



Code of Student Rights and Responsibilities and Student Disciplinary Process
Mayville State University
2023-2024

Code of Student Rights and Responsibilities and Student Disciplinary Process

Mayville State University expects its students to act in a mature and responsible manner. Respect for the rights of others, openness to new and challenging ideas, civility, and courtesy are examples of this expectation. The Student Discipline Process described here has been established to address alleged violations of the Code of Student Rights and Responsibilities and Student Disciplinary Process, or “Code.”

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Part 1: Student Conduct Authority

Under the direction of the North Dakota State Board of Higher Education, Mayville State University has the authority and the responsibility to establish policies necessary for the general business of the institution. The President of the University and the executive cabinet approves the Code of Student Rights and Responsibilities and Student Disciplinary Process. The disciplinary process is administered under the authority of the Dean of Student Affairs, who delegates who delegates day-to-day responsibilities for the administration of the student disciplinary process to the Director of Student Life or, in some cases, to the Coordinator or a Deputy Coordinator for Title IX responses. The Dean of Student Affairs or designee shall coordinate recommendations from members of the university community regarding suggested revisions to this Code or its policies and shall present substantive changes to appropriate parties.

Part 2: Definitions

The following selected terms are defined to facilitate a more thorough understanding of the Code. This list is not intended to be a complete list of all terms referenced in the Code that might require interpretation or clarification. The Director of Student Life or designee shall make the final determination on the definition of any term found in the Code.

Administrative Hearing, or "Hearing"—a formal meeting between a Hearing Officer and a Student, during which information is shared and considered. The meeting serves the purpose of determining a student's responsibility for violating the Code and to determine sanctions to be issued.

Advisor, Student Disciplinary Proceedings — an individual who provides support and/or advice to a party in the discipline process. An advisor may be any individual, and is a person who may observe, advise, or pass notes to the party, but is barred from asking questions, speaking, or directly participating in the process, except in those cases identified as a suspension or dismissal-eligible case.

The Advisor is a person of a Responding Student or Reporting Party's choosing, and may be – for example, a family member, a University employee, or an attorney. If the advisor is an attorney, the student shall notify the University 24 hours in advance of the Hearing of their intentions. The University reserves the right to have an attorney from the Attorney General's office present as an Advisor to the Hearing Officer. Notice of an Attorney may impact scheduling, and the University reserves the right to have its Attorney observe the proceedings through electronic means.

An Advisor who disrupts the proceedings, in the sole judgement, may be dismissed from the meeting by the Hearing Officer.

Agreement — a mutually agreed up resolution regarding violations and/or sanctions between a Hearing Officer and a Student accused of violating the Code.

Appeal — a written challenge of a Decision submitted to the Dean of Student Affairs. Only a person with Standing may submit an Appeal. Appeals are either dismissed for lack of cause, denied, or granted by an Appellate Officer. See Part 8.

Appellate Officer — a person or persons authorized by the Dean of Student Affairs, or designee, to conduct a review of a decision reached by a Hearing Officer. Appeals are directed

to the Dean of Student Affairs, who then delegates responsibility for addressing the Appeal.

Bullying— the severe or repeated use by one or more students of a written, verbal, or electronic expression, or physical act or gesture, or any combination thereof, directed at another individual, that has the effect of: causing physical or emotional harm to the other student or damage to the other student's property; placing the other student in reasonable fear of harm to him/herself or damage to his/her property; creating a hostile environment at school for the other student; infringing on the rights of other students on campus; or materially and substantially altering the education process or the orderly operation of the University. If the bullying is directed at those associated, or perceived to be associated, with a protected class, it may be a violation of the North Dakota Century Code ("NDCC") § 14-02.4-18. Such an allegation or perception is investigated as a separate violation.

"Code" or "Code" refers to the Code of Student Rights and Responsibilities and Student Disciplinary Process.

Complaint — information, given to or collected by the University through its staff members, regarding behavior believed to be in violation of this Code. May be referenced herein as a "Report" or "report." See Part 5, A.

Complainant — any person, office, or the university itself, who submits an allegation that a student violated the Code. Terms such as "Reporter," "Complaining Party," "Complaining Student," "Reporting Party," or "Reporting Student" also refers to one who provides a formal allegation of a violation of this Code.

Class Day — a day when classes are in session. The day a notice is served, if within the normal business hours of the University, is counted as "day one." A reasonable substitution of Business Days may be made by the Hearing Office between semesters or terms.

Decision — a determination reached by a Hearing Officer regarding the alleged violations of the Code or by a

Supervising Hearing Officer regarding an allegation of the *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy* and/or *-Procedure*. Available Decisions are “Responsible for the Violation” or “Not Responsible for the Violation.” The Decision is made using the available facts and information presented in the case and such a determination is recorded in the Student Conduct File. Decisions of “Responsible” may result in the issuance of Sanctions.

Designee — a staff or faculty member who is responsible for implementing the student discipline process or administering the student conduct system, in part or in whole, at the direction of a Supervising Hearing Officer.

Discrimination — Intentional actions or the application of systemic decision making that favors or disfavors a person or group of people on the basis of race, color, religion, national origin, sex, age, disability, veteran status, or sexual orientation except where such distinction is allowed by law.

Dismiss — to allow or to require a person to leave the proceeding. A person, such as a witness, may be dismissed from a meeting or hearing, by the Hearing Officer, after they have completed providing information. Additionally, an advisor or other(s) may be dismissed from a proceeding by the Hearing Officer if their presence or behavior is disruptive.

Dismiss — to determine that further action is not warranted. Incident reports or complaints, cases, or appeals may be dismissed, without prejudice, when a responsible party concludes the information available or included in the complaint (incident report) lacks merit or probative value or if an appeal does not meet the established criteria or if either is not submitted in a timely manner. Cases may be dismissed, without prejudice, when the information available does not substantiate a case moving forward.

Dismissal — a sanction issued against a Responding Student, terminating the Student’s affiliation with the University. See 7-B-5.

FERPA - the Family Educational Rights and Privacy Act of 1974, as amended, and further implementing regulations from the Department of Education guide the University in regards to the management of a student’s Educational Record. FERPA protects the privacy of all education records, in any medium, with exceptions of that privacy stipulated by other laws or by voluntary release by the student. .

Gambling — participation in games of chance on campus for money, or other things of value, or wagering upon the outcome of an event, except as provided by law. Gambling on campus, including via the internet, is prohibited.

Good Samaritan — see “Immunity from Prosecution”

Guest — a non-student who is an associate of a student.

Harassment — means the severe or repeated use by one or more students of a written, verbal, or electronic expression, or a physical act or gesture, or any combination thereof, directed at another individual that has the effect of: causing physical or emotional harm to the other student or damage to the other student’s property; placing the other student in reasonable fear of harm to him/herself or damage to his/her property; creating a hostile environment at school for the other student; infringing on the rights of other students on campus; and/or materially and substantially altering the education process or orderly operations of the university.

Hazing — any action, be it an intentional, knowing, or reckless act, or any situation created for the purpose of producing psychological or physical discomfort, embarrassment, or ridicule when directed against a student, including such actions or situations that endanger the mental or physical health or safety of a student. It is assumed that all students, student groups, faculty, and staff are interested in intellectual and social development of individual members. Activities taken that endanger the health of an individual, demand of him or her undignified conduct, jeopardize his or her scholastic standing or general well-being, or subject him or her to psychological or physical discomfort, embarrassment, or ridicule, including such actions as having the purpose of pledging, being initiated into, affiliating with, holding office in or maintaining membership in any organization, whether on or off University property, are expressly prohibited.

Hearing Officer — a North Dakota University System (“NDUS”) employee who is designated by the Dean of Student Affairs to determine the appropriate resolution of an alleged violation of the Code, and/or authorized to impose sanctions or affect other remedies as appropriate. A Hearing Officer is also vested with the authority to, among other duties, investigate a complaint of an alleged violation of the Code, decline to pursue a complaint, refer identified disputants to mediation or other appropriate resources.

Supervising Hearing Officer — In general, the Director of Student Life or a Title IX Coordinator or Deputy Coordinator. These University Officials ensure the efficacy of the discipline process, determine whether investigations should occur, and assign investigations to approved Investigators and cases to appropriate Hearing Officers. A Supervising Hearing Officer may appoint themselves as a Hearing Officer or Investigator.

Incapacitation — a term expressing a state beyond drunkenness, in which the person has consumed substance(s) to the point of being unable to care for themselves or make decisions for themselves. Persons recognizing someone as being incapacitated should contact emergency medical services. See “Immunity from Prosecution.” Persons who appear to be or who are judged by a Hearing Officer to have been incapacitated are *de facto* incapable of making decisions regarding sexual consent.

Students who appear incapacitated as a result of drinking, drug usage, or a medical condition will receive proper emergency medical care when staff members become aware of their condition, EMS will be notified immediately. Transported individuals are financially responsible for the costs of this medical care including ambulance and/or hospitalization costs.

Immunity from Prosecution — “An individual is immune from criminal prosecution ... if that individual contacted law enforcement or emergency medical services and reported that the individual was or that another individual was in need of emergency medical assistance due to a drug overdose. To receive immunity under this section, the individual receiving immunity must have remained on the scene until assistance arrived, cooperated with emergency medical services and law enforcement personnel in the medical treatment of the reported drug overdosed individual, and the overdosed individual must have been in need of emergency medical services” (NDCC § 19-03.1-23.4)

The University will not take formal disciplinary action against a student who calls for or who receives medical attention due to alcohol or other drug use such that medical assistance is needed or sought. The University may require compliance with educational initiatives related to the overdose that created the situation. This policy might be commonly referenced as a “Good Samaritan or “Medical Amnesty”” policy.

Investigatory/Informal Resolution — a meeting between a Hearing Officer and a student to discuss an incident that occurred or a complaint that was filed. In some situations, information about the process and the incident is solely discussed, in some situation the Student and the Hearing Officer may reach an Agreement of resolution of the case and Sanctions, thus nullifying the need for an Administrative Hearing.

Instructor — any faculty member, teaching assistant, or any other person authorized by the university to provide educational services (e.g., teaching, research, or academic advising).

Interim Measures — are immediate restrictions issued to a Student who:

- (a) has a pending disciplinary action, and/or
- (b) has been accused with and/or is undergoing criminal proceedings for any felony charge, and/or
- (c) about whom sufficient facts are indicated and a University Official may reasonably determine the Accused Student’s continued presence on the campus endangers the physical safety or wellbeing of others or themselves, and/or their continued presence on the campus is likely to disrupt the educational process of the University.

Interim Measures (Part 9) are generally considered if the alleged misconduct indicates that the student’s behavior poses a significant threat of danger and/or injury to self or others, a threat of disruption of the educational process

for others, or a threat of destruction of property. These measures are issued prior to an Administrative Hearing on the Student’s alleged violation and/or during an investigation into a Complaint.

Investigation — a deliberate and comprehensive series of actions in which a University Official or a person approved by the Dean of Student Affairs questions persons who might have information about an incident, collects information and artifacts related to a situation, seeks other

facts that support or call into question an allegation, and frequently curates these findings into a report, which report shall then be submitted to a Hearing Officer in matters related to an alleged violation(s) of the Code and/or the *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy* and/or *-Procedure*.

Investigator – any person who is assigned by the Director of Student Life or a Title IX Coordinator/Deputy Coordinator to conduct an investigation(s) into a case(s) involving alleged violation(s) of the Code and/or the *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy* and/or *-Procedure*.

may — is used in the permissive sense.

Medical Amnesty — see “**Immunity from Prosecution**”

Menacing– to knowingly frightening or attempting to frighten another person through threats of imminent and serious harm.

mental or bodily Harm —

- (a) intentionally inflicting mental or bodily harm upon any person;
- (b) taking any action for the purpose of inflicting mental or bodily harm upon any person;
- (c) taking any reckless, but not accidental, action from which mental or bodily harm could result to any person;
- (d) engaging in conduct, including, but not limited to stalking, that causes a person to believe that the offender may cause mental or bodily harm; and/or
- (e) any act which demeans, degrades, or disgraces any person and that causes, or would be reasonably likely to cause, mental or bodily harm.
- (f) “any person” as used in this section may include oneself.

Notice — an instruction, usually sent as an email to an Accused Student’s University e-mail address, indicating the time, place, and reason for a meeting, and instructing the Student to appear. Notice(s) may also provide Interim Measures. Notice is a vital principle of fairness and due process. See Part 5-C.

Policy — the written regulations, standards, and student conduct expectations adopted by the university. These may be amended, modified, or replaced from time to time.

Preponderance of Information – a standard of proof used by a Hearing Officer to determine when a violation of the Code has occurred. Finding a student responsible for violating the Code under the Preponderance of Information standard signals the greater weight of the evidence/information or that it is ‘more likely than not’ that the violation has occurred.

University Disciplinary Procedures are not identical to a civil or criminal proceeding and the University strives to assure fairness to all parties in the adjudication of all Student Disciplinary cases. The standard is likewise applied when reviewing Appeals. Granting an Appeal indicates the Appellant Officer determined it was more likely than not an error cited by an Appellate (see Part 8, 4) occurred and more likely than not the error impacted the Decision. Denying the Appeal means it is more likely than not the error did not occur or did not impact the Decision in a meaningful way.

Retaliation Prohibited — reports of “suspected violations of ... institution policy or procedure, or suspected violations of any other applicable federal or state law, regulation, or rule, if made in good faith, shall be made without fear of reprisal or retaliation” (Required Reports of Violations; Reprisal or Retaliation Prohibited: NDUS Policy 308.2), and

“It is a discriminatory practice for a person to conceal unlawful discrimination or aid, abet, compel, coerce, incite, or induce another person to unlawfully discriminate in violation of this chapter, or to engage in any form of threats, retaliation, or discrimination against a person who has opposed any unlawful discriminatory practice or who, in good faith, has filed a complaint, testified, assisted, or participated in an investigation, proceeding, hearing, or litigation under this chapter” (NDCC § 14- 02.4-18).

Reporting Party — any person, office, or the university itself, who submits a Complaint, Report, or other allegation that a student violated the Code. Terms such as "Complainant," "Reporter," "Complaining Party," "Complaining Student," or "Reporting Student" also refers to one who provides a formal allegation of a violation of this Code.

Responding Student — any student accused of violating the Code. Other phrases like “accused student” or “charged student” may have the same meaning. “Accused Student” is the appropriate term when new information is received accusing the student of an action prior to the University initiating an Investigation.

Sanction — a requirement a student must abide by or complete when found Responsible for violating the Code.

shall and will — are used in the imperative sense.

Solicitation — the

- i) attempted sale, lease or rental of any property, product, merchandise, publication, membership, or service, whether for immediate or future delivery;
- ii) request for any gift or contribution; or
- iii) the distribution of information in support of the activities described in (i) and (ii). The University prohibits all direct sales and solicitation materials in university facilities or on University Grounds.

Individuals engaged in business for any product, service, or location whatsoever are prohibited from soliciting members of the faculty, staff or student body in any premises owned or controlled by the university, or by any electronic means, except (a) at events scheduled and approved in the Campus Center or other approved location, often requiring a rent payment to the University for a table or space, or (b) a solicitation activity performed by and for a registered Student Organization or University department.

Stalking — to intentionally and with no legitimate purpose, repeatedly (more than one time) behave in a way that would cause a person to experience fear, intimidation, or harassment, or to be the object of repeated unwanted attention. Stalking behavior presents as a pattern of repeated and unwanted attention, harassment, contact or any other course of conduct that would cause a reasonable person to feel fear for safety to self or the safety of others; or suffer substantial emotional distress, and includes, but is not limited to, such actions as: following, loitering near, telephoning or e-mailing another person with the intent to annoy, harass, alarm, distress or intimidate that person or his/her immediate family.

Standing — (who may, and who may not, appeal a Disciplinary Decisions). See Part 8, 1 and Part 10, 5-c-(3).

Student — a person who

- (a) is currently enrolled at the University; or
- (b) is accepted for admission or readmission to the University; or
- (c) has been enrolled at the University in a prior semester or summer term and is eligible to continue enrollment in the semester or summer term that immediately follows; or
- (d) is attending an additional program sponsored by the University while that person is on campus; or
- (e) might not be enrolled in a particular term but whose University record indicates a continuing relationship with the University.

Student Conduct Committee — an ad hoc committee appointed to act as a Hearing Officer.

Student Conduct File/Record — the printed/written/electronic file which may include but is not limited to incident report(s),

correspondence, academic transcript, witness statements, and student conduct history.

Student Conduct Hold — an administrative hold placed on a student's record when he/she does not respond to the request of a University Official to attend a Hearing, has not completed a disciplinary sanction, or has withdrawn or left the university while a conduct matter is pending.

Student Organization — an association or group of persons that has complied with the formal requirements for university recognition or is recognized by the university.

Suspension- or dismissal-eligible cases — see Part 6, Sections E-G.

Terrorizing — to threaten to commit an act of violence and/or to threaten to commit an act that would endanger another person's life.

Title IX Coordinator/Deputy Coordinator — Mayville State's Title IX Coordinator ensures all persons affected by the school's operations — including faculty, staff, and students — are aware of their legal rights under Title IX and that the school and all of its employees, through its policies, procedures, and practices, complies with its legal obligations under Title IX. The Coordinator is assisted in this regard by Deputy Coordinator(s).

"University," "the University," or "MSU" refers to Mayville State University.

University community, member of — includes any person who is a student, instructor, or university staff member; any person working for the university, either directly or indirectly (e.g.,

private enterprise on campus); or any person who resides on university premises; and within certain contexts alumni, former students or employees, and/or persons who live near or contribute in meaningful ways to Mayville State. The Director of Student Life or designee will determine a person's status in a particular situation.

University Grounds or University Premises — all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the university, either solely or in conjunction with another entity.

University Official — any person employed by the university to perform administrative, instructional, or other professional duties, including student employees with specific functions related to campus safety and sworn police officers or sheriff's deputies.

Weapons — include but are not limited to items such as ammunition, bombs, explosives, clubs, dirks, martial arts weapons, sling shots, fireworks, firearms, metal-tipped darts, bows and arrows, BB guns, sabers, swords, knives, axes, hatchets, incendiary devices, pellet guns, stun guns, paintball guns, and/or other potentially dangerous items. The unauthorized possession of a firearm, weapon, dangerous chemicals, or any explosive device of any description including; compressed air guns, pellet guns, BB guns, shotguns, or illegal knives, or the ammunition of any firearm or other dangerous weapon or explosive device on University Grounds is prohibited. See [M992](#).

Witness — any person with knowledge of a student's alleged violation of the [Code](#).

Part 3: Prohibited Conduct

The following conduct shall constitute violations of the [Code](#):

A. Academic Dishonesty

- 1.00 Academic dishonesty consists of cheating on tests, quizzes, oral presentations, general coursework, fabrication of data, and plagiarism. Academic dishonesty also includes allowing someone else to copy your work (including research data, or any other assignment) and submit it as his or her own.

See [Academic Honesty, Plagiarism, and Cheating](#).

B. Personal Conduct

- 2.01 **Obstruction or disruption** (participating in or inciting others to participate in the disruption or obstruction) of teaching, administration, disciplinary system, the University community, or other activities.
- 2.02 **Violating federal, state and/or local law or university policies:** Conduct, regardless of where it occurs, that is in violation of federal, state, and/or local law or University policies that brings into question one's suitability as a member of the University community or has a detrimental effect on the reputation of the University.

Note: The University may use the procedural elements of the [Code](#) to address allegations of infractions as specified in other policy.

For example, a violation of the Acceptable Use of Information Technology Resources Policy ([1202.1](#)) may result in both administrative action by Information Technology Services per the protocol of that office and an additional action under

this Code. Similarly, a Supervising Hearing Officer(s) will decide whether elements of the University's *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy* ([M520.01](#)) and *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Procedure* ([MP520.02](#)) apply to the fact case indicated in the Complaint. At any time in the Investigation Process and the Disciplinary Process, information that suggests an application of these facts to the *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy* and/or *-Procedure* apply may result in that policy and procedure being employed.

- 2.03 **A Violation of the Code at another educational institution** or in another city or municipality, when such information is forwarded to the University.
- 2.04 **Theft** — attempted theft, damage, wrongful utilization of goods or services, possession of stolen and/or unauthorized possession of property, resources, or services.
- 2.05 **Gambling** — participating in games of chance or wagering upon the outcome of an event, including via the internet.
- 2.06 **Unauthorized solicitation** — engaging in prohibited business activities in any premises owned or controlled by the university, except as approved.
- 2.07 **Conduct that is lewd or indecent** such as public urination, public defecation, streaking, stripping or solicitation of a stripper, or public sexual acts.
- 2.08 **Spying, voyeurism, or surreptitious intrusion** — photographing, videotaping, filming, digitally recording, broadcasting, or by any other means, secretly viewing with or without a device, another person without that person's consent in any location where the person has a reasonable expectation of privacy, or in a manner that violates a reasonable expectation of privacy. This section does not apply to lawful security surveillance, including filming or recording that is authorized by law enforcement or authorized University Officials. Note: under NDCC § 12.1-20-12.2, surreptitious intrusion for sexual gratification is prohibited.
- 2.09 **Assisting another person in the commission, or attempted commission, of a violation of the Code.**

C. Acts Against Persons – Self or Other

- 3.01 **Acts that endanger other persons**, whether done so willingly or knowingly, including:
 - (a) Alcohol incapacitation,
 - (b) Bullying of another person,
 - (c) Harassment,
 - (d) Hazing,
 - (e) inflicting mental or bodily harm,
 - (f) Menacing,
 - (g) Physical Assault,
 - (h) Sexual Assault,
 - (i) Stalking,
 - (j) Terrorizing, and/or
 - (k) Threats of injury or harm to oneself or another.

These terms, as defined in the Code or in other University policy documents, and the actions they describe constitute prohibited acts. Also see 2.02.

Note: In determining whether an act that relies on speech as an action constitute a violation, the Hearing Officer will consider the full context of any given incident, giving due consideration to the protection of the members of the University community and the individual rights freedom of speech, academic freedom and advocacy required by law. Not every act that might be offensive to an individual or a group necessarily will be considered a violation of the Code.

Allegation of harassing behavior and/or bullying involving alleged discrimination and/or discriminatory harassment may be informed by University policy (such as [M603.1.3](#), referring to Harassment) or, if appropriate, may be addressed in whole or in part through lens of the *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy* and/or *-Procedure*.

- 3.02 **Possession or use of Weapons or weapon replicas**, including explosives, fireworks or other dangerous items or substances. This may include the misuse of defensive sprays (including pepper spray). Violation of the *Weapons Policy*

(M992) as noted in the Student Handbook, the Residence Hall Handbook, or other University posting or publications is prohibited.

D. Alcohol and Drugs

- 4.01 **Possession of alcohol except when permitted** — the Unauthorized Use of Alcoholic Beverages includes the possession, distribution, sale and or solicitation of, or consumption of, alcoholic beverages except during events or in circumstances authorized by University Officials and/or failure to comply with state or [University regulations regarding the use or sale of alcoholic beverages](#).

also see:

North Dakota Century Code: [Individuals under twenty-one years of age prohibited from using alcoholic beverages...](#)

ND State Board Policy Manual, [Section 918, Alcoholic Beverages](#)

Residence Halls Handbook (link at <https://mayvillestate.edu/about-msu/consumer-information/#resource>)

- 4.02 **Possession of controlled substances.** The possession, distribution, sale, and/or solicitation of, or consumption of (a) prescription drugs except those proscribed to the person carrying same; (b) illegal drugs or controlled substances; or (c) other intoxicants and/or (d) paraphernalia used for the consumption of such intoxicants, or the (e) possession of household or common items which the Hearing Officer determines was intended by the Responding Student to be used or trafficked as an intoxicant(s) (e.g., spray paint used for huffing).
- 4.03 **Failure to abide by university or state policy governing tobacco use** in public buildings and/or University residence halls or on campus grounds. Smoking and use of smokeless tobacco products are restricted from use on campus, except in one's personal vehicle. See [M917](#).

E. Physical Safety and Environmental Health

- 5.01 **Creating a fire hazard, bomb, or a dangerous situation** which endangers others, or the false reporting of fire or bombs; failing to evacuate or failing to follow fire safety procedures or instructions; tampering with, damaging, disabling, or removing fire safety equipment and warning devices; and/or interfering with firefighting equipment or personnel.
- 5.02 **Hazing** —an action or the creation of a situation having the purpose of producing psychological or physical discomfort, embarrassment, or ridicule when directed against a student. The express or implied consent of the victim will not be a defense. Indications of apathy and/or acquiescence in the presence of hazing are not neutral acts; they are violations of this [Code](#) item.
- 5.03 **Trespassing, forcible entry, or unauthorized entry** and/or presence in buildings or property where posted or restricted or attempts to commit the same.
- 5.04 **Failure to abide by university policy governing service and/or assistance animals.** Animals, with the exception of approved service animals and/or assistance animals, are not permitted on campus property or in campus buildings.
Reference: *Use of Service and Assistance Animals* policy ([M993](#)) and *Use of Service and Assistance Animals Procedures* ([MP993](#))
- 5.05 **Failure to abide by established campus motor vehicle regulations and posted parking regulations.** Vehicles should be registered with the Office of Student Life.
- 5.06 **Rollerblades, skateboards, bikes or motorized scooters** are not permitted on campus or in campus buildings, except where authorized and/or permitted.
- 5.07 **Playing sports where restricted.** Sports in hallways, entryways, classrooms, and in other places where harm to others or disruption to the academic operations of the institution may be effected. Sports are prohibited in the residence halls. (See link to Residence Hall Handbook at <https://mayvillestate.edu/about-msu/consumer-information/#resource>)

F. Personal Identification and Representation

- 6.01 **Falsification of one's identity or that of another** (including production, possession, or distribution of fake IDs and/or University ID cards) or **failure to show student identification** upon request to a law enforcement officer

or member of the Mayville State University staff (including Resident Assistants; security or food service personnel, bookstore staff, or others).

- 6.02 **Unauthorized possession, duplication, tampering, or misuse of University property** or other personal or public property, including but not limited to records, electronic files, telecommunications systems, forms of identification, and keys. Knowingly submitting false information for incorporation into any University record or document.
- 6.03 **Failure to comply** with a reasonable request of a University Official.
- 6.04 **Failure to abide by university computer policies**, information technology policies, or network policies.
- 6.05 **Unauthorized use of the University name, logo, mascot, or other symbol.**

G. Abuse of the Student Conduct System

- 7.01 **Disruption or interference with the orderly conduct** of a Student Disciplinary Proceeding.
- 7.02 **Falsification, distortion, or misrepresentation of information** to an administrative Hearing Officer or University Official performing assigned responsibilities within the student disciplinary process.
- 7.03 **Influencing or attempting to influence another person to commit** an abuse of the student disciplinary system.
- 7.04 **Attempting to discourage an individual's proper participation** in, or use of, the student disciplinary system.
- 7.05 **Intimidation and/or retaliation of any person submitting a report**, listed as a witness , and/or participating in a Student Disciplinary Proceeding, or violations of the "Retaliation Prohibited" standard
- 7.06 **Initiation of a Student Disciplinary Proceeding in bad faith.**
- 7.07 **Failure to comply with interim restrictions** imposed by a University Official.
- 7.08 **Failure to comply with the sanction(s)** imposed under the Code.

Part 4: Goals and General Practices of the Student Discipline Process

Mayville State University expects its students to act in a mature and responsible manner. Respect for the rights of others, openness to new and challenging ideas, civility and courtesy are examples of this expectation. The Student Disciplinary Process has been established to address alleged violations of the Code. The goal of the student discipline process is to support the educational mission of the University by ensuring an atmosphere of acceptance, curiosity, and integrity is maintained on the campus.

1. The Code of Student Rights and Responsibilities and Student Disciplinary Process is published such that students are provided a general notice of prohibited conduct. The Code should be read broadly and is not designed to define misconduct in exhaustive terms.

It is the responsibility of students to know and understand individual department policies as well as campus policies published in the Student Services document and other University documents and websites, including but not limited to policies stated in the Housing Agreement, Academic Integrity Policy, Computer Acceptable Use Policy, Tobacco-Free Campus Policy, Parking Policy, and other University policies. Students who allegedly violate the Code, Residence Hall Handbook, *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy*, or other university policies may become subject to disciplinary action.

2. Students at Mayville State University have a responsibility to act in a manner that promotes the wellbeing, respect, safety and security of all members of the University community.
3. The Code of Student Rights and Responsibilities and Student Disciplinary Process is not to be regarded as a contract between students and Mayville State University. The University reserves the right to amend any provision of the Code and Student Disciplinary Process at any time. Mayville State University will publish amendments in relevant campus publications.
4. The Code is applicable to any student enrolled in or accepted for an academic program, regardless of credits carried, any individual attending one or more classes at Mayville State, or any individual residing in campus housing at Mayville State University, or any recognized student organization. Generally, a student's withdrawal from the university does not stop a pending conduct matter from being resolved.

The Code applies to student conduct which may occur on University Grounds or at any university-related activity regardless of location. In addition, the Code is applicable when student conduct, wherever it occurs, calls into question a student's

suitability as a member of the Mayville State University community, and/or has a detrimental effect on the reputation of the University. Mayville State University recognizes that students, as members of society and citizens of the United States of America, are entitled to respect, consideration and guaranteed freedoms of speech, assembly and association under the constitution. Mayville State University further recognizes students' rights within the institution to freedom of inquiry and the responsible use of university services and facilities.

5. Students may be accountable to both civil authorities and to Mayville State University for conduct, which constitutes violations of local, state, federal laws, the Code, and/or other university policies. On-campus student disciplinary procedures may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of a Supervising Hearing Officer. The status of civil or criminal charges involving the same incident, whether the case is on-going or dismissed, or whether those charges have been reduced or modified, have no predetermined impact on the University's decision regarding a case's process or resolution. When a student has been charged with a civil or criminal violation(s) of law, Mayville State University will neither request nor agree to special consideration for the student solely because of one's status as a student.
6. Any conduct which may have been influenced by a student's mental state (without respect to any contemporaneous or subsequent evaluation) or the use of alcohol or other drugs shall not in any way limit the responsibility of the student for the consequences of the student's actions.
7. A student conduct hold may be placed on a student's academic record (or further action may be taken) when a student does not comply with a sanction or withdraws from the university prior to a hearing. Students with a hold may not be permitted to register, receive transcripts, receive a diploma, add or drop courses, register for university housing, or participate in other university activities.

Part 5: Disciplinary Procedure

In general, there is one Procedure for Complaints and the Investigation and resolution of those complaints. The nature and the severity may cause the case to be handled by different personnel and to focus on different portions of the procedure. A first-time residence hall noise violation by a person who is compliant and accepts responsibility might have a sanction issued without a significant investigation, a formal hearing, or without the time-restrictions that dictate due process expectations stated herein. Violations that are significant but do not suggest violations of the University's Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy will have an investigation, hearing or resolution, sanction, and opportunity to appeal. So,

too, will a student accused of a Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy be addressed through that one process: there will be an investigation, hearing or resolution, and opportunity to appeal.

When we are in conflict, the Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy supersedes the Code of Student Rights and Responsibility and Campus Disciplinary Processes.

A. Incident Report or Complaint

Any member of the Mayville State University community may submit a written incident report documenting a student for an alleged violation of policy. Incident reports are submitted to the Director of Student Life, Resident Director, or Director in Student Affairs. Note, some Directors may be prohibited by statute from acting as a person who receives Complaints or acting on reports of misconduct. Other University Officials may be the initial recipients of information about an alleged infraction, but only those identified in this section can receive a Complaint. When possible, the report about an infraction should be submitted within 30 Class Days of discovery of the alleged violation. A Supervising Hearing Officer has authority to extend this time-frame on a case-by-case basis. Upon receipt of a Complaint, one or more of the following actions shall occur within 10 Class Days:

1. dismiss the incident report if it lacks merit or probative value or it is not submitted in a timely manner.
2. continue the matter pending further information and/or remand the matter for further investigation. See Item B and/or Item E.
3. schedule a Mediation session and/or an Investigatory/Informal Resolution meeting. See Item D.
4. schedule an Administrative Hearing regarding the matter or assign the matter to another Hearing Officer who will schedule an administrative Hearing regarding the matter. See Item F.
5. impose Interim Measures when there are sufficient facts to show that the student's continued presence on the campus endangers the physical safety or wellbeing of others or themselves, or disrupts the educational process of the University. See Part 9.

B. Investigations

After a report of an alleged violation is received,

1. a Supervising Hearing Officer, usually the Director of Student Life, assigns a Hearing Officer, and the Hearing Officer conducts a preliminary investigation to determine whether the alleged conduct constitutes an offense under the Code and whether a reasonable basis exists to investigate the matter, **or**

2. a Supervising Hearing Officer, specifically a Title IX Coordinator/Deputy Coordinator, conducts a preliminary investigation to determine whether the alleged conduct constitutes an offense under the Code and/or the *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy* and/or *-Procedure*, and whether a reasonable basis exists to investigate the matter.
3. With matters that are not likely to be suspension- or dismissal-level cases, the initial Investigation may be abbreviated. If the Responding Student participates in an Investigatory/Informal Resolution meetings and does not contest the allegations and an Agreement is reached, the case will resolve as noted in Section D.
4. When an Investigation (or further Investigation) is determined to be necessary, the Hearing Officer or Investigator will complete an Investigation, during which any and all relevant witnesses may be contacted. The Investigation should continue until the Investigator has a sufficient understanding of the alleged behavior.
5. Recording devices are permitted during Investigations. Both or all parties must agree to be recorded.
6. To schedule an Investigatory/Informal Resolution meeting(s) or to schedule a Hearing, the Hearing Officer will provide Notice to the Responding Student(s) and/or others with information relevant to the case.
7. If the Investigation does not demonstrate the merit of charges being brought against the Responding Student(s), the matter may be closed by the Hearing Officer, which may or may not rely on the fact case presented by the Investigator.

C. Notice

Notice to appear for Mediation, Investigatory/Informal Resolution meeting, or an Administrative Hearing will be delivered in writing to the student's email account. At the discretion of the Hearing Officer, copies or additional attempts to contact may also be sent via hard copy through housing, campus mail, or the US Postal Service. Hand delivery of documents can fulfill Notice requirements, and for some matters the Notice may simply be a request instructing the student to schedule a time with the Hearing Officer.

Generally, **Notice** includes:

- alleged offenses
- the time and place of the mediation, meeting, or hearing (or a request for the student to schedule same), and
- the fact that participants may request additional information about the student discipline process;

In addition to the above, **Notice** for an Administrative Hearing will include:

- the specific alleged violations of the Code,
- potential sanctions,
- the fact that failure to appear for the hearing will result in the hearing being conducted in the Responding Student's absence
- the names of all witnesses who will testify, and
- the fact that the participants should provide the names of witnesses who will appear on their behalf to the Hearing Officer at least two (2) Class Days prior to the Hearing.

In cases regarding prohibited acts as defined in *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy* and/or *-Procedure*, the Reporting Party(s) will also be Noticed of the Administrative Hearing. The Reporting Party is not compelled to attend.

D. Mediations and Investigatory/Informal Resolution Meetings

1. Mediations, Investigatory/Informal Resolution meetings, and/or Administrative Hearings will be conducted as soon as possible, but no sooner than two (2) Class Days nor more than fifteen (15) Class Days after the Responding Student has been officially notified (barring extenuating circumstances and/or in the event of an emergency, at the discretion of the Director of Student Life. Responding Students may request postponement of a meeting. Rescheduling decisions may be made at the discretion of the Hearing Officer.
2. Mediation and Informal Resolution are not always appropriate. The Hearing Officer shall determine the appropriateness of such. The objective of the mediation is for the Responding Student and another individual(s) agree upon a mediated solution. The objective of an informal resolution meeting is for the Responding Student and a University Official to agree upon a resolution (an "Agreement"). All parties must agree to the outcome. If an Agreement is reached, the case will end with no opportunity for Appeal. If no Agreement can be reached, the Director of Student Life or assigned Hearing Officer arranges an Administrative Hearing.

E. Investigating Alleged Sexual Misconduct Violations

1. Reported behavior that are "Acts that endanger other persons" (cf. Part 3, C, 3.01) and that meet the definitions of conduct that violates the person or autonomy of other persons as defined in the University's *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy* ([M520.01](#)) are prohibited.

2. Consistent with *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Procedure* ([MP520.02](#)), the Title IX Coordinator or designee will commission an investigation. If the Title IX Coordinator determines a lack of proof regarding a violation of the *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy* exists, any investigatory material collected may be shared with and the case may be referred to a Supervising Hearing Officer.

F. Administrative Hearings for Alleged Code Violations;

1. Charges involving physical assault weapons, prohibited acts as defined in *Title IX/Sexual Misconduct and Sexual- and Gender-Based Discrimination Policy*, or other allegations are-resolved through an Administrative Hearing. Bias-motivated offenses or acts that disrupt University activities and/or the educational process may also lead to suspension or dismissal level adjudication measures and are resolved through formal Administrative Hearing (see [M514](#)). Additionally, an Administrative Hearing will be scheduled for a Student who does not attend an Investigatory/Informal Resolution meeting and/or do not reach an Agreement with the Hearing Officer. Administrative Hearings are formal hearings and/or meetings to determine a student's responsibility for violating the Code and/or other University policy and to determine sanctions for responsibility.
2. When multiple parties are involved in the same incident the Supervising Hearing Officer will decide whether cases will be heard together or separately.
3. The Hearing occurs at the time and place designated in the notice letter.
4. The Hearing Officer may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Reporting Party, Responding Student, and/or other witnesses during the Hearing, and in whatever manner, as determined to be appropriate in the sole judgment of the Hearing Officer. This may involve "the Room" being virtual; that virtual nature might include a series of rooms on campus; the Hearing Officer may arrange for the additional presence of a member(s) of law enforcement, or other measures.
5. Any person, including the Responding Student or an Advisor, who disrupts a meeting or Administrative Hearing or who fails to adhere to the rulings of the Hearing Officer may be excluded from the Hearing.
6. Mediations and Administrative Hearings may be recessed at any time provided they are reconvened within eight (8) class days (barring extenuating circumstances).
7. The Student Discipline Process is educational in nature and is the mechanism used to determine whether the Responding Student is Responsible for the alleged violations of the Code. Due Process is critical, but so too is helping students learn from the situation and alleged behaviors presented within a case.
8. Fairness is critical.
 - a. Hearing Officers must be impartial. A party with Standing can appeal to the Dean of Student Affairs 24 hours in advance if that person believes the Hearing Officer cannot conduct the Hearing fairly.
 - b. an anonymous Complaint cannot provide satisfactory information to determine that a student has violated the Code.
 - c. a Responding Student's (or Reporting Party's, if applicable) attendance or failure to appear for a Hearing and/or meeting is not sufficient for a determination of Responsibility. The materials and information in support of the alleged violations shall be presented and considered and the Hearing held in the absence of the student, should he/she fail to attend.
 - d. a finding of a court of law after the completion of a student discipline process does not change the outcome, but it may be considered as part of a timely-filed Appeal.
 - e. Decisions are based on the Preponderance of Information standard.
 - f. Only information collected in the investigation and/or information introduced at the hearing will be considered in determining a responding student's responsibility.

Consistent with best educational practices or to comply with state law, three formats (meeting types) of an Administrative Hearing are adopted.

<p>9. <u>Anticipated Sanction if Charges are Upheld</u> The Hearing Officer determines and announces Suspension or Dismissal is not a potential outcome of the Hearing.</p>	<p>The Hearing Officer may issue or is likely issue Suspension or Dismissal as a Sanction to the Responding Student if the charges are upheld.</p>	<p>The potential sanctions are not known or are not a factor in determining this resolution format.</p>
<p>10. <u>Nature of the alleged offense and the meeting type</u> Hearings adjudicating violations of the <u>Code</u> in which no charges of the standards as defined in Section 3 of the <u>Sexual Misconduct and Title IX Policy and Procedure</u> are private meetings with the Responding Student, the Hearing Officer, and an advisor if one is desired by the Responding Student.</p>	<p>Hearings adjudicating violations of the <u>Code</u> in which no charges of the standards as defined in Section 3 of the <u>Sexual Misconduct and Title IX Policy and Procedure</u> are private meetings with the Responding Student, the Hearing Officer, and an advisor if one is desired by the Responding Student.</p>	<p>Hearings adjudicating violations of the standards as defined in Section 3 of the <u>Sexual Misconduct and Title IX Policy and Procedure</u> , with or without alleged charges of violations of the <u>Code</u> are private meetings with the Reporting Party(s), Responding Student(s), and the Hearing Officer, and Advocates.</p>
<p>11. <u>Advisor/Advocate</u> The Responding Party is permitted an Advisor. The advisor must be in the same room with the Responding Student.</p>	<p>Responding Student may choose as their advisor a person who may speak for the student and otherwise fully participate on behalf of the student. Any cost related to the hiring of this advisor is paid by the student (see NDCC § 15-10-56).</p> <p>If, during the investigation or hearing processes, the Hearing Officer determines the information does not indicate a violation of the <u>Code</u> occurred, or that Suspension or Dismissal is not warranted, the Responding Student, and advisor if applicable, may be thusly advised and the right to speak granted to the Advisor is revoked</p> <p>A student in absentia shall not represented by the advisor.</p>	<p>The Responding Party must have an advocate . The Reporting Party(s) must have an advocate. If more than one Reporting Party is present, there may be one collective Advocate, or each Reporting Party may have their own Advocate.</p> <p>The Advocate for the Responding Student and the Advocate for the Reporting Party is, respectively, (a) a person of that Party's choosing, or (b) a person appointed by the University. (c) All costs associated with the Advocate and services provided is the responsibility of the Party.</p> <p>The Advocate must be in the same room with the Responding Student or the Reporting Party(s).</p> <p>The Hearing Officer may have an Advisor, which may be an attorney from the Attorney General's Office.</p> <p>The Advocate for the Responding Student and the Advocate for the Reporting Party(s) will be granted an opportunity during the hearing to cross-examine the other Party.</p>
<p>12. <u>Recording of Proceeding</u> No recording devices are permitted during Hearing proceedings.</p>	<p>No recording devices are permitted during Hearing proceedings.</p>	<p>Hearings conducted using video conferencing or conducted by telephone will be recorded by the University. Parties are not permitted to record these proceedings.</p>

13. While they are providing information, witnesses are in the room and are dismissed after they have provided information and answered questions. The University may have an additional staff member in attendance for notetaking and/or for training or evaluation purposes.
14. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied to criminal or civil court, are not used in Mayville State Disciplinary proceedings.
15. When a student has also been criminally charged, the Responding Student has the right to refuse to incriminate him/herself. All statements made in the Hearings and all other information collected in an Investigation can be subject to a subpoena.
16. All procedural questions are subject to the final decision of the Supervising Hearing Officer.

Part 6: Rights of All Parties

A. Responding Students will be entitled to:

1. Written Notice (see Notice) of charges, the name of the person(s)/office submitting the incident report, the right to review the incident report upon written request, the time and place of the Mediation meeting, Investigatory/Informal Resolution meeting, or Administrative Hearing.
2. Opportunity to present their case, pose and/or raise any questions for consideration, and present witnesses on their behalf;
3. Not answer any questions or make any statements during an investigation or Hearing. Such silence will not be used against the Responding Student; however, the outcome of the Hearing will be based upon the information (or lack thereof) presented during the Hearing;
4. Be accompanied by and receive guidance from an Advisor. Only one Advisor per party is allowed in the Hearing. Except as provided in Part 5, Advisors are not permitted to address the Hearing Officer and may not participate directly in any Hearing.
5. Be informed in writing within five (5) Class Days of the Decision (barring extenuating circumstances);
6. Be granted the opportunity to Appeal the decision based on the appellate criteria outlined in Part 8.

B. Persons submitting an incident report will be entitled to:

1. a Notice of the time and place of the Hearing, as permitted by law; and the opportunity to present their version of the incident;
2. an opportunity to present their case, question the Responding Student and witnesses, and present witnesses on their behalf;
3. not answer any questions or make any statements during a Hearing; however, the outcome of the disciplinary Hearing will be based upon the information (or lack thereof) presented during the Hearing;
4. be advised by an advisor. Only one advisor per party is allowed in the Hearing. Advisors are not permitted to address the Hearing Officer and may not participate directly in any hearing; opportunity to appeal the Decision based on procedural error; and
5. notice of the Decision consistent with applicable law. (see Educational Records, student privacy)

C. Persons who believe themselves to be victims will be entitled to:

1. submit a 'victim impact' statement to explain the emotional, physical, financial, educational and/or other impact(s) the incident has had on the alleged victim's life. This statement is incorporated into the Responding Student's file;
2. notice of the decision consistent with applicable law. (see Educational Records, student privacy)

Part 7: Sanctions

A. Philosophy

Mayville State University recognizes its first obligation is to respond to allegations of the Code in a manner that encourages ongoing safety for all members of the University. The University also adheres to and upholds a philosophy of progressive discipline whenever appropriate. The conduct system and imposition of sanctions contribute to the teaching of appropriate individual and group behavior and foster the ethical development and personal integrity of students.

1. In determining a Sanction, the Responsible Student's present demeanor, past disciplinary history, the nature of the offense, the resulting severity of any damage, injury or harm, and other factors may be considered.
2. If a student is determined to have violated the Code, any one or more of the following Sanctions may be imposed, deferred, or held in abeyance by the Hearing Officer. Generally, a student is issued a status sanction (Part 7, B) and one or more activity-required sanctions (C).

B. Disciplinary Status Sanctions

1. **Censure.** Verbal or written notice that the behavior has been inappropriate. May be considered part of student conduct record in future disciplinary action.
2. **Disciplinary Probation.** A period of time during which a student's behavior is subject to close examination. Restrictions may be imposed by the Hearing Officer, restrictions such as prohibiting a student from holding elected or appointed office in a student organization or participating in intercollegiate athletics, required ongoing mentoring sessions for a period of time, and/or assigning one or more items from (C) herein.
3. **Deferred Suspension.** A delayed removal from class/the university for a period up to two semesters. Any adjudicated violation during this period may result in immediate suspension for a specific period of time. Restrictions may be imposed by the hearing officer, restrictions such as prohibiting a student from holding elected or appointed office in a student organization or participating in intercollegiate athletics, required ongoing mentoring sessions for a period of time, and/or assigning one or more items from (C) herein.
4. **Suspension.** Removal from class/the university for a specified period of time ranging up to a maximum of two years. Suspended students must remove themselves from the campus totally. Students suspended from the university may not attend online classes during their suspensions. The expiration of the suspension period is no guarantee of readmittance.
5. **Dismissal.** Removal from the university, in principle considered to be permanent; in all cases to be observed for no fewer than five years.
6. **Deferred Loss of Recognition.** A delayed removal of recognition as a recognized student organization. Any adjudicated violation during this period may result in immediate loss of recognition for a specified period of time.
7. **Loss of Recognition.** During this time, a recognized student organization may not associate itself with the university by using the university name, facilities, and/or other rights and privileges of recognized student organizations. The expiration of the loss of recognition period is no guarantee of re-recognition.

C. Activity-Required Disciplinary Sanctions

An assigned activity-required disciplinary sanction(s) may be levied, requiring the student to complete and/or make and demonstrate specified progress regarding the assignment before a proscribed due date. Due dates may be structured as incremental timeposts rather than completion of the activity and these dates may be extended by the Director of Student Life when a student is expected to receive on-going assistance or is expected to comply with Sanctions in an ongoing fashion.

Also see Part 3, G, 7.08, **Failure to comply with the sanction(s)** imposed under the Code.

1. **University/educational service.** Assignment of an appropriate project that will benefit the university community, responsible student or others, or attendance at an educational workshop, including on-line trainings or assessments.
2. **User Fee(s)** associated with training, community service observation, or other cost associated with any sanction issued.
3. **Restriction.** Denial of access to any campus facility, activity, class or program, or denial of student privileges.
4. **No Contact Directive.** A directive to refrain from any intentional contact, direct, or indirect, with one or more designated persons or group(s) through any means, including personal contact, email, telephone, or through third parties. Failure to adhere to a no contact directive may result in further disciplinary action, including the placement or expansion of interim measures.
5. **Referral.** A student may be referred to counseling services, substance awareness, health services, or other appropriate offices or local agencies.
6. **Fine.** A fine is a fee or a financial sanction, imposed for alcohol, drug, and/ or other violations, the payment of which will be used toward alcohol and/or other drug education and alternative programming.
7. **Restitution.** Financial compensation to the University for cleaning, replacing, or restoring a specific area or thing when loss or damage was a result of the student's disciplinary violation. The University does not manage restitution to other students, but a failure to comply with a mediated Agreement is a violation of the Code.
8. **Housing Ban.** Residence hall transfer, residence hall floor transfer, restricted access within the residence halls, restricted access to dining services, and removal and/or ban from the residence halls and/or dining services for a specified period of time.
9. **Deferred Loss of Residence.** A delayed removal from university operated residence halls for a period of up to two semesters. Any proven offense during this period may result in immediate loss of residence.
10. **Notification.** Parents, faculty/staff, or others may be notified or contacted regarding a student's behavior consistent with applicable law. (see Educational Records, student privacy)
11. **Other Sanctions.** Other Sanctions that advance the safety concerns or the educational concerns of the University may be also or alternatively be imposed.

Part 8: Appeals

1. (a) Students found Responsible as the result(s) of a Decision reached through the protocol enumerated in Part 5, E or in Part 5, F of this Code, and
(b) Persons who are a Reporting Party(s) for cases resolved in accordance with Part 5, F of this Code, have Standing and may appeal the Decision.
2. Time permitted to file an appeal: Persons with Standing may
 - (a) submit an Appeal within five (5) Class Days of the date of the findings letter, no later than 4:00 pm on the fifth class day. The deadline for an Appeal to be submitted is the fifth Class Day beginning the date on the Decision Letter.
 - (b) Suspended Students or Dismissed Students and/or others who meet the thresholds established in NDCC § 15-10-56 may have additional time in which to file an appeal.
3. If an Appeal is submitted, it must be in writing, must be submitted by the Student, and will be submitted to the Office of the Dean of Student Affairs. Appeals not received in the established timeframe and Appeals that do not meet the established criteria will be rejected.
4. There are three outcomes to any Appeal: the Appeal is Dismissed, the Appeal is Denied, or the Appeal is Granted. Note: "Granting" an Appeal is a process decision, not a content decision. It means that an error did or may have occurred and that a restorative act within the discipline process is owed the Appealing Party. Granting the Appeal sets aside the original Decision.
5. The statement of Appeal including the grounds for the appeal, all relevant information, and the desired outcome are to be submitted to the Dean of Student Affairs in Old Main 112C. The Appeal must claim and will be considered based on the following criteria:
 - (a) a procedural error occurred within the discipline process and that error substantially changed the outcome of the hearing; or
 - (b) new evidence or information that was not available at the time of the hearing is now available, and such information could substantially alter the findings of fact and change the outcome of the hearing.
6. Upon receipt of the Appeal letter, the Dean of Student Affairs will determine if the Appeal was received in the established timeframe, meets the established criteria, and presents prima facie merit.
 - (a) If these standards are not met, the Appeal is dismissed.
 - (b) If these standards are met, the Dean of Student Affairs
 - (1) will appoint an Appellate Officer. The Dean may appoint her/himself as the Appellate Officer if s/he wishes; and
 - (2) will appoint a Hearing Officer to act on behalf of the University; this Hearing Officer and through her or him the University now acts as a third (or additional) party having Standing.
 - (3) will determine and instruct in writing to all persons with Standing
 - i. that an Appeal, meeting the conditions of established timeframe, established criteria, and appearance of merit, has been filed and will be acted upon.
 - ii. that the Dean of Student Affairs has determined whether
 1. the Sanction(s) – all or some – from the original hearing are in force during the Appeal period, or
 2. the Sanction(s) – all or some – from the original hearing are stayed, or
 3. Interim Measures are in place during the pendency of the Appeal.
 - iii. that such notification also is a request information from all parties that is either in support of or in conflict with the Decision.

All parties have three (3) Class Days to submit information after notification. Reasonable extensions may be requested and granted by the Appellate Officer.

7. The Appellate Officer will review the record from the hearing and review all received Appeal material, and shall have five (5) Class Days to:
 - (a) Deny the Appeal. To Deny the Appeal, the Appellate Officer must determine, upon review, that there was no error, that the alleged procedural error cited in the Appeal did not materially affect the Decision, or that the new information would provide no substantive change in the Decision rendered.
 - (b) Grant the Appeal. Upon Granting the Appeal, the Appellate Officer will:
 - (1) provide notice to all parties with Standing and reopen the hearing. See Part 5, E-13. The Appellate Officer acts then as a Hearing Officer and shall render a new and final Decision; or
 - (2) provide notice to all parties with Standing and reopen the hearing. See Part 5, E-13. The Appellate Officer shall assemble and convene an ad hoc Student Conduct Committee who shall act as a Hearing Officer and shall render a new and final Decision.
 - i. the Appellate Officer may solicit additional information from an Investigator, related to information that may have been received, uncovered, or asserted during the Appeal period.

- ii. While conducting the reopened Hearing, the original Hearing information and relevant information received during the Investigation and Appeal processes may be considered, regardless of the outcome of this last Hearing.
- 8. Claims made by an Appellant that the Sanction is too harsh or too lenient do not constitute grounds for an Appeal. However, the Appellate Officer may determine the Sanction issued by the Hearing Officer was either excessive or inadequate and alter it accordingly.
- 9. Appellate Decisions are final.

Part 9: Interim Measures

1. The Dean of Student Affairs or designee may impose upon a Student immediate Interim Measures, without prior notice, when Student:
 - (a) has a pending disciplinary action, and/or
 - (b) has been accused with and/or is undergoing criminal proceedings for any felony charge, and/or
 - (c) about whom sufficient facts are indicated and a University Official may reasonably determine the Accused Student's continued presence on the campus endangers the physical safety or wellbeing of others or themselves, and/or their continued presence on the campus is likely to disrupt the educational process of the University,
2. Interim measures may include but are not limited to: restriction from classes and/or university grounds, including campus housing; assignment to alternate housing; limitation of access to designated housing facilities and/or campus facilities by time and location; restriction of communication with named individuals within the University community; and/or the requirement to secure advance authorization to engage in a specified activity.
3. All restrictions from the University and/or removal from class and/or attendance at classes shall be subject to review within three (3) Class Days. The Student shall have the opportunity to meet with Dean of Student Affairs or designee and may present their own version of the facts and may indicate why Interim Measures should not be imposed. At the conclusion of this meeting, Dean of Student Affairs or designee (1) may continue, (2) may alter, or (3) terminate the student's interim measure(s). Such Interim Measures are placed whenever sufficient information exists to show the Accused Student's continued presence disrupts or potentially disrupts members of the University community, or when the Accused Student's continued presence on the campus endangers the physical safety or well-being of others or themselves.
4. The Hearing Officer may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Reporting Party, Responding Student, and/or other witnesses during the Hearing, and in whatever manner, as determined to be appropriate in the sole judgment of the Hearing Officer.
5. Violations of interim measures may result in Suspension or Dismissal from Mayville State University.

Part 10: Hearings When Classes are Not in Session

Hearing via telephone or a video service such as zoom or Teams or other electronic means may be arranged when classes are not in session or when the student has left the University and/or is not physically on campus. Notice of the request, the process for collecting information, the preponderance standard, the decision letter protocol, and the appeals process are unchanged. The timing of notice may be altered to accommodate the scheduling of the hearing. A student or former student's refusal to participate is not alone a factor in determining responsibility for the violation.

Part 11: Accommodations for Students with Disabilities

1. A student with a disability who desires an accommodation in reference to a Mediation, Investigatory/Informal Resolution meeting, Administrative Hearing, Appeal, or any other student disciplinary proceeding must request an accommodation using procedure(s) managed through the Disability Support Services office. A determination regarding the request will be made and the appropriate parties will be notified. A student will not be considered to have a disability unless and until the student registers with Disability Support Services.
2. Reasonable accommodations depend upon the nature and severity of the individual's documented disability and the setting for which the accommodations are requested. The University is not required to grant a requested accommodation that is unreasonable, ineffective, or represents an undue burden to the University, or substantially alters a University program, service or practice. Reasonable accommodations will be provided as required by law.
3. All students, irrespective of a disability, substance use issue, mental health condition, and/or any other condition are expected to adhere to the Code and University policies. The American with Disabilities Act does not protect behaviors alleged to be a consequence of a disabling condition.

Part 12: Maintenance and Review of Student Conduct Files

In general, a student conduct record is maintained by the University for seven years following the resolution of a conduct case or seven years from the resolution of the latest case in which a student is a Responding Student. Resolution includes the conclusion of both Status and Activity-Required Sanctions. In cases resulting in Suspension or Dismissal from the University, the records are kept indefinitely. The University may also keep records of conduct matters that remain unresolved and pending at the time a student left or withdrew from the University.

Student Conduct Files are deemed educational records and are maintained separately from any other academic or official file at the University by the Director of Student Life. Generally, information from the files is not released without the written consent of the Student. However, certain information may be provided without a student's prior consent to individuals within the University who have a legitimate legal or educational interest in obtaining it, and to individuals outside the University under certain circumstances. (Please refer to the federal Family Educational Rights and Privacy Act of 1974, as amended).

1. The sanctions of "Suspension" and "Dismissal" may be noted on the student's official transcript. A Suspension may be noted during the period of the suspension. A Dismissal may be noted permanently.
2. A Student Conduct File is maintained chronologically by incident date and then by the respondent. A student may have more than one file. Generally, a Student Conduct File, including related documents, will be kept for the remainder to the fiscal year from such time as all proceedings and all sanctions are complete, plus an additional six (6) fiscal years.
 - a) The Student Conduct File of a Responding (former) Student issued the sanction of Dismissal shall be maintained permanently and the Student Conduct File of a Responding (former) Student issued the sanction of Suspended may be maintained permanently. Both record types may be rescinded through the protocols of Readmission.
3. All files and records are maintained in an electronic database.
4. In situations involving both a Responding Student and a student who believes he/she was victim of a student's misconduct, the records of the process, if any, will be considered to be the educational records of both the Responding Student and the student who believes himself/herself to be the victim because the educational career and chances of success in the academic community of each may be impacted.
5. The Director of Student Life or designee has final authority regarding the inspection, review, or release of any Student Conduct File.

Part 13: Readmission

A Responding Student who is Suspended or Dismissed from the University under this Code is restricted from registration for classes, class attendance, residence on campus, and use of University facilities. During the period of disciplinary suspension, the Former Student will be prohibited from using or visiting University facilities unless special permission is obtained from the Director of Student Life. During the period of the suspension, a notation may appear on the Former Student's official University transcript.

When the period of disciplinary suspension is completed, the Former Student will be considered for registration in compliance with academic standards then in effect. The Former Student must also take the following steps in order to be re-enrolled after a Sanction of Suspension or Dismissal.

1. The University will identify and provide to a student seeking readmission to whom their request is directed (Readmission Official). Usually the Readmission Official is the Dean of Student Affairs
2. The Readmission Official will solicit from the Former Student seeking Readmission
 - (a) a letter, written by the Former Student who has been Suspended or Dismissed, providing a prospective on the original conduct, the process to suspend or dismiss the student, and what if any actions the Former Student has taken to resolve or rectify the conduct or the nature of the conduct since the suspension or dismissal.
 - (b) three letters of support for the Former Student to be readmitted:
 - one or two letters written by individuals who had direct supervisory responsibilities for the former student are required. If the student has had more than one job, s/he must have at least one supervisory reference from each job. If the individual has been attending another college or university, there should also be a letter from her/his department head or dean and from the student affairs administrator. Instructors, advisors, and counselors may also be used for letters of reference, but only in addition to the required letters.
 - one or two letters of recommendation from a reputable person(s) in the individual's community, not relatives, preferably giving examples testifying to community involvement, e.g., community volunteer activities, church involvement, etc., since the date of suspension or dismissal.
 - (c) a background check, at the expense of the former student, may be required by the Readmission Official.

- (d) a letter from the probation or parole officer or a Release of Information between the University and the probation or parole officer, if the former student is under any form of probation or parole

Letters solicited by the Former Student in support of Readmission should be on letterhead and mailed directly to the University by the person providing the recommendations. All materials must be received at least one month prior to registration.

- 3. A personal interview may be sought by the Dean of Student Affairs and eligible former students should expect a request for an appointment for a phone call or personal meeting before a student is readmitted.
- 4. Document Retention:
 - (a) A complete file (one Former Student letters and three Supportive/ Recommendation Letters, and a letter from a probation or parole officer if applicable).
 - (b) All materials will be retained by the Director of Academic Records after processed by the Readmission Official.

Part 14: Interpretation and Revision

- 1. Any question of interpretation regarding the Code is referred to the Director of Student Life or designee for determination. The Director of Student Life or designee's determination is final.
 - 2. The Code is subject to periodic review. Substantive revisions shall be approved by the President and/or executive cabinet. See [M584](#).
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