

The University of Montana Student Conduct Code

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The University of Montana Student Conduct Code

I. INTRODUCTION

The Student Conduct Code, embodying the ideals of academic honesty, integrity, human rights, and responsible citizenship, governs all student conduct at The University of Montana-Missoula.¹

Being a student at the University presupposes a commitment to the principles and policies embodied in this Code. In addition, students remain responsible under the civil and criminal laws of Montana and the United States like any other citizen.

Students who are accused of violating the Student Conduct Code have certain substantive and procedural rights that are cited in this document.

The Vice President for Student Affairs is responsible for the procedural administration of the Student Conduct Code for all general conduct. The Provost & Vice President for Academic Affairs is responsible for the procedural administration of the Student Conduct Code for all academic conduct.²

¹A “student” means any person who is enrolled and pursuing undergraduate, graduate, or professional studies, whether full-time or part-time. A person who has completed an academic term, and who can be reasonably expected to enroll the following term, is also considered to be a student.

²Wherever referred to in this Code, administrative officers of the University include the officers and their designees.

I. JURISDICTION OF THE UNIVERSITY OF MONTANA

Generally, The University of Montana jurisdiction is limited to conduct occurring on University premises or at University-sponsored activities. In exceptional circumstances, University jurisdiction may be asserted when a student or University employee complains of off-campus acts of a student that allegedly constitute a criminal offense under Montana or Federal criminal law and which directly and seriously threaten the health and safety of members of the campus community. Application of this Code to off-campus offenses is subject to procedures in Section V.B. of this Code.

The University of Montana also has an obligation to uphold the laws of the larger community of which it is a part. While the laws of the larger community and the Student Conduct Code may overlap, they operate independently and do not substitute for each other. The University of Montana may pursue enforcement of its rules whether or not legal proceedings are underway or in prospect, and may use information from third party sources, such as law enforcement agencies and the courts, to determine whether University rules have been broken. Conversely, the University makes no attempt to shield members of the campus community from the law, nor does it automatically intervene in legal proceedings against members of the University community.

When a complaint is filed with appropriate University officials charging a student with violating the University's Student Conduct Code, the University is responsible for conducting an investigation, initiating charges, and adjudicating those charges. Although the complainant's responses are sought during the disciplinary process, the judgment of the case is the responsibility of the designated administrative officer. If the complainant decides to withdraw the complaint, the University may proceed with the case on the basis of other testimony.

III. STUDENT RIGHTS

The University of Montana recognizes that its students retain the rights provided by the United States and Montana Constitutions, Federal and State statutes, and other applicable University policy, while attending the University. The provisions of this Student Conduct Code are intended to be consistent with these rights, and to limit or restrict only conduct that goes beyond the responsible exercise of these rights recognized by law.

The following rights are specifically recognized and implemented in this Student Conduct Code:

A. Right to Confidentiality

The University of Montana complies with the principles of privacy found in the Montana Constitution, Montana Code Annotated, and the Family Educational Rights and Privacy Act. A student's name and other identifying information -- including address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, degrees awarded, and honors received -- may be considered public information, unless the student requests the University in writing to hold the information in confidence.

A student's rights in a proceeding involving the Student Conduct Code include the following:

- 1. All disciplinary proceedings are closed to the public.**
- 2. The University, including individuals involved in a disciplinary proceeding, will not disclose information to anyone not connected with the proceeding.** The fact that there is a disciplinary proceeding concerning the incident may be disclosed; however, the identity of individual students will not be disclosed.
- 3. The University, including individuals involved in a disciplinary proceeding, will disclose the results of the proceedings, including sanctions imposed, only to those who need to know the results for purposes of record-keeping, enforcement of the sanctions, further proceedings, or compliance with Federal or State law.** The fact that a disciplinary proceeding has been concluded and appropriate action taken may be disclosed. The Campus Security Act of 1990 allows, but does not require, the University to disclose the results to an alleged victim of a violent crime.

B. Right to Due Process

1. The Accused. A student accused of violating the Student Conduct Code has certain rights:

- a. The right to be advised that a complaint is being investigated, and the right to be advised of the potential charges.**
- b. The right to review the evidence.**
- c. The right to decline to make statements.**
- d. The right to submit a written account relating to the alleged charges.**
- e. The right to know of the identity of individuals who will be present at an administrative conference or a Court hearing.**
- f. The right to have a person of choice, including legal counsel, present throughout any and all proceedings provided for in this Code.**
- g. The right to a period of time to prepare for a hearing, and the right to request a delay of the hearing for exigent circumstances.**
- h. The right to hear and question witnesses and the accuser.**
- i. The right to present relevant evidence and witnesses.**
- j. The right to timely adjudication of charges as provided in this Code.**

2. The Alleged Victim. Some actions which violate the Student Conduct Code involve a person who is an alleged victim of a violent crime. Violent crime may include acts such as robbery, vandalism, aggravated assault, sexual assault, harassment, and acts which endanger another's safety. When a member of the University community files a complaint and is identified as an alleged victim of a violent crime, that individual is entitled to certain rights in the disciplinary process. An alleged victim of a violent crime is entitled to the following:

- a. The right to meet with the designated administrative officer to discuss the various aspects of the disciplinary process.**

- b. The right to submit a written account of the incident and a statement discussing the effect of the alleged misconduct on himself or herself.**
- c. The right to have a person of choice, including legal counsel, present throughout any and all the proceedings provided for in this Code.**
- d. The right to be informed of the date, time, and location of the administrative conference or University Court hearing, and the right to be present at all stages of the proceedings except the private deliberations of the administrative officer or University Court. If not present, the alleged victim has the right to be informed immediately of the outcome of the disciplinary proceedings.**
- e. The right to have past conduct that is irrelevant to the case not discussed during the proceedings. In the case of rape and sexual assault, this is specifically provided for in Montana Law.**

IV. ACADEMIC CONDUCT

Students must practice academic honesty.

A. Academic Misconduct

Academic misconduct is subject to an academic penalty by the course instructor and/or a disciplinary sanction by the University. Academic misconduct is defined as all forms of academic dishonesty, including but not limited to:

- 1. Plagiarism:** Representing another person's words, ideas, data, or materials as one's own.
- 2. Misconduct during an examination or academic exercise:** Copying from another student's paper, consulting unauthorized material, giving information to another student or collaborating with one or more students without authorization, or otherwise failing to abide by the University or instructor's rules governing the examination or academic exercise without the instructor's permission.
- 3. Unauthorized possession of examination or other course materials:** Acquiring or possessing an examination or other course materials without authorization by the instructor.
- 4. Tampering with course materials:** Destroying, hiding, or otherwise tampering with source materials, library materials, laboratory materials, computer system equipment or programs, or other course materials.
- 5. Submitting false information:** Knowingly submitting false, altered, or invented information, data, quotations, citations, or documentation in connection with an academic exercise.
- 6. Submitting work previously presented in another course:** Knowingly making such submission in violation of stated course requirements.
- 7. Improperly influencing conduct:** Acting calculatedly to influence an instructor to assign a grade other than that actually earned.
- 8. Substituting, or arranging substitution, for another student during an examination or other academic exercise:** Knowingly allowing others to offer one's work as their own.

9. Facilitating academic dishonesty: Knowingly helping or attempting to help another commit an act of academic dishonesty, including assistance in an arrangement whereby any work, classroom performance, examination activity, or other academic exercise is submitted or performed by a person other than the student under whose name the work is submitted or performed.

10. Altering transcripts, grades, examinations, or other academically related documents: Falsifying, tampering with, or misrepresenting a transcript, other academic records, or any material relevant to academic performance, enrollment, or admission.

B. Penalties

Depending on the severity of the acts of academic misconduct, a student may incur one or more of the following penalties:

1. Academic Penalty by the Course Instructor: The student receives a failing or reduced grade in an academic exercise, examination, or course, and/or is assigned additional work which may include re-examination.

2. University Sanctions: A penalty exceeding the academic penalty may be imposed by the University. Sanctions a. through d. require administrative review and approval by the Provost & Vice President for Academic Affairs.

a. Denial of a Degree: A degree is not awarded.

b. Revocation of a Degree: A previously awarded degree is rescinded.

c. Expulsion: The student is permanently separated from the University and also may be excluded from any University-owned or -controlled property or events.

d. Suspension: The student is separated from the University for a specified period of time and also may be excluded from participation in any University-sponsored activity.

e. Disciplinary Probation: The student is warned that further misconduct may result in Suspension or Expulsion. Conditions may be placed on continued enrollment for a specified time.

f. Disciplinary Warning: The student is warned that further misconduct may result in more severe disciplinary sanctions.

C. Disciplinary Procedures

The focus of inquiry in disciplinary proceedings is to determine if a violation of the Standards of Student Conduct has occurred and, if so, to decide an appropriate academic penalty and/or University sanction. Student Conduct Code proceedings are administrative proceedings and do not follow formal rules of evidence applicable in judicial proceedings. However, the accused student must receive due process, and the University has the burden of proof to establish a violation by clear and convincing evidence. It is assumed unless shown otherwise that the faculty and Academic Deans make impartial judgments concerning academic misconduct and fairly impose an appropriate academic penalty and/or University sanction. Minor deviations from prescribed procedures will not invalidate a decision or proceeding, provided they do not significantly prejudice the student or the University.

The adjudication of any alleged academic misconduct must be initiated within two years of discovery.

The following procedures apply in adjudicating charges of academic misconduct:

1. Investigation by the Course Instructor.³

a. Misconduct alleged during the term of the course: When an incident of alleged academic misconduct is discovered by or brought to the attention of the course instructor during the course, the instructor personally contacts the accused student within 10 working days to arrange a meeting. The course instructor and the student may each have a person of choice present at this meeting. See III.B.1.f. above (Student Rights Section). The role of legal counsel, if any, at this stage should be restricted to consultation with the student. At this meeting the course instructor will:

- (1) Inform the student of the alleged academic misconduct and present the evidence supporting the allegation.
- (2) Inform the student of the Student Conduct Code rules of procedure.
- (3) Allow the student an opportunity to respond to the charge(s) and evidence. The student is not required to respond.

³When an allegation of academic misconduct is made against a student not enrolled in the course, the instructor refers the allegation to the Academic Dean for investigation and appropriate action.

(4) Discuss the academic penalty and possible University sanctions, and allow the student to respond.

b. Misconduct alleged at or after the conclusion of course: When an incident of alleged academic misconduct is discovered by or brought to the attention of the course instructor at or after the conclusion of the course, the course instructor notifies the student in writing by first class mail or personal delivery. The instructor takes steps (1) through (4) above in writing. Additionally, the instructor informs the student that an "N" grade will be given for the course or the assigned grade will be revoked until there is a final resolution of the charge(s). See appendix Form 1 for form of notice.

c. Consultation with the Chair and Academic Dean:⁴ The course instructor should consult with the Department Chair and Academic Dean in order to determine whether any record of prior academic misconduct on file in the Office of the Vice President for Student Affairs specially warrants a recommendation that the University sanction the student. The course instructor and/or the Chair may make such a recommendation to the Academic Dean, based on the severity of the alleged offense or prior record of misconduct.

d. Resolution of the charge by the course instructor:

(1) If he or she concludes the student engaged in academic misconduct, the instructor informs the student of the academic penalty to be imposed. The academic penalty does not take effect until the final resolution of the charge(s), or until the deadline for an appeal has passed. An "N" grade may be assigned in the interim.

(2) If a University sanction is recommended, the course instructor or Department Chair notifies the student that the case will be transferred to the Academic Dean.

(3) The course instructor informs the student of the appeal procedure in the Student Conduct Code.

⁴*For undergraduate students, the Academic Dean is the dean of the college or school in which the course is offered. For graduate students, the Academic Dean is the Dean of the Graduate School.*

(4) If a University sanction is recommended, or if the student appeals, the course instructor will prepare a written summary, including a concise statement of the act of academic misconduct and the evidence for the Academic Dean, with a copy to the student, the Department Chair, the Department Chair of the student's major, and the Provost & Vice President for Academic Affairs. A copy of this written summary is placed in the student's disciplinary file maintained by the Office of the Vice President for Student Affairs. The student also may provide a written statement to be placed in the file. The written summary may also be prepared by the instructor and included in the student's file in cases where the student accepts the academic penalty.

e. Resolution of the charge by the instructor when the student does not appear for the investigative meeting: If the student does not appear for the investigative meeting with the course instructor, the course instructor informs the student in writing by first class mail or personal delivery of:

(1) The academic penalty recommended. The academic penalty is not formally imposed until final resolution of the charge(s) or until the deadline for an appeal has passed. If a grade is required before final resolution of the charge(s) or before the deadline for an appeal has passed, an "N" grade is assigned.

(2) The transfer of the case to the Academic Dean if a University sanction is recommended.

(3) The Student Conduct Code rules of procedure and appeal. (A copy of this Code will suffice.)

(4) The fact that a written summary of the case has been sent to the student, the Department Chair, the Department Chair of the student's major, the Provost & Academic Vice President, with a copy placed in the student's disciplinary file maintained by the Office of the Vice President for Student Affairs. The student also may provide a written statement to be placed in the file. See appendix Form 2 for form of notice.

2. Sanction Imposed by the University.

a. Investigation by the Academic Dean: After reviewing the course instructor's recommendation and written summary of the case and consulting with the instructor and Chair, the Academic Dean reviews the student's disciplinary record maintained by the Office of the Vice President for Student Affairs, reviews the

evidence, and interviews individually or together the instructor, the accused student and possible witnesses. Before the interview, the accused student is informed that he, or she, may bring a person of choice and that he, or she, also has the right to have legal counsel present during the interview. The student must notify the Academic Dean at least three (3) working days before the time of the interview of any intent to be accompanied by legal counsel. The role of legal counsel, if any, at this stage should be restricted to consultation with the student. The student is not required to make any response during the interview.

b. Resolution of the charge(s) by the Academic Dean:

(1) If the Academic Dean decides not to impose a University sanction, the Dean notifies and provides written justification of the decision to the student, course instructor, and Department Chair. The decision of the Academic Dean not to impose a University sanction may not be used by the student to justify or support an appeal of an academic penalty by the course instructor.

(2) If the Academic Dean decides to impose a University sanction, the Dean informs the course instructor and Department Chair, and the student is notified in writing by first class mail or personal delivery. See appendix Form 3 for form of notice. When a University sanction of Denial of a Degree, Revocation of a Degree, Expulsion, or Suspension is proposed, the Academic Dean will present the recommendation to the Provost & Academic Vice President for review and approval prior to notifying the student. The notice to the student includes:

- (a) a statement of the specific academic misconduct committed;
- (b) a concise summary of the facts upon which the charge is based;
- (c) a statement of the University sanction; and
- (d) a statement of the appeal procedure.

(3) If, within 10 working days, the student does not appeal the decision to impose the University sanction, the allegation in the notice of University sanction will be accepted. The Provost & Academic Vice President will instruct the appropriate University officials to implement the sanction. A written summary of the case will be placed in the student's disciplinary file maintained by the Office of the Vice President for Student Affairs.

(4) No University sanction or academic penalty is imposed until final resolution of the charge(s) or until the deadline for an appeal has passed.

3. Student Appeal of the Academic Penalty and/or University Sanction.

If the student denies the charge(s) and/or does not accept the academic penalty imposed by the course instructor and/or the University sanction, the student may appeal to the Academic Court. A request for appeal with supporting evidence must be presented in writing to the Provost & Vice President for Academic Affairs within 10 working days after the student is informed by the instructor of the imposed academic penalty or within 10 working days after receiving the notice of a University sanction, whichever occurs later.

4. Academic Court.

a. Composition:

The Academic Court, appointed by the President of the University, consists of one faculty member and alternate nominated by the Provost & Vice President for Academic Affairs; one faculty member and alternate nominated by the President of the University Teachers' Union; one faculty member and alternate nominated by the Executive Committee of the Faculty Senate; one faculty member and alternate nominated by the Academic Standards and Curriculum Review Committee; two undergraduate students and alternates and one graduate student and alternate nominated by the Associated Students of the University Montana. The chair is selected by the members of the Academic Court from among the faculty appointees. Faculty members are appointed for two years. To establish the initial Court with staggered appointments, the first two appointed faculty members serve for one year. Student members serve for one year. No members serve more than two consecutive terms. In case of unavailability or disqualification of any member for a given proceeding, the appropriate alternative member serves on the Court.

No member of the Academic Court may sit on a case if he or she is: (a) from the same academic unit as the faculty member charging a student with misconduct or the accused student; or (b) otherwise closely associated personally or professionally with the faculty member or student. A Court member should disqualify himself or herself when any ground for disqualification is present. The accused student may assert grounds for disqualification of a Court member to the Chair of the Court no later than three (3) working days prior to the scheduled hearing. The Chair shall implement a disqualification when warranted by the facts asserted.

b. Hearings:

(1) When a student appeals to the Academic Court, the Chair of the Court schedules a hearing date. The Chair gives notice of the time, date, and place of the hearing to the student, course instructor, Department Chair and Academic Dean. In the absence of extenuating circumstances, the hearing is held within fifteen (15) working days of the appeal.

(2) A student appealing to the Academic Court may be accompanied by a representative. If the representative is an attorney, the student must notify the Chair of the Court in writing at least three (3) working days before the scheduled hearing. Failure to give notice of representation may delay the hearing. If the student is to be represented at the hearing by an attorney, then the University also will be represented by legal counsel.

(3) Hearings are closed to the public. However, at the discretion of the Chair of the Court, an open hearing may be held if requested by the student and if the individual privacy rights of others are protected.

(4) The Chair of the Court is responsible for conducting the hearing in an orderly manner. The student presents witnesses and/or evidence in support of the appeal. The course instructor, Department Chair, and Academic Dean also present witnesses and evidence. Each party may question the other party's witnesses. The burden of proof is on the University to establish a violation by clear and convincing evidence.

(5) Formal rules of evidence do not apply, and the Chair decides the admissibility of all evidence presented and rules on all procedural issues.

(6) Minutes of the hearing are taken at University expense.

(7) The Chair of the Court may prescribe additional procedural rules for the hearing that are consistent with this Code.

(8) The Academic Court reaches a decision by majority vote. The Chair has the right of vote. The vote upholds, alters or overturns the academic penalty and/or University sanction. The decision of the Court is submitted to the President for review and final approval.

(9) Within 10 working days, a copy of the Court's decision is furnished by the Court Chair to the student, the course instructor, Department Chair, Academic Dean, Vice President for Student Affairs, Provost & Vice President for Academic Affairs, and President.

c. Failure to Appear:

A student who fails to appear for the Court hearing is considered to have waived the right to appeal. The student receives the academic penalty and/or University sanction recommended by the Academic Dean and approved by the Provost & Vice President for Academic Affairs.

5. Review by the President of the University.

a. The decision of the Academic Court is reviewed by the President of the University.

b. Reviews must be completed within ten (10) working days from the date of the letter notifying the student of the Court's decision.

c. The review is limited to:

(1) Whether the evidence provides a reasonable basis for the academic penalty and/or University sanction.

(2) Whether procedural errors deprived either party of a fair hearing.

d. Each party may submit supplemental written statements.

e. The President of the University approves or overrules the decision of the Court. A copy of the President's decision is furnished to the student, the course instructor, Department Chair, Academic Dean, Vice President for Student Affairs, Provost & Vice President for Academic Affairs and the Academic Court.

f. The President's decision after review is final and includes directions for implementation. A presidential decision to overrule may include an order for a new hearing to consider new or omitted evidence, or to correct procedural defects.

g. The student may seek further administrative review by the Commissioner of Higher Education and the Board of Regents pursuant to Montana University System Policy and Procedures Manual, 203.5.1.

6. Hearing Officer:

When an appeal cannot be heard by the Academic Court within a reasonable time after the student's request (e.g., during summer, between semesters, etc.) the President of the University may, whenever it is in the best interest of the University or the student, appoint an impartial Hearing Officer to conduct a hearing. This hearing is conducted following the procedures of this Code, with the decision of the Hearing Officer submitted to the President.

V. GENERAL CONDUCT

A. Standards of Student Conduct

Students have the responsibility to conduct themselves in a manner that does not impair the welfare or educational opportunities of others in the University community. Students must

act as responsible members of the academic community; respect the rights, privileges, and dignity of others; and refrain from actions which interfere with normal University functions.

General Misconduct: General misconduct includes all forms of misconduct, except academic misconduct. Some, but not all, of the acts listed below are criminal acts under the laws of Montana. In all cases, the University concerns itself with general, or non-academic, misconduct insofar as it directly affects the University community. General misconduct is subject to University disciplinary action(s), and includes:

- 1. Forgery, falsification, or fraudulent misuse of University documents, records, or identification cards.**
- 2. Furnishing false information to the University or members of the University community who are performing their official duties.**
- 3. Causing false information to be presented before any judicial proceeding of the University or intentionally destroying evidence important to such a proceeding.**
- 4. Theft of property or services on University premises or at University-sponsored activities, or knowing possession of stolen property on University premises or at University-sponsored activities.**
- 5. Unauthorized use, destruction, or damage of University property or the property of others on University premises or at University-sponsored activities.** "Unauthorized" means entry, use, or occupancy to which the student is not authorized by virtue of his or her enrollment, class schedule, and/or legal or Student Conduct Code action.
- 6. Unauthorized or fraudulent use of the University's facilities, telephone system, mail system, or computers, or use of any of the above for any illegal act.**
- 7. Unauthorized entry, use, or occupancy of University facilities.**
- 8. Failure to comply with the directions of University officials, including Resident Assistants and University Security Officers, acting in the performance of their duties within the scope of their authority.**

9. Violation of published University regulations or policies. Among such regulations are those pertaining to student housing, entry and use of University facilities, scientific research, inventions made or developed with University support, use of amplifying equipment, campus demonstrations, etc. University regulations and policies may be obtained from various offices of the University, e.g., Residence Life or the University Center, or from the Office of the Vice President for Student Affairs.

10. Intentional obstruction or disruption of normal University or University-sponsored activities, including but not limited to studying, teaching, research, administration and disciplinary procedures, or fire, police, or emergency services.

11. Use, possession, or distribution of alcoholic beverages on University premises or at University-sponsored activities except as permitted in University policies (University of Montana Facility Use Policy and University of Montana Alcohol and Drug Guidelines).

Note: Use of alcohol does not excuse abusive or destructive behavior. Sanctions for Student Conduct Code violations will not be reduced on the basis of alcohol use.

12. Disorderly or indecent conduct on University-owned or -controlled property or at University-sponsored activities.

13. Interfering with the freedom of expression of others on University premises or at University-sponsored activities.

14. Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization.

Off-campus incidents are subject to procedures in V.B.

15. Malicious intimidation or harassment of another. When a student, with the intent to terrify, intimidate, threaten, harass, annoy, or offend, (1) causes bodily injury to another, (2) causes reasonable apprehension of bodily injury in another, (3) damages, destroys, or defaces any property of another or any public property, or (4) makes repeated telephone communications

anonymously or at extremely inconvenient hours or in offensively coarse language.

Off-campus incidents are subject to procedures in V.B.

16. Illegal use, possession, or distribution of any controlled substance on University premises or at University-sponsored activities; or illegal distribution of any controlled substance off-campus, subject to procedures in V.B.

See The University of Montana Campus Security and Alcohol Guidelines.

17. Illegal or unauthorized possession or use of firearms, explosives, other weapons, dangerous chemicals, or other noxious substances on University premises.

18. Rape or sexual assault. Sexual intercourse without consent (rape) or sexual contact without consent (sexual assault).

Off-campus incidents are subject to procedures in V.B.

Note: "Without consent" means that the victim is: (a) compelled to submit (to sexual contact) by actual or threatened bodily injury, or by threat of substantial retaliatory action; (b) temporarily or permanently mentally incapacitated or physically helpless for any reason, including alcohol or drug intoxication; or (c) less than 16 years old.

Sexual intercourse or contact without consent is possible between strangers, people who are acquainted with each other, people who are dating each other, and even people who are personally involved with each other; it can occur between two people in isolation, but it can also occur among more than two people, or in connection with social activities of student or other groups. In any and every case, rape and sexual assault remain serious criminal offenses.

19. Homicide, assault, aggravated or felony assault, or threat of the same, to any person on University-owned or -controlled property or at University-sponsored functions, or conduct which threatens or endangers the health or safety of any such person; or off-campus homicide, assault, aggravated or felony assault, or threat of the same, subject to procedures in V.B. for off-campus incidents.

20. Retaliation against a person for filing a complaint or acts of intimidation directed towards the person to drop a complaint.

21. Violation of the terms of any disciplinary sanction imposed in accordance with this Code.

Attempts and Complicity: Attempts to commit acts prohibited by the Standards of Student Conduct, or knowingly or willfully encouraging or assisting others to commit such acts, are prohibited by this Code and may be punished to the same extent as if one had committed the prohibited act.

B. Application of Student Conduct Code to Off-Campus Offenses

In exceptional circumstances, Student Conduct Code charges may be initiated against a student who engages in conduct off-campus that allegedly constitutes a criminal offense under Montana or Federal criminal law and directly and seriously threatens the health and safety of members of the campus community. A student or University employee having knowledge of the off-campus offense may file a complaint with the Vice President for Student Affairs. The Vice President for Student Affairs, with the advice and counsel of appropriate professional staff to determine whether requirements for off-campus application of Student Conduct Code charges are met, recommends to the President whether such charges should be made. In reaching a decision, the President considers whether criminal charges have been or will be filed and whether the alleged offender is in the custody of criminal justice authorities. Disciplinary procedures for General Misconduct apply to charges initiated under this section.

If the health and safety of the campus community can be protected through the criminal justice proceedings, e.g., by conditions of bail, the University may defer Student Conduct Code charges until criminal proceedings are concluded. University officials will encourage complainants to report alleged criminal conduct to criminal justice authorities. Proceedings under this Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

The intent of this section is to provide a procedure to apply the Student Conduct Code to off-campus conduct only when necessary to protect the health and safety of the campus community and when off-campus criminal proceedings fail to address campus safety adequately. The section is not intended to extend University jurisdiction off-campus generally.

C. Disciplinary Sanctions

1. Sanctions for violating the Standards of Student Conduct may include any one or more of the following:

a. Expulsion. The student is permanently separated from the University and/or from any University-owned or -controlled property or events.

This sanction requires administrative review and approval by the Vice President for Student Affairs.

b. Suspension. The student is separated from the University for a specified period of time, and may also be excluded from participation in any University-sponsored activity.

This sanction requires administrative review and approval by the Vice President for Student Affairs.

c. Disciplinary Probation. The student continues attendance at the University and is subject to restrictions and/or conditions imposed by the University for a specified period of time.

d. Disciplinary Warning. The student is warned that further misconduct may result in severe disciplinary sanctions.

e. Restitution. The student is required to make payment for damage to the University as a result of violation of this Code.

f. Other Sanctions. In addition to or in lieu of the above, other sanctions may be imposed. For example, the student may be evicted from Residence Halls or University Villages for disciplinary violations in, or relevant to, those facilities, may be prohibited from attending campus events or participating in organized activities, and/or may be required to attend and complete classes, programs, workshops, or counseling dealing with specific behaviors, such as drug and alcohol abuse and sexual offenses, as conditions of current or future enrollment.

2. Repeated or aggravated violation of this Code may result in more severe disciplinary sanctions than any individual violation might warrant.

3. Committing any act prohibited by this Code may result in expulsion or suspension from the University unless specific and mitigating factors are present. Factors to be considered in mitigation may include the present attitude and past disciplinary record of the offender, as well as the nature of the offense and the severity of any damage, injury, or harm resulting from it.

Expulsion and suspension require administrative review and approval by the Vice President for Student Affairs, who may alter, defer, or withhold the sanction.

4. Notification of any sanction imposed is sent to appropriate University officials.

5. Readmission. Following suspension for general misconduct, readmission to the University is dependent upon the student's compliance with the conditions designated at the time of suspension and the student's fitness to return to the campus community. These decisions are made by the Vice President for Student Affairs upon consultation with appropriate professional staff on campus and/or in the community. Appropriate documentation, depending upon the nature of the original violation and the conditions of suspension, is required.

Upon readmission, the student is placed on disciplinary probation for a designated period of time with required conditions and expectations of behavior monitored by a designated campus professional(s).

D. Temporary Suspension

The University reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community.

1. A student may be temporarily suspended from the University or evicted from University Housing by the Vice President for Student Affairs pending disciplinary or criminal proceedings. Such suspension or eviction will become immediately effective without prior notice whenever there is evidence that the student's continued presence on the campus constitutes a threat to the student or others or to the continuance of normal University operations. In cases of temporary suspension or eviction, the student is given an opportunity to appear before the Vice President for Student Affairs within five (5) working days from the effective date of the suspension or eviction in order to discuss the following issues:

- a. **The reliability of the evidence against the student.**
- b. **Whether the alleged conduct and surrounding circumstances reasonably indicate that the student's presence on campus constitutes a threat to the student or others or to the continuance of normal University operations.**

2. Faculty members have the independent authority to exclude a student from any class session in which the student displays disruptive behavior that threatens the learning environment or safety and well-being of others in the classroom. The student remains eligible to return to the next class session. The faculty member maintains the authority to remove the student from each class session during which the student is disruptive. The student may be suspended permanently from a class upon recommendation of the Dean of the College or School under the disciplinary procedures outlined in this Code.

E. Disciplinary Records

1. Sanctions of expulsion and suspension affect the student's academic status and are entered as notations in the student's permanent academic record maintained by the Registrar during such time as the imposed sanctions are in effect.

2. Whenever charges against a student are pending, the student, unless temporarily suspended or evicted, continues to have the same rights and privileges as other students. At the request of the student, transcripts may be released to an institution or prospective employer with the understanding that if there are pending charges which are determined adversely to the student and result in alteration of the transcript previously released, the institution or employer may be so notified and a corrected copy of the transcript may be forwarded to the institution or employer.

3. A record of sanctions imposed for any violation of the Standards of Student Conduct are retained on file in the Office of the Vice President for Student Affairs.

F. Disciplinary Procedures

The focus of inquiry in disciplinary proceedings is to determine if a violation of the Standards of Student Conduct has occurred and, if so, to decide appropriate sanctions. Student Conduct Code proceedings are administrative proceedings and do not follow formal rules of evidence applicable in judicial proceedings. However, the accused student must receive due process, and the University has the burden of proof to establish a violation by clear and convincing evidence. Minor deviations from prescribed procedures will not invalidate a decision or proceeding, provided they do not significantly prejudice the student or the University.

The following procedures apply in adjudicating charges of general misconduct:

- 1. Investigation.** Whenever it appears that a student may have committed an act of general misconduct, a University official designated by the Vice President for Student Affairs investigates the incident. The official conducting the investigation:
 - a. Determines the facts of the incident through interviews, reports, and other evidence.**
 - b. Informs the student of the findings of the investigation and the alleged misconduct.**
 - c. Informs the student of the Student Conduct Code rules of procedure, and ensures the student has a copy of the Code.**
 - d. Allows the student an opportunity to respond to the evidence and potential charge(s).**
 - e. Makes an impartial judgment as to whether or not any general misconduct occurred, and, if so, proposes appropriate sanctions.**
 - f. Allows the student an opportunity to respond to the proposed sanctions.**
 - g. Informs the student of the right to an administrative conference with an official designated by the Vice President for Student Affairs, and a hearing by the University Court, if the student denies the charge and/or does not accept the proposed sanctions.**
 - h. If the student accepts the charges, the designated officer consults with the Vice President for Student Affairs regarding the student's past disciplinary record, and propriety of proposed sanctions.**

Sanctions of Expulsion and Suspension require review and approval by the Vice President for Student Affairs.

i. If the student accepts the charges and the sanctions, the designated officer summarizes the case in writing to the student, with a copy to the Vice President for Student Affairs. The written summary, including a concise statement of the evidence, findings and sanctions, when signed by the student, concludes the case and the designated official implements the sanctions. The student has five (5) working days to sign the statement. The signed statement is sent to the Vice President for Student Affairs, with a copy provided to the student.

2. Administrative Conference. If the student denies the charges and/or does not accept the sanctions, the investigative officer reports in writing the allegations and sanctions to the Vice President for Student Affairs within five (5) working days of meeting with the student. The Vice President for Student Affairs designates an administrative officer or committee to review the report.

a. If the administrative officer/committee concludes that no violation of this Code has occurred, and/or that there is insufficient evidence to support further action, a recommendation to that effect is sent to the Vice President for Student Affairs, with copies to the student and investigative officer.

b. If the administrative officer/committee concludes that a probable violation of this Code has occurred, and that the evidence supports sanctions, he/she sends a written notice of charges to the student specifying:

- (1) The alleged misconduct;
- (2) A concise summary of the facts upon which the charges are based; and
- (3) A statement of proposed sanctions.

The notice of charges requests the student to meet with the investigative officer and the administrative officer/committee on a specific date, time, and place, and informs the student of the right to bring along a parent, guardian, counsel, or other appropriate witness. The notice states that the role of legal counsel at this conference is limited to consultation with the student only, and that the student notify the administrative officer/committee at least three (3) working days before the time of the conference of the intent to bring legal counsel.

See appendix Form 4 for form of notice.

c. The purpose of the conference is to inform the student of the Student Conduct Code Disciplinary Procedures and to provide a final opportunity for informal resolution of the charges. The student, however, is not required to make any response at the conference.

d. Following the administrative conference, the administrative officer/committee consults with the Vice President for Student Affairs concerning the charges and proposed sanctions.

Sanctions of Expulsion and Suspension require review and approval by the Vice President for Student Affairs.

e. If the student agrees to the sanctions, the administrative officer/committee summarizes the case in writing to the student, with a copy to the Vice President for Student Affairs. The written summary, including a concise statement of the evidence, findings, and sanctions, when signed by the student, concludes the case. The student has five (5) working days to sign the statement. The signed statement is sent to the Vice President for Student Affairs, with a copy provided to the student.

f. If the student denies the charges and/or does not accept the sanctions, the administrative officer/committee transfers the case within five (5) working days to the University Court for a hearing.

g. If the student does not appear for the conference with the administrative officer/committee, nor request transfer after the proceedings to the University Court, the allegations in the notice of charges are accepted and, upon review and approval by the Vice President for Student Affairs, the University imposes the disciplinary sanctions specified in the statement of charges. The administrative officer/committee notifies the student of the actions taken with a copy to the Vice President for Student Affairs.

h. Except for temporary suspension or eviction, no disciplinary sanction is imposed until final resolution of the charges or until the deadline for an appeal has passed.

G. University Court

1. Composition

The University Court, appointed by the President of the University, consists of three undergraduate students and one graduate student nominated by ASUM, two faculty members nominated by the Executive Committee of the Faculty Senate, and one staff member nominated by Staff Senate. One of the faculty appointees is elected by the members of the Court to serve as Chair. Students are appointed for one year. Faculty and staff members are appointed for two years. No members may serve more than two consecutive terms. In the case of unavailability or disqualification of a member(s) for any given case, the President of the University will appoint an alternate member(s) to serve on the Court.

No member of the University Court may sit on a case if he or she is closely associated personally or professionally with the accused student or the administrator making the charges. A Court member should disqualify himself or herself when any ground for disqualification is present. The accused student may assert grounds for disqualification of a Court member to the Chair of the Court no later than three (3) working days prior to the scheduled hearing. The Chair shall implement a disqualification when warranted by the facts asserted.

2. Hearings

a. When proceedings have been transferred to the University Court, the Chair of the Court, in consultation with the appropriate University administrator, schedules a hearing date. The Chair gives notice of the time, date, and place of the hearing to the student which, absent exigent circumstances, will be held not less than five (5) working days after the date of such notice.

b. Students charged with misconduct may be accompanied by a representative who may be an attorney. The student must file a statement of the intention to be represented by an attorney with the Dean of Students at least three (3) working days before the time scheduled for the hearing. Failure to give notice of representation will justify a delay of the proceedings by the University. If the student is to be represented at the hearing by an attorney, then the University is represented by legal counsel. Should the University initially elect to present its case through legal counsel, the student is given at least three (3) working days' notice. In such a case, a reasonable extension of no more than five (5) working days may be granted to the student in order to obtain legal counsel.

c. Hearings are closed to the public. An open hearing may be held at the discretion of the Chair if requested by the student, unless a closed hearing is necessary to protect the overriding individual privacy rights of others.

d. The Chair exercises control over the hearing to achieve an orderly process. The University, through its authorized representative, states the charges against the student and presents evidence and witnesses in support thereof. The student has the right to present witnesses and evidence in rebuttal. Each party has the right to cross-examine the other party's witnesses. The burden of proof is on the University to establish violation of the Student Conduct Code by clear and convincing evidence.

e. Formal rules of evidence are not applicable, and the Chair determines the admissibility of any evidence presented. The Chair also rules on all procedural issues.

f. The hearing is recorded at University expense.

g. The Chair of the University Court may prescribe additional procedural rules covering the conduct of hearings consistent with this Code.

h. The University Court renders a decision by majority vote within ten (10) working days after the close of the hearing. The Chair has a vote in all cases. The decision contains a finding as to violation of the Code, a statement of the reasons for the decision, and the sanctions to be imposed.

i. The Court determines the appropriate disciplinary sanctions for general misconduct from among those authorized by this Code.

j. A copy of the Court's decision constitutes the record for review and final approval by the President, with copies to the student, the Vice President for Student Affairs and the Dean of Students.

3. Failure to Appear

A student who fails or refuses to appear after proper notice at the time and place scheduled for hearing is considered to have waived his or her right to be heard by the University Court. The University accepts the charges as true, and, upon review and approval by the Vice President for Student Affairs, imposes the disciplinary sanctions specified in the statement of charges.

4. Review by the President of the University

- a. The decision of the University Court is reviewed by the President of the University.**
- b. Reviews must be completed within ten (10) working days from the date of the letter notifying the student of the Court's decision.**
- c. The review is limited to:**
 - (1) Whether the evidence provides a reasonable basis for the resulting findings and disciplinary sanction.
 - (2) Whether specified procedural errors were so substantial as to deny a fair hearing.
- d. The President reviews the decision of the Court.** Each party may submit supplemental written statements.
- e. The President of the University approves or overrules the decision of the Court.** A copy of the President's decision is furnished to the student, the investigative officer, the administrative officer, the Vice President for Student Affairs, the Dean of Students, and the University Court.
- f. The President's decision after review is final and includes directions for implementation.** A presidential decision to overrule may include a mandate for a new hearing to consider new or omitted evidence, or to correct procedural defects.
- g. The student may seek further administrative review by the Commissioner of Higher Education and the Board of Regents pursuant to Montana University System Policy and Procedures Manual, 203.5.1.**

5. Hearing Officer

Whenever a student requests a hearing by University Court, but the Court cannot hear the case within a reasonable time (e.g., between semesters and during the summer and other academic breaks), the President of the University may, whenever it appears to be in the best interest of the University or the student, appoint an impartial Hearing Officer

to conduct the hearing. This hearing is conducted following the procedures of this Code, with the decision of the Hearing Officer submitted to the President.

VI. OTHER CONDUCT

Students at The University of Montana may be subject to additional University policies, regulations, or professional and ethical standards that supplement the Student Conduct Code, including, but not limited to, the following:

A. Law School Honor Code and Procedures

The Law School Honor Code and Procedures is available from the Office of the Dean of the School of Law.

B. Student-Athlete Conduct Code

The Student-Athlete Conduct Code is available from the Office of Intercollegiate Athletics.

C. Alleged Misconduct in Research and Creative Activities Policy (Personnel Policy Number 238.0)

The Alleged Misconduct in Research and Creative Activities Policy is available from the Office of the Vice President for Research and Development.

D. Drug and Alcohol Policy

The Drug and Alcohol Policy is available from the Office of the Vice President for Student Affairs or the Office of Campus Security.

E. Vehicle and Traffic Regulations

The Vehicle and Traffic Regulations publication is available from the Office of Campus Security.

F. University Facilities Use Policy

The University Facilities Use Policy is available from the Office of the Vice President for Administration and Finance.

G. Responsible Use of Electronic Communications Policy

The Responsible Use of Electronic Communications Policy is available from the Office of Information Technology.

H. Residence Life Regulations

Residence Life regulations are available from the Office of Residence Life.

I. University Villages Regulations

University Villages regulations are available from the Office of Residence Life.

VII. INFORMAL RESOLUTION

Nothing contained in this Code limits the right of the appropriate University representative and the student at any time to agree to disciplinary sanctions if the student agrees not to contest the charges. Any such agreement must be in writing and, when signed by the student and filed with the Office of the Vice President for Student Affairs, concludes the case. An agreement regarding charges that have progressed to the level of the Academic Dean or administrative officer must be reviewed and approved by the Provost & Vice President for Academic Affairs (academic misconduct) or Vice President for Student Affairs (general misconduct).

Adopted - May 1985
Revised - August 1987

Revised - August 1988
Revised - May 1993
Revised - May 1998
Revised - March 2000

Form 1 - Academic Misconduct

Notice: Student Conduct Code Section IV.C.1.b.
(Alleged misconduct at or after conclusion of course)
NOTICE OF CHARGES OF ACADEMIC MISCONDUCT

Date:

Name: [Name and Address of Student Accused of Academic Misconduct]

From: [Course Instructor]

My preliminary investigation indicates that you may have committed the following academic misconduct:

The alleged misconduct occurred on the following date under the circumstances described:

I propose the following academic penalty for the misconduct, if confirmed:

In addition to this academic penalty, University sanctions may be imposed, including but not limited to probation, suspension, or expulsion, depending on the severity of the misconduct or your previous disciplinary record, if any. If University sanctions are recommended, your case will be transferred to the appropriated Academic Dean. An "N" grade will be assigned or substituted for the assigned grade for the course(s) implicated in these allegations, pending resolution of these charges.

Under The University of Montana Student Conduct Code, you have the right to respond to and contest these charges and the evidence, and to contest the imposition of sanctions. The procedures are contained in the Student Conduct Code, a copy of which is enclosed.

If you wish to respond to these charges, please do so by contacting me within 10 days of the date of your receipt of this letter.

Enclosure

Form 2 - Academic Misconduct

Notice: Student Conduct Code Section IV.C.1.e.
(Student Does Not Appear for Investigative Meeting)
NOTICE OF CHARGES OF ACADEMIC MISCONDUCT

Date:

From: [Course Instructor]

My investigation indicates that you have committed the following academic misconduct:

The alleged misconduct occurred on the following date under the circumstances described:

Since you have not responded to the previous notice of charges, the following academic penalty for the misconduct will be imposed, unless you appeal according to the procedures in the Student Conduct Code:

In addition to this academic penalty, University sanctions may be imposed, including but not limited to probation, suspension, or expulsion, depending on the severity of the misconduct or your previous disciplinary record, if any. If University sanctions are recommended, your case will be transferred to the appropriate Academic Dean. An “N” grade will be assigned or substituted for the assigned grade for the course(s) implicated in these allegations, pending resolution of these charges.

If University sanctions are recommended, I have prepared a written summary of the allegations and evidence against you, a copy of which is enclosed, and I have sent copies of the summary to the Department Chair, the Department Chair of your major, The Provost & Vice President for Academic Affairs, and the Vice President for Student Affairs. You may prepare a written response whether or not you choose to appeal.

Your appeal and supporting documentation must be filed with the Provost & Vice President for Academic Affairs within 10 working days of your receipt of this letter or the notice of University Sanctions, whichever is later.

c: Dean(if University sanctions are recommended)
Enclosures

Form 3 - Academic Misconduct

Notice: Student Conduct Code Section IV.c.2.b.(2)
Academic Dean’s Notice of University Sanctions
NOTICE OF UNIVERSITY SANCTIONS FOR ACADEMIC MISCONDUCT

Date:

From: [Academic Dean]

My investigation indicates that you have committed the following academic misconduct:

The alleged misconduct occurred on the following date under the circumstances described:

In addition to the academic penalty, the following University sanction will be imposed, unless you appeal according to procedures in the Student Conduct Code.

An “N” grade will be assigned or substituted for the assigned grade for the course(s) implicated in these allegations, pending resolution of the charges.

Under the University of Montana Student Conduct Code, you have a right to contest the charges and imposition of sanctions. The procedures are contained in the Student Conduct Code, a copy of which is enclosed.

If you wish to appeal, please do so by submitting your appeal and supporting documentation to the Provost & Vice President for Academic Affairs within 10 working days of the date of your receipt of this letter or the notice of academic penalty, whichever is later.

c: Department Chair
Course Instructor

Enclosure

Form 4 - General Misconduct

Date:

To:

From:

Re: Notice of Charges and Administrative Conference

Following my investigation, and in accordance with The University of Montana Student Conduct Code Section V.F.2.b., this is the notice of charges against you.

Date and nature of incident:

Section of Code Violated:

Recommended Sanction(s):

You are required to attend an Administrative Conference regarding these charges at the following date, time and place:

The purpose of the Administrative Conference is to advise you of the Student Conduct Code rules of procedure and to provide an opportunity for informal resolution of the matter, if you desire. However, you are not required to make any response at this conference, and you may proceed to University Court after the conference if you contest the charges or the sanctions. You may bring a parent, guardian, ASUM representative, or other counsel with you to the conference.

If you do not appear for the Administrative Conference, the allegations in this notice of charges will be accepted as true, and the sanctions specified will be imposed.

c: Vice President for Student Affairs

