

# METROPOLITAN STATE UNIVERSITY



## **Student Conduct Code Procedure**

### **University Procedure #112**

#### **Section 1. Introduction**

Procedure #112 shall implement Policy #1020 Student Conduct Code. The Student Code of Conduct applies at all locations of the university and all university activities wherever located. Student organizations are subject to the university Student Code of Conduct policy and procedure.

During orientation, students shall be informed of the code of conduct and its availability. Annually, and upon amendment, the university will notify students of the availability and location of the Student Conduct Code. A copy of the code will be posted on the university website and at appropriate campus locations.

#### **Section 2. Purpose**

Metropolitan State University believes that every student is accountable for his or her individual behavior especially as it imposes on the freedom, rights and safety of another individual or to the extent that it impacts upon the atmosphere and environment conducive to the educational mission of the university community.

Consistent with the mission statement and values of this university, student conflict and mistakes are viewed as an part of lifelong learning and as an opportunity for personal growth and development. This objective is cultivated through the implementation of this student conduct code procedure, which balances the importance of student accountability with the opportunity for education and making amends. Within this context, specific kinds of behavior are judged to be unacceptable and may serve as a basis for expulsion. These include, but are not limited to disorderly and/or disruptive behavior, physical assault or threat of physical assault; theft or attempted theft; vandalism or willful property damage; trespassing (unauthorized presence) or failure to heed a lawful order, academic dishonesty; fraud and/or willful misrepresentation; and possession of alcohol and/or illicit substances.

#### **Section 3. Authority**

This procedure is issued pursuant to the Minnesota State Colleges and University System (MnSCU) Student Conduct Policy 3.6 and Procedure 3.6.1.

The Vice President for Student Affairs is responsible for implementation of this policy and procedure.

#### **Section 4. Effective Date**

This procedure shall become effective upon signature of the president and shall remain in effect until modified or expressly revoked.

#### **Section 5. Jurisdiction of the University**

The university has the right to take necessary and appropriate action to provide an environment that promotes learning and to protect the safety and well-being of the university community. University students are expected to abide by local, state, and federal laws and university rules. Should an alleged violation of civil or criminal law involve university interests, the university has the right to proceed with disciplinary action without regard to civil or criminal proceedings.

These regulations apply on any university premises. In addition, these regulations shall apply as specified in Policy 1020.

- A. Allegations of discrimination, harassment, or violence based on protected class status shall be adjudicated under procedures in accordance with MnSCU Board Policy 1B.1 and procedure 1B.1.1 and supporting university procedures.
- B. Allegations of academic dishonesty are subject to parallel jurisdiction under the Academic Integrity Policy and the Student Conduct Code. This subsection provides for both academic and conduct level of response to allegations of academic dishonesty, consistent with the Academic Integrity Policy:
  - **Academic Outcomes:** When academic dishonesty occurs within a course, the faculty member, after consultation with the student, determines the academic penalty. The most egregious cases of plagiarism will likely result in an F in the course. Mitigating circumstances may lead the faculty member, at his or her discretion, to assign a range of alternate consequences such as an F on the assignment, an otherwise diminished grade, options to re-submit the assignment (for a new or capped grade), and/or educational referrals. A faculty member assigning an F for a course or encountering a repeat offender should submit a *Formal Academic Conduct Referral* to the Student Conduct Officer.
  - **Student Conduct Outcomes:** When issues of academic integrity arise, faculty are encouraged to report the incident either informally or formally to the Student Conduct Officer (currently called the Judicial Affairs Officer) and to copy their department chair on such correspondence.
    - i. *Informal Educational Referral:* For minor offenses, or for cases in which a student clearly demonstrates an educational need or cultural difference in understanding rather than a deliberate attempt to deceive, faculty may submit an informal referral for conduct tracking and recommendation for educational intervention.
    - ii. *Formal Academic Conduct Referral:* Egregious cases or second-time offenses should be submitted for formal investigation to the Student Conduct Officer, who will take under consideration the seriousness of the offense, any prior

record of conduct referrals, and mitigating circumstances in considering appropriate responses. Consequences for breaches of the Academic Integrity Policy range from educational intervention, probation, suspension, to expulsion from the university.

- The Student Conduct Officer will keep records of both informal and formal referrals and will inform faculty making an academic integrity referral if the student in question has a record of prior referrals.

## **Section 6. Violations**

Students or organizations may be subject to university discipline for any of the misconduct described below that occurs at any time on university-controlled premises or at university approved or sponsored functions.

The provisions of this policy do not limit the rights of persons in authority to take any immediate and temporary actions necessary to protect the classroom or program atmosphere, to uphold established policies, regulations, and laws. Any student engaged in the following behaviors is subject to the disciplinary sanctions outlined in this policy.

### **THIS SECTION IS UNDER REVIEW!**

~~A. Acts of dishonesty, including, but not limited to the following:~~

- ~~• cheating or plagiarism; including submission of work that was already submitted for credit in a previous course at Metropolitan State without consent of the second instructor. Plagiarism includes but is not limited to use by direct quotation or paraphrase of the published or unpublished work of another person without full and clear acknowledgement, and unacknowledged use of materials (such as papers or other materials) prepared by another person or agency;~~
- ~~• knowingly furnishing false information to any university official, faculty member or office; including falsification of research and fabrication of data, or providing false or incomplete information on an application for admission to the university.~~
- ~~• forging, altering, or misusing any university document, record, or instrument of identification, including copyright violations;~~
- ~~• unauthorized use of or changing or deleting any information or data contained in the MnSCU student record computers;~~
- ~~• knowingly passing on an insufficient funds check, fraudulent money order, or other fraudulent payment of any financial obligation to the university; and~~
- ~~• tampering with the election of any university recognized student organization.~~

~~B. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other university activities, including its public service functions on or off campus, or any authorized non-university activities, when the act occurs on university premises.~~

~~C. Harassment of any member of the university community, placing any person under mental duress or causing any person to be in fear through verbal abuse (including repeated telephone calls or electronic messages), bullying, intimidation including, but not limited to, violence or threat of violence, or personal vilification, including when such actions are based on age, sex, race, color, disability, religion, sexual orientation, or national/ethnic origin.~~

- D. Physical or sexual abuse or battery upon a student or university personnel, upon university premises, or while under the authority of university personnel, or at a university-sponsored event; or continued abuse of a student or university personnel, assault or battery upon a student or university personnel, or any threat of force or violence directed toward a student or university personnel.
- E. Unauthorized use or borrowing, attempted theft or actual theft of property of the university or property of a member of the university community or other personal or public property, including university supplies, stationery, postage, telephones (including long distance service), equipment or facilities, or the use of any of the above for any illegal act or any act prohibited by the Student Conduct Code.
- F. Hazing, or any other act which endangers the mental or physical health or safety of a person, subjects a person to public humiliation or ridicule, 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 student group, or organization.
- G. Damage to public or private property on university premises including, but not limited to graffiti, defacing signs or damaging university property wherever located.
- H. The incurring of financial obligations on behalf of the university without proper authorization.
- I. Gambling on campus.
- J. Unauthorized solicitation or selling of goods or services on campus or at university-sponsored activities on or off-campus.
- K. Failure to comply with directions of university officials or fire or law enforcement or other emergency service personnel acting in performance of their duties, or failure to identify oneself to these persons when requested to do so, once they have identified themselves.
- L. Unauthorized possession, duplication or use of keys to any university premises or unauthorized entry to or use of university premises.
- M. Violation of published university policies, rules, or regulations.
- N. Violation of federal, state, or local law at university-sponsored or supervised activities.
- O. Use, possession, or distribution of narcotic drugs or other controlled substances except as expressly permitted by law. In keeping with the requirements of the Drug-Free Schools and Communities Act Amendments of 1989 (P.L. 101-226), this conduct code clearly prohibits the unlawful possession, use or distribution of drugs and alcohol by students and employees on Metropolitan State property or as any part of the university activities. A copy of the university's Drug Abuse Prevention Policy, #1060, is available from the university's web site or from the office of the Vice President for Student Affairs.
- P. Use, possession, or distribution of alcoholic beverages except as expressly permitted by the law and university regulations, or public intoxication.
- Q. Illegal or unauthorized possession of firearms, explosives, other weapons, fireworks, or dangerous chemicals on university premises.
- R. Violation of the university's regulations regarding the use of tobacco products on university-controlled property.

- S. Obstruction of the free flow of pedestrian or vehicular traffic on university premises or at university-sponsored or supervised functions.
- T. Conduct which is disorderly, lewd, or indecent; breaching the peace; or aiding, abetting, or procuring another person to breach the peace on university premises or at functions sponsored by, or participated in by, the university.
- U. Theft or other abuse of computers, including violation of the MnSCU Acceptable Use of Computing Equipment Board Policy and Procedure. This may include, e.g.:
- theft or destruction of computer time, hardware or software;
  - unauthorized installation of software; unauthorized entry into or transfer of a file to use, read or change the contents or for any other purpose;
  - unauthorized use of another individual's identification and password;
  - use of computing facilities to interfere with the work of another student, faculty member or university official or with normal operation of the university computing system; or
  - use of computing facilities to send obscene or abusive messages or to participate in pornographic materials.
- W. Abuse of the student judicial systems, including, but not limited to:
- failure to obey the summons of the Student Conduct Committee or the Conduct Officer or designated investigator;
  - falsification, distortion, or misrepresentation of information before a judicial body;
  - disruption or interference with the orderly conduct of a judicial proceeding;
  - institution of a judicial proceeding knowingly without cause or with a malicious or improper intent;
  - attempting to discourage an individual's proper participation in, or use of, a judicial system;
  - attempting to influence the impartiality of a member of a Student Conduct Committee, or Academic Appeals Committee or other applicable committee, prior to and/or during the course of the judicial proceeding;
  - harassment (verbal or physical) and/or intimidation of a member of a Student Conduct Committee or other hearing or applicable committee prior to, during, and/or after a judicial proceeding;
  - failure to comply with the sanction(s) imposed under the Student Conduct Code; or
  - influencing, or attempting to influence, another person to commit an abuse of the judicial system.
- X. Violation of university regulations concerning student organizations, the use of university facilities, or the time, place and manner of public expression.
- Y. Continued willful and disruptive behavior, profanity or vulgarity, or open and persistent defiance of the authority of or persistent abuse of university personnel
- Z. Actions which interfere with, obstruct, or prevent the regular and essential operations of the university or infringe upon the rights of others to freely participate in its courses, programs, or services.
- AA. Conviction in a court of law or "no contest" or "nolo contendere" plea for a felony that constitutes gross misconduct or that demonstrates flagrant disregard for the university community.

The university will cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators. Individual students and faculty members, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate. When a student is charged by federal, state or local authorities with a violation of law, the university will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also the subject of a proceeding under the Student Conduct Code, however, the university may advise off-campus authorities of the existence of the Student Conduct Code and of how such matters will be handled internally within the university community.

Regarding Violations: Nothing herein shall be construed to deny students their legally or constitutionally protected rights.

### **Section 7. Student Conduct Outcome Process**

Students found responsible for violations shall be given the opportunity to participate in the development of a student conduct outcome process that may include an agreement. Whether a student chooses to demonstrate accountability for his or her actions and to cooperate in participating in a productive outcome is an important factor in the ultimate determination of a student conduct outcome.

Student conduct outcomes are implemented by written notification after an informal meeting with the Student Conduct Officer or designee, or a formal hearing before a Student Affairs Administrator or the Student Conduct Subcommittee. The student conduct outcome may include a combination of sanctions and restorative outcome components which together aim to achieve the objectives of demonstrating student accountability, addressing underlying educational needs, as well as providing an opportunity for the student to make amends towards those impacted by the wrongdoing. The Student Conduct Officer may also make resource referrals for the student as appropriate to address any support needs the student may have, independent from the required components of the student conduct outcome.

- A. **Sanctions:** The university takes a progressive approach to sanctions. In considering which sanction(s) may be appropriate to include, several factors are taken into account, including whether the student has had any previous conduct violations, the seriousness of the offense, and what the student brings to the conduct process.. More than one of the sanctions listed below may be imposed as a component of a student conduct outcome for any single violation. The following sanctions are listed to provide students with examples of possible penalties for Conduct Code violations. The university reserves the right to impose other sanctions as circumstances warrant.
- i. **Warning:** An oral and/or written notice to the student that the student is violating or has violated institutional regulations. Disregard of this warning will result in further action. The warning may become part of a student's permanent file.
  - ii. **Probation:** Continued enrollment under specific circumstances. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be violating any institutional regulation(s) during the probationary period.

- iii. Compliance: Carrying out a rule as a condition of admission or continuing enrollment. For example, directing a student not to have contact with another member of the university community.
- iv. Denial of Related Privileges: An order directing a student not to have contact with an area. For example, if violation is related to use of the Library, use of the Library may be denied.
- v. Hold on Records: The University may withhold official transcripts, grades, diplomas, or other official records pending the disposition of cases, if such action is reasonably necessary to preserve the university's ability to enforce its policies.
- vi. Suspension: Denial of the privilege of enrollment for specified period of time after which the student is eligible to return. Conditions for readmission will be specified in writing. Notice of suspension will appear on the student's transcript in accordance with MnSCU System Procedure 3.29.1. During the suspension period, a student cannot qualify for graduation or register for or attend classes or other university functions.
- vii. Summary Suspension: A suspension not longer than nine (9) days imposed prior to an investigation, informal meeting or formal hearing to ensure the safety and well-being of members of the university community.
- viii. Expulsion: Permanent separation of the student from the university and termination of student status. An expelled student shall not be allowed on university property. Fee refunds will be determined in accordance with the university refund policy as approved by the Board of Trustees. Notice of expulsion shall appear on the student's transcript in accordance with MnSCU System Procedure 3.29.1.

B. Restorative outcome components: During the informal meeting, the Student Conduct Officer shall provide the student an opportunity to offer input on the development on the student conduct outcome agreement, which may include one or more sanctions as well as restorative components. The input and needs of the individual(s) impacted by the student conduct at issue are also important in determining appropriate restorative outcome components. More than one of the restorative components listed below may be included as part of a student outcome for any single violation. The following restorative components are listed to provide students with examples, but the university reserves the right to include other restorative components which may meet the needs in a particular case.

- i. Apology Letter: A letter the student agrees to write to the person(s) or department(s) impacted by his or her behavior leading to the conduct violation(s). The letter should include thoughtful reflection and acknowledgment on the impact of the behavior, demonstration of accountability for the behavior, and an apology.
- ii. Educational Referral: A referral to a student resource to address an identified educational need. An educational referral may be a required or voluntary outcome component.
- iii. Restitution: Compensation required to the university or other persons, groups or organizations for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement by a designated date.

- iv. Restorative Service: Volunteer service provided by the student pursuant to an agreement between the student, the Student Conduct Officer, and the service recipient designed to directly or indirectly address and repair the harm caused by the behavior leading to the conduct violation(s).
- v. Student Conduct Contract: A reflection written and signed by the student which communicates the student's i) acknowledgment of the student's conduct and its impact; ii) understanding of the other options available to the student to have avoided the conduct at issue; iii) understanding of preventative steps the student can take to avoid such conduct in the future; and iv) demonstrated agreement with the university to uphold and abide by the Student Code of Conduct for the remainder of the student's university tenure. The Student Conduct Contract becomes part of the student's conduct record on file.
- vi. Discretionary Restorative Components: Work assignments, service to the university, sensitivity training, or other related discretionary assignments (such assignments must be coordinated by the Student Conduct Officer).

## **Section 8. Judicial Process**

### **A. Filing a Complaint**

Any member of the university community may file a complaint against any student or student organization alleging violation of the Student Conduct Code. A complaint should be submitted as soon as possible after the event takes place and within a year of discovery of the incident; or in any case no longer than two years after the event. Complaints should be in writing to the Office of the Dean of Students or the Student Conduct Office, but can proceed on verbal notification. Persons filing complaints shall be informed of their rights under the Minnesota Statute 13.04, subdivision 2 and shall be provided with information about the process and the anticipated timeline of the investigation.

Once a complaint is filed, the Office of the Dean of Students has the right to authorize a conduct investigation even if a complainant chooses not to pursue the matter. Complainants shall be given the Tennessen Notice addressing the requirement for students or employees to provide pertinent information and, if necessary, appear at a hearing. The investigator will provide the appropriate version of the Tennessen Notice to the complainant by informing the individual of (a) the purpose and intended use of the requested data within the university; (b) whether the individual may refuse or is legally required to supply the requested data; (c) any known consequence arising from supplying or refusing to supply private or confidential data; and (d) the identity of other persons or entities authorized by state or federal law to receive the data.

### **B. Misconduct Reported Through Other Means**

Alleged conduct violations may be reported to the Dean of Students or the Student Conduct Office through Public Safety incident reports or other means. The Office of the Dean of Students has the responsibility to ensure compliance with the Student Conduct Code and therefore retains the authority to investigate all reports of alleged student misconduct regardless of how the report is received.



The Dean of Students or the Student Conduct Officer or designee retains the discretion to evaluate the propriety of all anonymous complaints. Anonymous complaints may be pursued for investigation if there is evidence to suggest the complainant had a valid reason for maintaining anonymity, such as potential concerns about personal safety and wellbeing. However, the Dean of Students also retains the right to dismiss anonymous complaints if there is evidence to suggest malicious or improper intent, or that the complaint is without credible basis. Students found to engage in such improper conduct reporting may be subject to discipline under Section 6. Violations (W) Abuse of Judicial Process.

C. Cooperation with Investigation

All members of the university community shall be given the appropriate version of the Tennessean Notice addressing the requirement for students or employees to cooperate with an investigation and provide pertinent information to the Student Conduct Officer or designee upon request, and if necessary, appear at a hearing.

D. Investigation of Alleged Misconduct

Following the filing of a complaint or receipt of a report of alleged misconduct, the Student Conduct Officer or designee will conduct an investigation to determine if the charges are valid. If, in the process of the investigation, the Student Conduct Officer determines that the complaint is unwarranted or unsupported, the Student Conduct Officer shall recommend to the Dean of Students that the proceedings be discontinued. After preliminary information-gathering, it may be determined that the situation does not rise to the level of formal conduct adjudication, but still warrants a response. In such cases, the Student Conduct Officer may work with all parties to support an informal resolution to the conflict.

In cases in which the student conduct at issue directly involves the Student Conduct Officer in an alleged violation of Section 6. Violations (W) Abuse of Judicial Systems, thereby compromising the neutrality of the Student Conduct Officer, the investigation will be conducted by an alternative designee identified by the Dean of Students or Student Affairs Administrator to avoid a conflict of interest.

E. Informal Meeting

If the Student Conduct Officer or designee determines that there is sufficient evidence to support the complaint, the accused student shall be offered an opportunity to resolve the violation at an informal meeting. The student will be notified of her or his right to an informal meeting through the university-assigned email address and/or by mail to the last known mailing address on file in university records. A date and time must be specified by which the student is required to meet with the Student Conduct Officer or designee to attempt an informal resolution of the charges. The student must be given not less than seventy-two (72) hours to prepare for the meeting. Student must also be informed that failure to appear for the informal meeting may result in an appropriate student conduct outcome.

Prior to or at the beginning of the informal meeting, the student must be provided with the following:

- a written notice of the complaint;
- a copy of the Student Conduct Code;

- a Tennessean Notice; and
- a written summary of the nature of evidence supporting the specific allegation(s) of violation of the Conduct Code.

During the informal meeting, the Student Conduct Officer or designee shall first advise the student of student rights and responsibilities under the Code of Conduct and student privacy and confidentiality protections as outlined in the Tennessean Notice. The Student Conduct Officer shall then review the facts of the complaint and evidence with the student. Next, the student shall be provided an opportunity to be heard. To this end, the student may provide his or her account of the facts and present any relevant information or supporting evidence.

When the information gathered tends to indicate a finding of a violation, the informal meeting shall also include a discussion of impact from the student's behavior. In addition, the student shall be provided the opportunity to offer input on a fair resolution of the situation, and the development of a student conduct outcome.

Within a reasonable time period after the informal meeting, the Student Conduct Officer or designee shall inform the accused student in writing of his/her decision whether a violation of the Code was established by a preponderance of evidence and any applicable outcome determined other than long-term suspension or expulsion, as well as options available for an appeal meeting or formal hearing. The complainant shall receive notification consistent with state and federal privacy laws.

In cases in which the Student Conduct Officer recommends a sanction of long-term suspension or expulsion, the Student Conduct Officer shall forward this recommendation, along with supporting documentation to the suspension/expulsion subcommittee of the Student Conduct Committee. This subcommittee is charged with reviewing this recommendation, providing the student an opportunity to be heard, and making the final determination as to the student outcome pursuant to the process outlined in the following Subsection F. Long-Term Suspensions and Expulsions. If the student fails to appear for the informal meeting, the Student Conduct Officer or designee may determine an appropriate outcome based on the information reasonably available to the Student Conduct Officer. The Student Conduct Officer or designee shall send written notice to the student of the determination of the conduct outcome, including any applicable right to appeal. The student will be notified by mail to the last known mailing address on file in the university records office.

#### F. Long-Term Suspensions and Expulsions

If the Student Conduct Officer recommends a sanction of long-term suspension or expulsion, the Student Conduct Officer shall notify the student of this recommendation in a detailed student outcome letter. The student outcome letter shall also notify the student of the following process:

- The Student Conduct Officer shall forward the recommendation of long-term suspension or expulsion, along with supporting documentation, to the suspension/expulsion subcommittee of the Student Conduct Committee for review.

- The student outcome letter shall include notification to the student of the opportunity to be heard before the subcommittee to present information in support of his or her case.
- A request for a meeting with the subcommittee must be made in writing to the Student Conduct Office, and received within five (5) days of receipt or attempted delivery by certified mail of the notice of outcome. If the student fails to request such a meeting within the five day time period, the subcommittee may proceed with their review of the Student Conduct Officer's recommendation of long-term suspension or expulsion and make a decision on the basis of the information reasonably available to them.
- The Student Conduct Officer shall coordinate the meeting with the student and the suspension/expulsion subcommittee.
- The accused student may have a support person present. The support person may provide advice to the student, but may not participate in any questioning or advocate on behalf of the student.
- After reviewing both the recommendation and supporting documentation submitted by the Student Conduct Officer, as well as any information presented by the student, the Student Conduct Subcommittee will decide to uphold or reject the recommendation for long-term suspension or expulsion or determine a different outcome.
- The Student Conduct Committee Chair shall send written notice of the findings and conclusions to the accused student within a reasonable time following the student meeting. The student shall be considered notified of the outcome: 1) when the notice is hand-delivered to the student; or 2) two (2) business days after the notice is mailed to the student at the last-known mailing address on file in the university records office.
- If the Subcommittee affirms the recommendation for suspension or appeal, or imposes a different outcome, the written notice shall inform the student of his or her right to appeal, as outlined in the following two subsections.
- If the student fails to appear for a scheduled subcommittee meeting to review the long-term-suspension or expulsion recommendation, the subcommittee may proceed with their review of the Student Conduct Officer's recommendation of long-term suspension or expulsion and make a decision on the basis of the information reasonably available to them.

## G. Appeal of Sanction

A student who has received a student conduct outcome including a sanction other than a long-term suspension or expulsion has a right to an appeal meeting with a committee comprised of the Dean of Students and one faculty member of the Student Conduct Committee. A request for an appeal meeting must be made in writing to the Dean of Students Office, and received within five (5) business days of receipt or attempted delivery by certified mail of the notice of outcome. Failure to request such an appeal meeting within the five day time period presumes acceptance of the student conduct outcome. If the student fails to appear for a scheduled appeal meeting, the Dean of Students and faculty member of the Student Conduct Committee may proceed and make an appeal decision on the basis of the information reasonably available to them.

The grounds for an appeal may include: new evidence not reasonably available at the time of the informal meeting or formal hearing, violation of student's due process rights, inconsistency of sanction relative to violation, and decisions contrary to weight of the evidence.

A sanction shall not become effective during the time in which a student seeks an appeal meeting or formal hearing, unless, in the discretion of the Conduct Officer or designee, it is necessary to implement an immediate sanction for the safety and welfare of the university community.

#### H. Formal Hearing

A student who has received a sanction of long-term suspension or expulsion may accept the sanction or may request a formal hearing prior to the implementation of the sanction. The student may elect to have a hearing before the Student Affairs Administrator or the Student Conduct Committee. A request for formal hearing must be made in writing to the Student Affairs Administrator identified in the notice of sanction, and received within five (5) business days of receipt or attempted delivery by certified mail of the notice of sanction. Failure to request a formal hearing in writing within the five (5) day time period presumes acceptance of the sanction.

After receiving a request for a formal hearing within the proscribed time period, the Student Conduct Officer or designee will forward the following materials to the Student Conduct Subcommittee or the Student Affairs Administrator:

- statement describing the alleged violation of the Student Conduct Code;
- the name and address of the student charged;
- the name and address of the complainant; and
- all relevant facts and statements, including the names and addresses of witnesses to the alleged violation.

The Chair of the Student Conduct Subcommittee (Chair) or Student Affairs Administrator shall determine the date, time, and place of the hearing, which shall be a least five days after delivery of written notice of the hearing to the accused student. Such notice to the student shall include:

- statement of date, time, and place of hearing;
- a list of the witnesses and a summary of any witness, documentary or other evidence that may be presented in support of the charge;
- notice that the student shall be given the opportunity to speak in his/her own defense, to present witnesses and to question any witnesses;
- notice that the student may have a support person present, and if there is a likelihood that the student will face criminal prosecution related to the charge, that the student may wish to retain an attorney;
- notice of the limited role of the support person to provide advice to the student, but the support person may not participate in any questioning or advocate on behalf of the student;
- notice that the student must provide by a proscribed date a summary of the witness and documentary evidence that may be presented; and

- notice that the student's failure to appear shall not prevent the hearing from proceeding as scheduled and may lead to determination of an outcome in the student's absence.

The hearing shall be conducted in the following manner:

- The Student Conduct Officer or designee shall first present the complaint and supporting evidence. The accused student shall have opportunity to challenge evidence and to ask questions of any witnesses introduced by the Officer;
- The accused student shall next present evidence or testimony to refute the complaint. The Student Conduct Officer or designee may challenge evidence presented by the student and may ask questions of witnesses introduced by the student;
- Only those materials and matters presented at the hearing shall be considered as evidence.
- The Chair or Student Affairs Administrator shall exclude irrelevant, immaterial, or unduly repetitious evidence.
- The hearing shall be held in closed session unless the Student Affairs Administrator or Student Conduct Subcommittee determines there is a compelling reason for the hearing to be open and neither the accused student nor the complainant presents an objection;
- The accused student may have a support person present. The support person may provide advice to the student, but may not participate in any questioning or advocate on behalf of the student; and
- Meetings, procedures, and decisions will be recorded and kept on file.

Upon conclusion of the hearing, the Student Conduct Subcommittee or Student Affairs Administrator in closed session shall consider the evidence and will decide to uphold the outcome, exonerate the student, or impose a different outcome. If the student fails to appear for a scheduled appeal meeting, the Student Affairs Administrator or the Student Conduct Subcommittee may proceed and make an appeal decision on the basis of the information reasonably available to them.

The Student Conduct Subcommittee Chair or the Student Affairs Administrator shall send written notice of the findings and conclusions to the accused student within a reasonable time after the hearing. If the Student Affairs Administrator affirms a long-term suspension or expulsion, the notice shall inform the student of his/her right to a contested case hearing under Minnesota law. The student shall be considered notified of the outcome: 1) when the notice is hand-delivered to the student, or 2) two (2) business days after the notice is mailed to the student at the last known mailing address on file in the university records office. The complainant shall receive notification consistent with state and federal privacy laws.

Records pertaining to students' histories of student conduct shall be kept for a minimum of five years and kept separate from students' regular records. The only persons having access to these records shall be the President, the Vice President for Student Affairs, the Administrative Assistant to the Vice President for Student Affairs, the Dean of Students, the Administrative Assistant to the Dean of Students, and the Student Conduct Officer or designee. Any other person who wishes to review these files must have permission from the Vice President for Student Affairs, consistent with student privacy and confidentiality regulations under the Family Educational Rights and Privacy Act (FERPA).

## **Section 9. The Student Conduct Committee.**

The university shall establish a Student Conduct Committee.

Charge: The Student Conduct Committee will be divided into two subcommittees. The first subcommittee is charged with reviewing and determining sanctions in the cases in which a) the neutrality of the Student Conduct Officer as a decision-maker may be compromised, when the student conduct at issue directly involves the Student Conduct Officer in an alleged violation of Section 6. Violations (W) Abuse of Judicial Systems; or b) the Student Conduct Officer recommends a sanction of long-term suspension or expulsion. The second subcommittee is charged with hearing both appeals and formal hearings of long-term suspensions and expulsions under the Student Conduct Code. The entire committee may also review and propose changes to the Student Conduct Code and associated implementation procedures.

Membership:

- One or more resident faculty member(s) from each college, named by the IFO;
- One graduate faculty member, named by the IFO;
- One or more community faculty member(s), named by the IFO;
- One or more advisor(s) or other staff representative(s), named by MSUAASF;
- One or more student(s) named by the Student Senate; and
- One AFSCME member named by AFSCME.

Student Conduct Committee members shall serve for one-year terms. Each Subcommittee shall select from among its members a chair, a vice chair who will preside in the chair's absence, and a recorder. Committee meeting proceedings and decisions shall be recorded and kept on file. A quorum to hear a case or proceed with policy review and revision will include at least three members of the committee, including the chair or vice chair and at least one faculty representative.

## **Section 10. Contested Case Hearings**

If a long-term suspension or an expulsion is upheld by the Student Conduct Subcommittee or the Student Affairs Administrator, the student has a right to appeal the decision before an administrative law judge pursuant to Minnesota Statutes Chapter 14. A student seeking a hearing before an administrative law judge must inform the Vice President of Student Affairs within five (5) days of receipt of notification or evidence of attempted delivery through certified mail of the final appeal decision. The university will request a hearing from the Office of Administrative Hearings. The student will be notified of the time, place and date of the hearing.

The hearing will be conducted pursuant to Contested Case Procedures adopted by the Office of Administrative Hearings. An administrative law judge will be appointed by the Chief Administrative Law Judge pursuant to Minnesota Statute section 14.50.

Following the hearing, the administrative law judge shall make a report, which contains a recommendation, to the University President. Within a reasonable time period following receipt of the administrative law judge's recommendation, the university President shall make a decision. The President's decision shall be final.

## **Section 11. Summary Suspension**

In some cases, a complaint may allege serious harm or threats of harm to individuals. If, in the judgment of the Student Conduct Officer, a Student Affairs Administrator or designee, the accused student's presence on campus would constitute a serious threat to the safety and well-being of others, the Student Conduct Officer or designee may impose a summary suspension. To the greatest extent possible before implementing the summary suspension, the accused student shall be given oral or written notice of the intent to impose summary suspension and shall be given an opportunity to present oral or written arguments against the imposition of the suspension. However, the refusal of a student to accept or acknowledge this notice shall not prevent the implementation of a summary suspension.

Notice of a summary suspension shall be provided to the accused student in writing through the U.S. mail and the student's university-assigned e-mail address. During the summary suspension, the student may not enter the campus without obtaining prior authorization from the Vice President of Student Affairs or designee. A student who has been summarily suspended will be given the opportunity for an informal meeting or formal hearing within the shortest reasonable time period, not to exceed nine (9) business days.

None of the provisions in this policy affect the rights of persons in authority to take immediate and temporary action necessary to protect others and to uphold established policies, regulations and laws.

## **Section 12. Definitions**

For purposes of Policy 1020, Student Conduct Code, and Procedure 112, Student Conduct Code Procedure, the following definitions apply:

- A. Administrator may include any person employed by the university, performing assigned administrative or professional responsibilities.
- B. Complainant means any individual who initiates a disciplinary complaint or referral.
- C. Days means Monday through Friday business days (excluding Saturdays, Sundays and holidays recognized by Metropolitan State University.)
- D. Expulsion is permanent denial of the privilege of enrollment at the university.
- E. Faculty member means any person hired by the university to conduct classroom activities.
- F. Hazing is an act which endangers the mental or physical health or safety of a person, subjects a person to public humiliation or ridicule, 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 student group or organization.
- G. May is used in the permissive sense.
- H. Member of the university community includes any person who is a student, faculty, member, administrator or any other person employed by the university.
- I. Organization means any number of persons who have complied with the formal requirements of the university recognition.

- J. Outcome is used as an interchangeable, shortened term for “Student Conduct Outcome.”
- K. Policy is defined as the written regulations of the university as found in, but not limited to the University Catalog, University Rules and Regulations, and any other official university publication.
- L. Preponderance of evidence is the standard of responsibility that it is more likely than not that the code has been violated.
- M. Restorative Outcome Component refers to a possible aspect of a Student Conduct Outcome, determined with the input of both the accused student and the person(s) impacted by the accused student’s behavior, designed to address the impact and repair the harm of the accused student’s behavior leading to the conduct code violation(s).
- N. “Shall” is used in the imperative sense.
- O. Student Affairs Administrator refers to the Vice President for Student Affairs, the Dean of Students, the Vice President for Enrollment Management or designee who may be responsible for determination of sanctions following appeals and formal hearings or involved in decision-making and implementation of summary suspensions.
- P. Student Conduct Officer means an administrator or staff member, a direct report to the Dean of Students, designated by the Vice President for Student Affairs and authorized by the President of the university to administer the Student Conduct Code, and to determine or make recommended outcomes for students found to have violated the Student Conduct Code.
- Q. Student Conduct Outcome refers to the determination of conduct sanctions, restorative components, and/or educational or resource referrals, which may or may not be determined with the active participation and agreement of the accused student.
- R. Student includes all persons who:
- Are enrolled in one or more courses, either credit or non-credit, through the university;
  - Withdraw, transfer or graduate, after an alleged violation of the student conduct code;
  - Are not officially enrolled for a particular term but who have a continuing relationship with the university; or
  - Have been notified of their acceptance for admission or have initiated the process of application for admission or financial aid.
- S. Student Conduct Committee means any person or persons duly appointed to said committee in accordance with this procedure, to determine imposition of sanctions of long-term suspension or expulsion, to hear and decide student appeals and to determine student conduct outcomes, review and propose changes to the Student Conduct Code and associated implementation procedures.
- T. Summary suspension is a suspension not longer than nine (9) days imposed prior to an informal meeting or formal hearing to ensure the safety and well-being of members of the university or university community.
- U. Suspension is the denial of the privilege of enrollment for a specified period of time after which the student is eligible to return. Conditions for re-enrollment may be specified.
- V. University means Metropolitan State University.



- W. University Premises includes all land, buildings, facilities, and other property in the possession of, or owned, used, or controlled by the university including adjacent streets and sidewalks.

### **Section 13. Review**

The Student Conduct Code shall be reviewed every three (3) years under the direction of the Student Conduct Officer.

Occasionally there are changes of staff titles mentioned in this document. The Vice President for Student Affairs may make editorial changes relating to this document, in relation to titles of people, as long as the substance of the document is not affected. After these guidelines are published, the institution reserves the right to change these guidelines without notice to comply with changing local, state or federal legislation or Minnesota State Colleges and Universities Board policies and procedures. Should such a change be necessary, the institution will make reasonable efforts to inform the campus community of those changes. Questions should be directed to the Vice President for Student Affairs.

### **Section 14. Approval**

Issued on this 23 day of April, 2012.

A handwritten signature in cursive script, reading "Sue K. Hammersmith", enclosed in a thin black rectangular border.

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President, Sue K. Hammersmith, Ph.D.

***Procedure Revision History - Summary of substantive changes:***

*[December 2011]*

- *THROUGHOUT: Amended designated roles and responsibilities*
- *Section 1, Introduction: Added new Introduction section to include implementation language; moved language regarding student conduct code availability to this first section. Amended policy/procedure availability language to align with January 2011 MnSCU model code amendments.*
- *Section 2, Purpose: Amended purpose statement to reflect integration of restorative justice principles within existing framework of student conduct code.*
- *Section 3, Authority: Revised to clarify MnSCU policy authority; moved language regarding policy/procedure ownership to this section.*
- *Section 5, Jurisdiction: Amended to address concurrent jurisdiction over plagiarism and academic dishonesty violations consistent with DRAFT Academic Integrity Policy. (NOTE: This section subject to change once draft Academic Integrity Policy is finalized).*
- *Section 7, Student Conduct Outcome Process: Amended to outline process for offering student participation in development of student conduct outcome, which may include an agreement involving both conduct sanctions and restorative outcome components. Delineate both sanction and restorative outcome components.*
- *Section 8, Judicial Process:*
  - *A. Filing a Complaint: Revised to be consistent with January 2011MnSCU model code amendments.*
  - *B. Misconduct Reported Through Other Means: Amended to establish discretion to evaluate validity of anonymous complaints; to dismiss if evidence of malicious intent or ulterior motive in filing complaint; Complainant in such circumstances could then be subject to violation W. Abuse of Judicial Process.*
  - *C. Cooperation with Investigation: Amended to reference different versions of Tennessen Notice as appropriate for university employees or students.*
  - *D. Investigation: Amended to include provision to allow for alternative or informal conflict resolution as appropriate. Also amended to allow for alternative designee, not the Student Conduct Officer, to investigate student conduct allegations directly involving the Student Conduct Officer.*
  - *E. Informal Meeting: Amended to clarify informal meeting process; to reflect integration of restorative justice principles within existing framework of student conduct code.*
  - *F. Long-Term Suspensions/Expulsions: Amended to establish separation of the investigation and decision-making functions in the most serious conduct cases leading to recommendation of long-term suspension or expulsion and provides additional process in these cases, involving a new suspension/expulsion subcommittee of the Student Conduct Committee.*
  - *G. Appeal: Amended to move section regarding formal appeal hearing to appropriate subsection H. Formal appeal hearing.*

- *H. Formal appeal hearing: Amended to retain student choice to be heard by subcommittee or a Student Affairs Administrator, but the final outcome will be decided by whoever hears the appeal. This replaces the previous process in which the Student Affairs Administrator made the final decision based on the recommendation of the committee when the committee hears the appeal. This change strengthens transparency in decision-making, and is consistent with a recommendation from MnSCU legal counsel.*
- *Section 9, Student Conduct Committee: Amended to divide Conduct Committee into two separate subcommittees. One subcommittee charged to review and decide cases involving an alleged violation of Subsection W. Abuse of Judicial Systems, when it would pose a conflict of interest for the Student Conduct Officer to do so, as well as recommendations for long-term suspensions and expulsions; and the other charged to hear student appeals.*
- *Section 12, Implementation: Removed; substantive information in section moved to more appropriate sections.*
- *Section 12, Definitions:*
  - *Added definitions for the following terms:*
    - *“Outcome;”*
    - *“Restorative Outcome Component;” and*
    - *Student Conduct Outcome*
  - *Revised following definitions:*
    - *“Student Affairs Administrator;”*
    - *“Student Conduct Officer;”*
    - *“Student Conduct Committee;” and*
    - *“Summary Suspension”*