involving graduate students), to discuss the case. No more than ten (10) business days after meeting (or offering to meet) with the student, the faculty member may impose penalties within his/her purview, and so inform the Director/Dean. If, upon meeting with the student, the faculty member determines that the student did not commit academic dishonesty, s/he will so inform the student and Director/Dean in writing. If no penalty has been imposed within the specified timeframe, the charges shall be considered dropped.

All correspondence concerning an allegation of academic dishonesty should be copied to the faculty member’s department chair (for undergraduates) or the faculty member’s graduate program director (for graduate students), the faculty member’s collegiate dean, the Director of Undergraduate Education or the Dean of Graduate Studies, depending on whether the student is an undergraduate or graduate student, and the Office of the Vice Chancellor for Student Affairs. The chair/graduate program director and/or relevant collegiate dean(s) may, at their option, consult with the faculty member and/or student, review the case and make separate recommendations to the Director/Dean regarding University sanctions.

3. Academic dishonesty by graduate students lies primarily within the purview of the Dean of Graduate Studies, who will determine whether University sanctions should be applied in a particular case. The Dean’s decision will be informed by any recommendations made by the student’s graduate program director and/or collegiate dean.

Academic dishonesty by undergraduate students lies primarily within the purview of the collegiate deans. For the purposes of these procedures, the collegiate deans delegate responsibility for determining whether University sanctions should be applied in a particular case to the Director of Undergraduate Studies. The Director’s decision will be informed by any recommendation made by the faculty member’s chair and will be made in consultation with the collegiate dean(s) involved; it is further subject to review and revision by the faculty member’s collegiate dean.

Within (10) ten business days of the notification of the faculty member’s imposition of sanctions, the Director/Dean will review the case. In doing so, s/he may choose to interview or question the parties involved or otherwise investigate the case. The purpose of this review is to consider the imposition of University sanctions. At the end of this review, the Director/Dean may impose additional University Sanctions, including but not limited to those listed in section IX of this Code for misconduct. University Sanctions will normally be imposed for violations of an especially serious nature or in cases of repeat offense.

4. Within (10) ten business days of the Director/Dean’s imposition of University Sanctions, or (10) ten business days of the expiration of the period of time available to the Director/Dean to impose such sanctions, whichever comes first, the student may submit an appeal in writing to the Provost/Vice Chancellor for Academic Affairs, copying the Office of the Vice Chancellor of Student Affairs. The Vice Chancellor of Academic Affairs/Provost will convene an Appeal Panel, consisting of 3 to 4 faculty members and 2 students from the
standing membership of the Joint Discipline and Grievance Committee and instruct the Panel to review the case by convening a hearing. At this hearing, at which, at minimum, the panel will interview and question the student and faculty member. The Vice Chancellor for Academic Affairs/Provost will appoint a member of the panel to serve as the Chair.

5. Within (10) ten business days after completion of its hearing and review, the Panel will make a report of its findings and recommendations to the Vice Chancellor for Academic Affairs /Provost. Within (5) five business days of receiving this report, the Provost/Vice Chancellor for Academic Affairs will uphold, reverse, or modify the faculty member’s and Director/Dean’s decisions. Modifications may include any of the sanctions listed in section IX of this Code for misconduct. The decision of the Provost/Vice Chancellor for Academic Affairs is the final University disposition of the matter and is not subject to further appeal, except in cases of expulsion. Expulsions may be appealed to the Chancellor within 10 business days of the Provost/Vice Chancellor for Academic Affairs’ decision to expel.

Section XIV. Academic Dishonesty Sanctions

1. Sanctions to be imposed by faculty members may include one or more of the following:
   - Failure in the assignment in which the infraction occurred.
   - Forced withdrawal: the student is required to withdraw from the course. A grade of W will appear on the transcript, and no refunds of tuition, fees, or other charges will be made.
   - Failure in the course or competency in which the infraction occurred.
   - Recommendation of additional Sanctions: The faculty member, in cases of an especially serious nature, may recommend to the Director/Dean the imposition of additional penalties, including those listed in this Code for misconduct.

2. Sanctions to be imposed by the Director of Undergraduate Education and/or the Dean of Graduate Studies are University Sanctions and are described in detail in section IX of this Code.