

# COMMUNITY CODE OF CONDUCT

## MOUNT MARTY UNIVERSITY CONDUCT AGREEMENT

Mount Marty University is a Benedictine Community united by its engagement in the exchange of ideas and advancement of knowledge. Learning also involves reflecting on decisions made and how it impacts the individual and the larger community. Through these process, our students will improve their decision-making skills and see that their choices can influence the communities in which they work and live. By establishing expectations for the community, the Community Conduct Code serves as an integral part of the university's educational mission.

The Community Conduct Code describes the principals for living and working in a Benedictine community. These principals take into consideration the core values of Mount Marty University; Awareness of God, Community, Hospitality and Lifelong Learning. The purpose is to reinforce and encourage the development of a commitment to community, excellence in integrity, and a mutual respect for all persons.

The university's goal is that as students make their way through any aspect of our conduct process, they leave the process as better educated students and better members of our university community.

I agree to uphold the principles of honor set forth by this community in the Mount Marty University Mission Statement, the Academic Catalogue and the Community Conduct Code, to defend these principles against abuse or misuse, and to abide by the regulations of Mount Marty University.

## PHILOSOPHY

Mount Marty University's student conduct policy is designed to ensure all students have an educational and developmental process that balances the needs of the individual student with the needs of the Mount Marty University community. In order of accomplish this, there are three philosophical tenants to the student conduct program.

- I. Prevention – The student conduct program educates students about appropriate standards of conduct within a Benedictine university community through programming and dialogue before issues occur. The program sees to reduce incidents of misconduct by educating students about healthy decision-making, constrictive discourse, bystander intervention and Benedictine tradition.
- II. Intervention – The student conduct program identifies the personal, educational and social influences that lead to misconduct on campus and provides methods of intervention through diverse mechanisms of resolution that places the emphasis on repairing harm, personal decision making, community commitments and student learning.
- III. Harm Reduction and Retention – The student conduct program reduces and repairs harm to the community caused by misconduct after an incident has occurred. The program creates opportunities for students to learn from their experiences and affect positive change in their decision-making. By taking an active role in designing conduct outcomes, the program offers students an opportunity to remain part of the Mount Marty Community.

Mount Marty University is built upon a Catholic, Benedictine tradition. The Benedictine Sisters who sponsor the university expect that the Mission of the university is promoted and integrated into all areas of the university. The challenge of the Mission is to prepare students for a “contemporary world of work, service to the human community, and personal growth,” in an environment that incorporates the Core Values of Awareness of God, Community, Hospitality, and Life-Long Learning.

A community exists on the basis of shared values and principles. At Mount Marty University, student members of the community are expected to uphold and abide by certain standards of conduct that form the basis of the Community Conduct Code. These standards embodied within a set of core values that embrace Benedictine Tradition that include **Commitment to Community, Excellence in Integrity, and Respect for Persons.**

Ultimately, each member of the Mount Marty University community is expected to assume responsibility for his/her conduct and to assume reasonable responsibility for the behavior of others. The student conduct process at Mount Marty University exists to protect the interests of the community and to challenge students to embody the values of Benedictine Tradition and of Mount Marty University. The process and outcomes are intended to challenge and shape students’ moral and ethical decision-making as well as to help them bring their behavior into accord with the community expectations. When a student is unable to conform his/her behavior to the community expectations, the student conduct process may determine that he/she should no longer share the privilege of participating in this community.

The student conduct process is quite different from criminal and civil court proceedings. Procedures and rights in the student conduct procedures are conducted with fairness to all, but do not include the same protections of due process afforded by the courts. Fair process, within these procedures, assumes written notice and a hearing before an objective decision-maker. No student will be found in violation of university Policy without information showing preponderance of the evidence, or more likely than not, that a policy violation occurred and any sanctions will be proportionate to the severity of the violation and the cumulative conduct history of the student.

## **PART 2: JURISDICTION OVER STUDENT CONDUCT**

Mount Marty University distributes the Community Conduct Code on its website and within the Mount Marty University Student Handbook. A hard copy is available upon request from the Department of Student Life. Each Mount Marty student is deemed to have read and agreed to abide by the terms of the Community Conduct Code by virtue of students’ enrollment in the university.

The Community Conduct Code and student conduct process apply to the conduct of individual students and university-affiliated student organizations. Because the Community Conduct Code is based on shared values, it sets a range of expectations for Mount Marty University students no matter where or when their conduct takes place; therefore, the Community Conduct Codes applies to behaviors that take place on campus, at university-sponsored events and incidents occurring off-campus when the university determines in its discretion that the off-campus conduct affects a substantial university interest. A substantial university interest is defined to include:

- I. Any act that constitutes a criminal offense as defined by local, state or federal law. This includes, but is not limited to, single or repeat violations of any local state, or federal law;
- II. Any situation where it appears that a student may present a danger to health or safety of the student or others;

- III. Any situation that significantly impinges upon the rights, property, or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- IV. Any situation that is detrimental to the educational or other interests of the university.

The Community Conduct Code may be applied to conduct that takes place from the time a person accepts enrollment as a student and continues until the student withdraws or graduates, including periods during the semester between and between semesters. Further, the Community Conduct Code applies to guests of the community members whose hosts may be held accountable for the misconduct of their guests.

Visitors to and guests of Mount Marty University are also protected by the Community Conduct Code and may initiate grievances for violations for the Community Conduct Code committed against them by members of the Mount Marty Community.

There is no time limit on reporting violations of the Community Conduct Code as long as the offending student is still enrolled at Mount Marty University; however, the longer someone waits to report an offense, the harder it becomes for the university officials to obtain information and witness statements and to make a determination regarding alleged violations. Though anonymous complaints are permitted, doing so may limit university's ability to investigate and respond to a complaint. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Office of Residence Life, The Office of Student Life or Security.

### **PART 3: PENDING CRIMINAL CHARGES**

Alleged violations of local, state and/or federal law are considered offenses under the Community Conduct Code. Students charged with criminal conduct by law enforcement agencies on or off campus are required to keep the Vice President for Student Success or designee informed of their status. When an offense occurs over which the university has jurisdiction, the university conduct process will usually proceed notwithstanding any criminal complaint that may arise from the same incident. Should a student withdraw from the university when a criminal complaint is made, the university may pursue investigation and resolution of campus conduct matters, regardless of fact that the student has withdrawn.

When criminal charges are pending, the university may be delayed from conducting its own investigation and moving forward with a campus hearing. The university in consultation with legal counsel will determine a period of time that will be considered a reasonable delay. However, for the good order and safety of the community, the university may move forward with its own investigation to determine if a student is responsible for a policy violation even if criminal charges are still pending against the student.

### **PART 4: SPECIAL PROVISIONS**

- I. *Attempted Violations* –Mount Marty University will treat attempts to commit any of the violations listed in the Community Conduct Code as if those attempts have been completed.
- II. *Misconduct Online* – Students are cautioned that behavior conducted online, such as harassment or bullying via email, can subject them to conduct action. Student must also be aware that blogs, social media sites, and web page entries on sites such a Facebook, Instagram, Snapchat, Twitter and other similar online postings are in public sphere and are not private. These postings can subject a student to allegations of conduct violations if

evidence of policy violations posted online, The university does not regularly search for this information but may take action when such information is brought to the attention of university officials.

- III. *University as a Complainant* - Mount Marty University reserves the right to initiate a complaint, to serve as a complainant and to initiate conduct proceedings without formal complaint by the victim of the alleged misconduct.
- IV. *False Reports* – Mount Marty University will not tolerate intentional false reporting of incidents. It is a violation of the Community Conduct Code to make an intentionally false report of any policy violation and it may also violate state criminal statutes and civil defamation laws.
- V. *Group Violations* – A student group or organization and its officers and membership may be held collectively and individually responsible if the Community Conduct Code is violated at events sponsored by the organization or its members Hearings for students groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to the responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual.
- VI. *Parental and Department Notification* – Mount Marty University reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly Level II Conduct Probation, loss of housing, suspension and expulsion. Mount Marty University also reserves the right to designate which university employees have a legitimate need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA) and will share information accordingly.
- VII. *Hearing Decisions* – The outcomes of a conduct hearings is part of the educational record of the student and is protected from release under the Federal Rights and Privacy Act (FERPA), except under certain conditions. In accordance with FERPA, when a student is accused of a policy violation that would constitute a “crime of violence” or non-forcible sex offense, upon written request of the victim (or next of kin) the university will inform the alleged victim/complainant in writing of the final results regardless of whether the university concludes that the violation was committed. Such release of information may include only the alleged student’s/respondent’s name, the violation committed and the sanctions assigned (if applicable). In cases of sex offenses, regardless of written request, the above information and rationale for the outcome will be shared with all parties to the complaint. In cases with the university concludes that the student violated a policy that would constitute a “crime of violence” or non-forcible sex offense, the university may release the above information publicly and/or to any third party. FERPA defines “crime of violence” to include:
  - a. Arson
  - b. Assault offenses
  - c. Burglary
  - d. Criminal Homicide – Manslaughter by negligence
  - e. Criminal Homicide – Murder and non-negligent manslaughter
  - f. Destruction/damager/vandalism of property
  - g. Kidnapping/abduction
  - h. Robbery
  - i. Forcible Sex Act
- VIII. *Admission of Violation* – It is common for individuals accused of policy violations to defend their actions by alleging that the conduct occurred as the result of prescription drug

interaction, self-defense, or the student's disability. In those situations, the university deems such a defense as an admission of violation of the Community Conduct Code. The university will then consider the student's defense as a mitigating factor in determining the appropriate sanctions for the violation.

## **PART 5: STUDENT CONDUCT AUTHORITY**

- I. Authority – Ultimate authority in matters of student conduct, as for all university matters, resides with the President of Mount Marty University as delegated by the Board of Trustees. The Community Conduct Code is administered by the Chief Conduct Officer, Residence Life and Security staff or designee, under the direction of the Vice President for Student Success. The Office of Residence Life and Security shall serve as the Chief Conduct Officer. The Chief Conduct Officer may appoint administrative hearing officers as deemed necessary to efficiently and effectively supervise the student conduct process. In the event that the Office of Residence Life and Security is unable to serve in this roll, a replacement will be designated by the Vice President for Student Success to serve in the role during the absence.

The Chief Conduct Officer will investigate the allegations in a complaint to determine if they have merit. Depending on the nature of the complaint, the investigation may be limited to a review of written reports or may extend to full interviews and collection of evidence. No complaint will be forwarded to a hearing unless there is a reasonable cause to believe a policy violated. Reasonable cause is defined as some credible information to support each element of the offense. A complaint that is not supported by sufficient information will not be forwarded for a hearing. If a minor allegation can be addressed at this stage by mutual consent of the parties involved, on a basis acceptable to the parties involved and the Chief Conduct Officer, such disposition will be final and there will no subsequent proceedings. If the complaint cannot be addressed in a manner mutually acceptable, or for incidents that are not minor, the Chief Conduct Officer will move the complaint into a hearing proceeding.

- II. Interpretation and Revision – Any question of interpretation of the Community Conduct Code will be referred to the Chief Conduct Officer, whose interpretation is final. The Chief Conduct Officer may make any necessary modification to procedure that does not materially jeopardize the fairness owed to any party. The Community Conduct Code will be reviewed and updated annually under the direction of the Chief Conduct Officer and the Vice President for Student Success.

## **PART 6: CONDUCT PROCEDURES**

Part of the educational process is learning how to live in harmony with community members and within a system of standards established by and for the community. Students are accountable to students and other community members for these standards through the procedures outlined below. This system is not a legal process, but, rather, an administrative hearing system. Principles of fairness govern all such bodies.

- I. Complaints – Any members of the university community, visitors, or guests may file a complaint against any student for misconduct by contacting the Office of Student Affairs, the Office of Residence Life or Security. Complaints will be presented to the Chief Conduct Officer or to the Title IX Coordinator when appropriate. Additionally, Mount Marty University

administrators may act on notice of a potential violation whether a formal complaint is made or not. All complaints can be submitted by the victim or a third party, and should be submitted as soon as possible after the offending event occurs. The university has the right to pursue a complaint or notice of misconduct on its own behalf and to serve as complainant in the subsequent campus conduct process. Based on the initial complaint, the Chief Conduct Office will determine if reasonable cause exists to move the case forward or further investigation is needed. Third parties who were not witness to the alleged misconduct should be aware of lack of corroboration may limit the university's ability to address the alleged misconduct.

- II. Methods of Resolution - The Chief Conduct Officer may utilize a variety of methods to resolve a complaint in their sole discretion. Potential resolutions include, but are not limited to, non-conduct meeting with administrators, mediation, and administrative hearings. Students wishing to explore alternative dispute methods are encouraged to discuss the options with the Chief Conduct Officer.
- a. Non- Conduct Meetings – Non-Conduct Meetings are conducted through the Office of Residence Life. The purpose of these meetings is to resolve minor incidents/situations. This form of resolution is an educational conversation aimed at preventing a policy violation or addressing minor policy violations. If the Office of Residence Life feels that the restorative process is not effective, it may cancel the meeting and refer the case the Chief Conduct Officer for traditional adjudication.
  - b. Mediation – The Chief Conduct Officer may also refer a complaint for mediation upon agreement of all involved parties. All Parties must agree to be bound by the outcome of the mediation process. If the parties cannot reach a mutually acceptable resolution, mediator will implement a resolution that cannot be appealed. At no time will complaints of sexual misconduct of a physical nature or violence be mediated.
  - c. Administrative Hearings – Administrative hearings are the most common resolution. In this type of hearing, a student meets with an administrative hearing officer to discuss the incident. The hearing officer will discuss the incident with the student by asking the student to respond to questions about the alleged violation(s). The student may present witnesses and evidence as described below. Based upon this conversation, the hearing officer will determine if it's more likely than not the student violated university policy. The hearing officer will issue a Determination Decision within 15 business days following the conclusion of the administrative hearing.

### **I. Administrative Hearing Process**

The following sections describe MMU's conduct administrative hearing processes. No student may be found to have violated the *Community Conduct Code* solely as a result of the student's failure to appear for a hearing, except in a complaint involving failure to comply with the summons of the Chief Conduct Officer (or designee). In instances where the respondent fails to appear, the conduct hearing will proceed as scheduled and the information in support of the complaint will be presented to, and considered by, the Chief Conduct Officer, or Administrative Hearing Officer presiding over the hearing.

If the facilitator, through the investigation and hearing process, receives information that other violations may have occurred, the facilitator may cancel or suspend the current hearing process and refer the case for back to the Chief Conduct Officer. The Chief Conduct Officer will then decide which methods of resolution to utilize for all alleged violations (new and ongoing).

- II. Notice of Hearing** - If the Chief Conduct Officer determines that an administrative hearing should occur, notice will be given to the accused student. The Chief Conduct Officer will provide written delivered by one of the following methods: (1) via the university's internal email system (preferred method); (2) personally to the student; or (3) mailed via first class regular mail, postage prepaid, to the Student's local or permanent address as set out in the university's records. Notice shall be deemed given when sent by the university if by email or regular mail, and when delivered if given by personal service. The letter of notice will:
- a. Include the alleged violation and notification of where to locate the Community Conduct Code and university procedures for resolution of the complaint; and
  - b. Designate a time, date, and location of the hearing and the name of the hearing officer. If such a determination has not yet been made, the notice shall direct the student to contact the Chief Conduct Officer within a specified period of time to obtain this information. The administrative hearing will generally be held not less than 3 business days from delivery of notice and no more than 10 business days from delivery of notice. The conduct process maybe accelerated or decelerated in the Chief Conduct Officer's sole discretion.

**III. Administrative Hearing Procedure.**

- a. **Advisors.** A Student may have an advisor present during the hearing. The advisor may be a Mount Marty University faculty or staff member or another Mount Marty student. The advisor may not be a witness, legal counsel, or parent/guardian without prior consent from the Chief Conduct Officer. If the student brings an advisor who is ineligible to serve in that role, the hearing will proceed as normal without the advisor. To ensure the integrity of the student conduct process, the role of an advisor is to provide personal and emotional support for the student. Advisors may not speak during a hearing. However, if legal counsel is permitted by the Chief Conduct Officer, legal counsel may advise the student not to answer questions which may harm the student's criminal case.
- b. **Witnesses.** Students are permitted to present witnesses. Students are responsible for assuring that witnesses attend the hearing. If a witness cannot attend a specific hearing time and date, the witness may instead submit a written witness statement to the hearing officer. To verify the identity of the witness, witness statements must be sent from the witness' Mount Marty University student email. Witnesses will be instructed to wait outside the hearing until the hearing officer determines that it is an appropriate time for the witness to testify. The student and the student's advisor may not speak directly to any witness. Instead, to preserve the integrity of the witness testimony and decorum, the hearing officer will pose all questions to the witness. After the hearing officer finishes questioning the witness, the hearing officer will ask the student if the student has any additional questions for the witness. The hearing officer will determine relevance and specific phrasing of each question. It is a violation of the *Community Conduct Code* for witnesses to knowingly provide partial, inaccurate, misleading, or false information during any investigation or hearing.

- c. **Evidence.** In addition to witnesses, a student may present other evidence in support of their case. The hearing officer will be responsible for determining to the best of their judgment whether evidence is relevant and permissible. The university does not hire experts to evaluate the authenticity or validity of evidence. In order to provide a fair and reasonable conduct process, hearing officers will exercise reasonable judgment in evaluating evidence and may consult with others within reason.
- d. **General Rules.** In addition to the rules set forth above, the administrative hearing will proceed under the following general rules:
  - 1. If the student fails to attend the hearing, a decision may be rendered in the student's absence.
  - 2. The hearing officer will welcome advisors who meet the advisor criteria into the hearing. The hearing officer will identify the role of the advisor to the respondent and their advisor.
  - 3. Prior to commencement of testimony, the hearing officer will review the general procedures for the hearing and answer any questions the student may have.
  - 4. The hearing officer will question the respondent regarding the incident and alleged violations.
  - 5. The student will provide truthful and full responses to the hearing officer's questions.
  - 6. Determinations as to the relevance of the evidence are at the discretion of the hearing officer.
  - 7. The hearing will not be recorded without the express prior consent of both the Chief Conduct Officer and the hearing officer.
  - 8. The hearing officer will end the hearing by explaining that a formal decision letter will come to the student via email or other approved means. Decisions are not final until sent to a student via email or other approved means.
  - 9. If the hearing officer determines that the hearing officer needs to hear additional testimony or review evidence that is not in the record as of the date of the hearing, the hearing officer may continue the hearing for up to five (5) business days to enable the student or hearing officer to obtain the additional information. The student shall have an opportunity to respond to any additional testimony or evidence presented by the hearing officer.

**IV. Determination of Hearing** - A hearing officer will make a decision within 15 business days of the conclusion of the hearing. The decision will be based on the preponderance of evidence standard, i.e., it is more likely than not that the student violated the Community Code of Conduct. The decision will be in writing and delivered to the student in one of the same manners as prescribed for delivery of the initial notice of hearing. The hearing officer's decision will include:

- a. A determination as to what, if any, provisions of the Community Conduct Code have been violated and the sanctions for each violation (if applicable). A list of potential sanctions is discussed below;
- b. Notification of where to locate the Community Conduct Code for sanction and appeal information;
- c. The deadline for filing an appeal.

**V. Appeal** - A student may file a written appeal of the hearing officer's decision to the Vice President for Student Success within ten (10) business days of delivery of a Determination of Hearing letter. The appeal is limited, and may only be made on the following grounds: (a)



procedural irregularities; (b) consider new information which was unavailable at the time of the original hearing which could alter the outcome of the case; and/or (c) severity of sanctions issued. The Vice President for Student Success may (a) affirm the Hearing Officer's decision and sanctions; (b) affirm the Hearing Officer's decision and modify sanction(s); (c) remand the case back to the Hearing Officer for a new hearing if proper procedures were not followed; or (d) reverse the Hearing Officer's decision based on new information. The Vice President shall provide his/her written decision to the student within 30 business days after the appeal has been submitted. Only one appeal is allowed; therefore, the decision of the Vice President for Student Success is considered final and no further appeals will be considered. After the appeal hearing, students may request a meeting with the Chief Conduct Officer or Vice President of Student if they wish to provide additional information on the process or receive clarification.

- VI. Accelerated Administrative Hearing** - The Chief Conduct Officer has the authority to grant an accelerated conduct process. An Accelerated Hearing is an Administrative Hearing that is scheduled no less than 12 hours from the time of delivery of notice to the student. The remainder of the process follows the Administrative Hearing Procedure. Accelerated Hearings are used when a student has committed an act including, but not limited to:
1. Participated in an act that endangers self or others;
  2. Participated in an act that warrants an interim suspension;
  3. Receiving a felony charge (or a felony charge is eminent) issued by federal/state/local authorities;
  4. Excessive Repeat Violations that could result in the following:
    - a) University Housing Suspension
    - b) University Housing Expulsion
    - c) University Suspension
    - d) University Expulsion

Accelerated hearings are handled on a case-by-case basis and may result in accelerated timelines for determination and appeal in accordance to the administrative hearing process. All accelerated hearings and subsequent determination and appeal timelines are at the discretion of the Chief Conduct Officer and the Vice President for Student Success.

- VII. Accelerated Determination** - An Accelerated Determination is an administrative decision that is conducted by the Chief Conduct Officer. This process is used for minor incidents and situations including, but not limited to:
1. Limited time before winter and summer academic recess.
  2. Violation of Health & Safety inspection;
  3. Failure to Evacuate During Fire Drill;
  4. Large Volume of Students in one incident (ex. party, extracurricular event, etc.);
  5. Minor Violations that would result in a verbal or written warning;
  6. Community Damage that results in a building/hall fine.
  7. Student seeking admission/re-admission into the university and has prior conduct history (includes federal, state, local).
  8. Multiple Parking Ticket Violations;
  9. Summer Housing Violations

As part of the accelerated determination process, the accused student will receive in writing:

1. The alleged violation and notification of where to locate the Community Conduct Code and university procedures for resolution of the complaint;
2. The results of the alleged violations;

3. Sanctions if found responsible for violation(s).
  - a) The accused student/respondent will receive the lowest typical sanctions that are associated with each violation.
4. Deadline to appeal decision

If an appeal of the decision is warranted then the general Administrative Hearing process will take place.

The Accelerated Determination process cannot be used when a student has committed an act including, but not limited to:

1. Participated in an act that endangers self or others;
2. Participated in an act that warrants an interim suspension;
3. Received or pending a felony charged issued by federal/state/local authorities;
4. A single severe violation or excessive repeat violations that could result in the following:
  - a) University Housing Suspension
  - b) University Housing Expulsion
  - c) University Suspension
  - d) University Expulsion

## **PART 7: CONDUCT SANCTIONS**

### **I. Conduct Hold**

As stated in the Student Handbook, a "hold" can be placed on a student's account record when the student has not fulfilled a responsibility to the Community Code of Conduct or the university. A "hold" prevents a student from registering for classes and/or obtaining an official transcript. A hold may also prevent a student from moving in or returning to housing. The most common reasons that "holds" are placed on a students' account include unpaid damage bills, fines, or unfulfilled disciplinary sanctions.

### **II. Interim Suspension**

The Chief Conduct Officer may impose an interim suspension, under the Community Conduct Code, when the Chief Conduct Officer, in his or her sole discretion, deems such an action necessary to protect the health and safety of a student or of the community; preserve university property; pursue an investigation and/or hearing; or to prevent disruption of, or interference with, the normal operations of the university. Interim suspension will be used for short periods of time, pending an Administrative Hearing.

During an interim suspension, a student will be denied access to university housing and/or to the university campuses. This restriction may include classes and/or all other university activities or privileges for which the student might otherwise be eligible. The student will be required to turn in all forms of university access (keys, access card, etc.) At the discretion of the Chief Conduct Officer and with the approval of, and in collaboration with, the Vice President of Student Success and Vice President of Academic Affairs, alternative coursework options may be pursued to ensure as minimal an impact as possible on the accused student.

### **III. General Sanctions**

Mount Marty University sanctions are divided into three categories: status, educational, and restrictive sanction. Most violations will result in a status sanction and one or more educational sanctions. Sanctions are determined based upon the severity of the violation, past conduct history, and any aggravating or mitigating factors. One or more of following

sanctions may be imposed upon any student for any single violation of the Community Conduct Code:

- A. **Status Sanctions:** Status sanctions reflect the student's relationship with the university. Status sanctions typically escalate with each offense, although it is not necessary that a first sanction begin with a warning. Sanctions are determined based upon the nature of the offense after reviewing aggravating and mitigating factors. Status sanctions include:
1. **Warning:** A written notice will be sent to the student(s) who violated university policies and/or rules. It specifies that inappropriate and unacceptable actions have occurred and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the university.
  2. **Level I Conduct Probation:** A written reprimand that expires after a specified time. This sanction specifies that serious or repeated inappropriate and unacceptable actions have occurred and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the university. Good Conduct Standing with the university is removed during the specified time period.
  3. **Level II Conduct Probation:** A written reprimand that remains in effect during the remainder of the student's academic career. It specifies that repeated or severely inappropriate and unacceptable actions have occurred and that future violations will likely result in suspension or expulsion. The parents, guardians, or financial sponsors of students who are dependents as defined by FERPA will be notified of this status. Good Conduct Standing with the university is removed for no less than 2 calendar years; a specified time will be outlined in the notice.
  4. **University Suspension:** The student is separated from the university for a specified period of time, and upon the satisfaction of specific conditions, after which the student is eligible to return. Separation includes physical & electronic removal from the university. The Chief Conduct Officer will notify the Mount Marty University IT Department once an appeal has ended or the appeal period has elapsed. IT will then remove electronic access and accounts will be deactivated. The student is required to vacate university housing and/or campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of the Chief Conduct Officer, Office of Residence Life and the Vice President for Student Success. Suspended students are banned from campus and all university affiliated properties for the duration of their suspension. Temporary exceptions for university related business may be granted by the Vice President for Student Success. The parents, guardians, or financial sponsors of students who are dependents as defined by FERPA will be notified of this status.
  5. **University Expulsion:** The student is permanently separated from the university. The student is barred from being on campus and the student's presence at any university-sponsored activities or events is prohibited. Separation includes physical & electronic removal from the university. Chief Conduct Officer will notify IT once an appeal has ended or the appeal period has elapsed. IT will then remove electronic access and accounts will be deactivated. The student is required to vacate university housing and/or campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Office of Residence Life and the Vice President for Student Success. Expelled students are banned from campus and all university affiliated properties. Temporary exceptions for university related business may be granted by the Vice President for Student Success. The parents, guardians, or financial sponsors of students who are dependents as defined by FERPA will be notified of this status.

- B. **Educational and Restorative Sanctions:** Educational and restorative sanctions are designed to enhance the educational outcomes of the student conduct program. Educational and restorative sanctions frequently serve to repair harm to individuals or communities, provide additional education on a given subject, or aid students in considering their educational and personal goals and priorities.
1. **Educational Program:** This is a requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
  2. **Community/University Service Requirements:** For a student or organization to complete a specific supervised university service.
  3. **Behavioral Requirement:** This includes required activities such as, but not limited to, seeking academic counseling, counseling assessment, personal counseling, writing a letter of apology, etc.
  4. **Research Projects:** This includes required activities such as, but not limited to, writing papers, creating educational materials and bulletin boards, etc.
  5. **Restitution:** Compensation for damage caused to the university or any person's property. This is not a fine but, rather, a repayment for destroyed, damaged, consumed, or stolen property.
- C. **Restrictive Sanctions:** Restrictive sanctions modify a student's privileges on-campus. These sanctions are typically not the primary sanctions used by the university. However, repeated or serious violations may warrant one or more restrictive sanctions.
1. **Fines:** Fines may be imposed.
  2. **Banning/Trespass:** The student's privilege to be present at or utilize certain buildings, facilities, classrooms, etc. are restricted. Temporary exceptions to banning for university related business may be granted by the Vice President for Student Success.
  3. **Eligibility Restriction:** The student is deemed "not in disciplinary good standing" with the university for a specified period of time. Specific limitations or exceptions may be granted by the Chief Conduct Officer and terms of this conduct sanction may include, but are not limited to, the following:
    - a) Ineligibility to hold any office in any student organization recognized by the university or hold an elected or appointed office at the university; or
    - b) Ineligibility to represent the university to anyone outside the university community in any way including: participating in the study abroad program, attending conferences, or representing the university at an official function, event or intercollegiate competition as a player, manager or student coach, etc.
  4. **Loss of Privileges:** The student will be denied specified privileges for a designated period of time.
  5. **Confiscation of Prohibited Property:** Items whose presence is in violation of university policy will be confiscated and will become the property of the university. Prohibited items may be returned to the owner at the discretion of the Chief Conduct Officer.
- D. **University Housing Sanctions:** University housing sanctions are imposed when a student's behavior also violates the terms and condition of their housing license agreement.
1. **Restriction of Visitation Privileges:** An individual residing in university provided housing may be restricted from having guests. The parameters of the restriction will be specified.

2. **University Housing Reassignment:** The student is reassigned to another university provided housing facility. Residence Life personnel will decide on the reassignment details.
  3. **University Housing Suspension:** The student is removed from university provided housing for a specified period of time after which the student is eligible to return. During this time the student's privilege to live in, or visit, any university provided housing structure is revoked. Conditions for re-entry to university provided housing may be specified. Under this sanction, a student is required to vacate university provided housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life and Security. The parents, guardians, or financial sponsors of students who are dependents as defined by FERPA will be notified of this status. This sanction may be enforced with a trespass action if deemed necessary.
  4. **University Housing Expulsion:** The student's privilege to live in, or visit, any university provided housing structure is revoked indefinitely. Under this sanction, a student is required to vacate university provided housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life and Security. The parents, guardians, or financial sponsors of students who are dependents as defined by FERPA will be notified of this status. This sanction may be enforced with a trespass action if deemed necessary.
- E. **Other Sanctions:** Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Chief Conduct Officer.
- F. The following sanctions may be imposed upon groups or organizations found to have violated the Community Conduct Code:
1. One or more of the sanctions listed above in the educational and restorative sanctions, restrictive, and other sanctions sections; and/or
  2. Deactivation, de-recognition, loss of all privileges (including university registration), organizational probation for a specified period of time and upon fulfillment of certain conditions.

#### **IV. Failure to Follow Through on Conduct Sanctions**

All students, as members of the university community, are expected to comply with conduct sanctions within the time frame specified by the hearing officer. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect or any other reason, may result in a conduct hold being placed on a student's account or result in suspension from the university and, in such situations, resident students will be required to vacate university provided housing within 24 hours of notification by the Chief Conduct Officer. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. This determination will be made by the Chief Conduct Officer.

### **PART 8: DISCIPLINARY RECORDS AND RIGHTS TO KNOW**

Documents that are created and maintained as part of the conduct process are subject to the protections of the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g. Conduct records are maintained by Office of Residence Life in accordance with the university records retention policy.

Private conduct records are maintained by the university for seven (7) years after the graduation or withdrawal of the student. Other than university suspension and expulsion, conduct sanctions will not be made a part of the student's permanent conduct record, but will become a part of the

student's private conduct record. During this time, students may visually inspect the record by contacting the Chief Conduct Officer who will arrange an opportunity for the student to inspect the record. For the complete Records and Right to Know Policy please see the Records and Right To Know section of the Student Handbook.

## **PART 9: STUDENT RIGHT TO KNOW AND CAMPUS SECURITY ACT OF 1990**

The Student Right to Know and Campus Security Act of 1990 is a federal mandate which requires all current students and employees be provided with information on policies and procedures involving campus security, the reporting of criminal action or other emergencies, and the enforcement authority of security personnel. This information must also include descriptions of programs for students and employees about campus security and crime prevention, as well as statistics on the occurrence of specific crimes. The full report is posted on the university website each October. Hardcopies are available on request.

## **PART 10: COMMUNITY CONDUCT CODE**

### **I. Definitions**

- a. The term "the university" refers to Mount Marty University.
- b. The term "student" includes all persons who have accepted admission to, enrolled at, are taking courses at, and/or have a continuing relationship with the university, including those who attend full- or part-time at the undergraduate or non-matriculated level.
- c. The term "faculty member" refers to any person employed by the university to conduct instructional activities.
- d. The term "University official" includes any person employed by the university who is designated as an official or who holds administrative or professional supervisory responsibilities.
- e. The term "member of the university community" refers to any person employed by, volunteering for, or attending the university as a student, faculty member, administrator, staff member, intern, or volunteer.
- f. The term "university property" includes all land, buildings, facilities, and other property in the possession of, owned or controlled, whether leased or rented, by the university.
- g. The term "organization" refers to any number of persons who have complied with the formal requirements for university registration, or who are members of university sponsored-groups.
- h. The term "Hearing Officer" refers to any person authorized by the Chief Conduct Officer or the Vice President for Student Success to determine whether a student has violated the Community Conduct Code and to impose sanctions.
- i. The term "Chief Conduct Officer" refers to the VP for Student Success designee, who represents the university by managing the daily operations of the student conduct system and impose sanctions upon students found in violation of the Community Conduct Code.

- j. The term "Complainant" refers to any member of the university community, visitors, or guests who file a complaint against any student for misconduct by contacting the Department of Student Life, the Office of Residence Life.
- k. The term "illegal drug" is defined as a substance defined and regulated under the provisions of the Federal Controlled Substances Act, and includes but is not limited to: CNS depressants, CNS stimulants, hallucinogens, or other illegal drugs such as PCP, cocaine or crack.
- l. The term "use of drug" includes: the misuse of prescription or over-the-counter medication; the possession of drug paraphernalia; and/or the use, possession, manufacture, sale or distribution of any one or more illegal drugs (including cannabis used or possessed for medical purposes).
- m. The term "will" is used in the imperative sense.
- n. The term "may" is used in the permissive sense.
- o. The term "policy" is defined as the written rules of the university found in, but not limited to the *Community Conduct Code, Student Handbook, and Academic Catalog*.
- p. The term "day" refers to a regular business day when university offices are open.
- q. The term "position of trust" refers to student job or leadership position in which a student has been entrusted with special responsibilities or information within an office, community, team, or organization.
- r. The term "Good Conduct Standing" refers to the status in which a student is fully eligible to participate in university activities and privileges.

## **II. Core Values and Behavioral Expectation Policy**

The university considers the behavior described in the following sections as inappropriate for the Mount Marty University community and in opposition to its core values. These expectations and rules apply to all students. Further additional behavioral expectations may be applied to a student based upon the professional ethics and guidelines of their field of study. The university encourages community members to report to university officials all incidents that involve the following actions.

Provided below are examples of violations for each of the Core Values. These example violations are in themselves policies and/or standalone policies.

- A. *Excellence in Integrity*: MMU students exemplify honesty, honor and a respect for the truth in all of their dealings. Behavior that violates this value includes, but is not limited to:
  1. Acts of academic dishonesty as outlined in the Academic Catalog;
  2. Knowingly furnishing false, falsified, or forged information to any member of the university community such as falsification or misuse of documents, accounts, records, identification or financial instruments;
  3. Unauthorized possession, duplication or use of means of access to any university building (i.e. keys, cards, etc.);

4. Action or inaction by someone in collusion with another or others to violate these rules;
  5. Violations of positions of trust within the community;
  6. Tampering with the election of any university-recognized student organization;
  7. Misuse or unauthorized use of university or organizational names and images.
  8. Violating the university Copyright Policy;
  9. Taking possession of property that is known to be or reasonably should have been known to be stolen;
  10. Intentional and unauthorized taking of university property or the personal property of a member of the university community;
  11. Violating the university IT Policy;
- B. *Commitment to Community*: Mount Marty students honor and value their community. Behavior that violates this value includes, but is not limited to:
1. Misuse of access privileges to university premises or unauthorized entry to or use of buildings, including trespassing; only the university may grant access; students may not grant or transfer access rights to another individual;
  2. Remaining in or near a university building while behaving in a manner inconsistent with the intended purpose of that location, such as loitering, sleeping for excessive periods of time, hanging out of or climbing from/on/in windows, balconies, roofs, etc;
  3. Intentional and unauthorized destruction of, defacement of, or damage to, university property or to the personal property of a member of the university community;
  4. Violation of the Solicitation Policy;
  5. Violation of the Campus Security policies;
  6. Violation of any policy that is outlined in Student Handbook;
  7. Violation of any policy that is outline in the Academic Catalog;
  8. Gambling prohibited by law;
  9. Possession, use, or distribution of explosives (including fireworks and ammunition), guns (including air, BB, paintball, and pellet guns), or other weapons or objects that could be construed as weapons such as arrows, axes, machetes, nunchucks, throwing stars, or knives (with the exception of some kitchen knives in the university suites and university dining hall) with a blade of longer than four (4) inches;
  10. Storing any item that falls within the category of a weapon in a vehicle parked on university property;
  11. Use of alarmed doors for entry into or exit from a Mount Marty University building. Activating an alarmed door may result in a \$75 fine;
  12. Violation of the University Alcohol Policy;
  13. Violation of the University Drug Policy;
  14. Assisting in, inciting, or condoning the violation of university policies or local, state or federal laws;
  15. Violation of local, state or federal laws (other than minor traffic violations);
  16. Intentional failure of any organized group to exercise preventative measures relative to violations of the *Community Conduct Code* by its members;
  17. Knowingly condoning or remaining in the presence of a violation of these rules without:
    - a. Leaving the area where the violation was occurring; or
    - b. Intervening or confronting the violation in an effort to stop it; or
    - c. Contacting the appropriate staff members to address the violation.



18. Violation of other published university policies or rules; or
  19. Intentionally or recklessly causing a fire which damages university or personal property or which caused injury to any member of the community.
  20. Failing to report a lost Mount Marty University key or identification card; or
  21. Violation of local, state, federal or campus fire policies including, but not limited to:
    - a. Failure to evacuate a university-controlled building during a fire alarm;
    - b. Improper use of university fire safety equipment; or
    - c. Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on university property. Such action may result in a \$1,000 fine in addition to university sanctions;
- C. *Respect for Others:* Mount Marty students show positive regard for each other, for property and for the community. Behavior that violates this value includes, but is not limited to:
1. Threatening, or causing, physical harm, written or verbal abuse or other conduct that threatens or endangers the health or safety of any person;
  2. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
  3. Violation of the university's abusive affiliation policy (as set forth below);
  4. Violence between those in an intimate relationship with one another;
  5. Stalking, defined as repetitive and/or menacing pursuit (physical or electronic), following harassment and/or interference with the MMU and/or safety of a member of the community or any of the immediate family of a member of the community;
  6. Sexual misconduct including sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, or sexual exploitation;
  7. Violation of the university's Title IX policy;
  8. Inappropriate conduct which is disorderly, disruptive, obscene or indecent while on campus or at functions sponsored, or participated in, by the university;
  9. Conduct Unbecoming while on-campus, off-campus, or at functions sponsored, or participated in, by the university including, but not limited to:
    - a. Any action that constitutes criminal offense as defined by federal or state law. This includes, but is not limited to, single or repeat violations of any local, state or federal law;
    - b. Any situation where it appears that the student may present a danger or threat to the health or safety of him/herself or others;
    - c. Any situation that significantly impinges upon the rights, property, or achievements of self or others; and/or
    - d. Any situation that is detrimental to the educational interests of the university.
  10. Failure to comply with the directives of university officials or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so;
  11. Smoking (including vaping or the use of e-Cigarettes) in any university building or in any undesignated area on university property; or any other violation of the smoking policy as outlined in the student handbook; or
  12. Using a bathroom designated for a person of the opposite gender.
  13. Discrimination, defined as any distinction, preference, advantage for or detriment to an individual compared to others that is based upon an individual's actual or perceived sex, gender, race, color, age, creed, national or ethnic origin, physical

or mental disability, veteran status, pregnancy status, religion, gender identity, or sexual orientation that is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the university's educational program or activities;

14. Discriminatory Harassment, defined as detrimental action based on an individual's actual or perceived gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, gender identity, sexual orientation or other protected status that is unwelcome and unreasonably interferes with or limits a student's ability to participate in or benefit from the university's educational program or activities;
  15. Retaliatory Harassment, defined as any intentional, adverse action taken by an accused individual or allied third party, absent from legitimate nondiscriminatory purposes, that harms an individual as reprisal for filing or participating in a civil rights grievance proceeding;
  16. Bullying, or cyber bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally that includes, but is not limited to: creating web pages with a negative focus; posting insults or lewd photos/videos/audio recordings on social networking sites; or spreading rumors with malicious intent;
  17. Disruption of university operations including obstruction of teaching, research, administration, other university activities, or other authorized non-university activities which occur on campus;
  18. Obstruction of freedom of movement by community members or visitors;
  19. Abuse or interference of, or failure to comply in, university processes including conduct; or
  20. Abuse of the campus conduct system including, but not limited to:
    - a. Failure to appropriately respond to a letter of notice, or summons letter;
    - b. Failure to attend meetings scheduled for conduct code administration purposes;
    - c. Falsification, distortion, or misrepresentation of information;
    - d. Failure to provide, destroying, or hiding information during an investigation of an alleged policy violation;
    - e. Attempting to discourage an individual's proper participation in, or use of, the campus conduct system;
    - f. Harassment (verbal or physical) and/or intimidation of a member of a campus conduct body prior to, during, and/or following a campus conduct proceeding;
    - g. Failure to comply with the sanction(s) imposed by the campus conduct system; or
    - h. Influencing, or attempting to influence, another person to commit an abuse of the campus conduct system.
- D. Residence Halls: Students and their guests are subject to the following residence hall policies as published in the Student Handbook:
1. Violation of University Guest Policy;
  2. Violation of University Visitation Policy;
  3. Violation of University Escort Guest/Visitor Policy;
  4. Violation of Excessive Guest/Visitor Policy;
  5. Violation of Cohabitation Policy;
  6. Violation of Excessive Noise Policy;
  7. Violation of Quiet Hours;

8. Violation of Check-Out Procedures;
9. Violation of the Inter-visitation Policy
10. Violation of the Lounge Policy
11. Violation of Room Consolidation Procedures;
12. Placement of sound equipment or speakers in residence hall windows;
13. Violation of Sports in the Hallway Policy;
14. Possession of a Prohibited Item;
15. Possession or use of non-approved appliances,
16. Possession or use items determined to be a fire hazard;
17. Possession or use of an open-flame source or flammable liquid in the residence halls including, but not limited to, oil lamps, candles, incense, gasoline and lighter fluid;
18. Removal, Possession, and/or Improper use of furniture and/or other furnishings provided by the university;
19. Violation of Decorating and/or Sign Policy;
20. Covering more than one-third of the wall or door space of a residence hall room;
21. Engaging in acts of Vandalism & Property Damage;
22. Failing to place trash and/or recycling in designated containers;
23. Using a residence hall room for business purposes;
24. Engaging in unauthorized room switch;
25. Improper use and/or removal of university furniture including lounge and residence hall room furniture;
26. Possession of a pet;
27. Violations of Mount Marty University Housing License Agreement.
28. Violation of any Residence Life and Housing policies outlined in the Student Handbook.

## **PART 11: ALCOHOL AND DRUG POLICY**

To comply with the Drug Free Schools and Communities Act of 1989 and subsequent amendments, MMU prohibits the unauthorized manufacture, sale, possession, use or consumption of alcohol, marijuana (including cannabis used or possessed for medical purposes), or controlled substances by students, faculty, staff, or other visitors while on MMU's property or as part of any MMU-sponsored activity. In addition to the *Community Conduct Code*, students and employees are also subject to all applicable legal sanctions under local, state and federal law for any offenses involving the unauthorized manufacture, sale, possession, use, or consumption of alcohol, marijuana (including cannabis used or possessed for medical purposes), or controlled substances on university property or at university-sponsored activities.

Illegal drug use is harmful and detrimental to the educational objectives of MMU. The illegal use or abuse alcohol, marijuana (including cannabis used or possessed for medical purposes), or other controlled substances by students and employees could result in cognitive deficits, loss of productivity and other health risks. These risks include an increased incidence of accidents which may result in death or permanent injury. Referral resources may include assessment, individual counseling, educational programs, materials, and referral and case management through community agencies. Students exhibiting signs of excessive alcohol consumption will, at a Mount Marty University agent's discretion, be transported via Emergency Medical Services (EMS), and at the student's expense, for medical attention. Refusal to cooperate with EMS personnel may result in arrest for emergency detention in order to ensure the student's health and safety.

## **I. Policy on Parental Notification**

MMU is concerned about students who improperly use alcohol and other drugs and the effects such use may have on their health, academic success, interpersonal relationships and, ultimately, their future. Mount Marty University reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly Level II Conduct Probation, loss of housing, suspension, and expulsion. Mount Marty University also reserves the right to designate which university employees have a legitimate need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA) and will share information accordingly.

## **II. Alcohol Policy**

The following sections describe MMU's policy regarding the sale, service, distribution, and consumption of alcoholic beverages on university property or at university-sponsored events in accordance with federal, state and local laws. Refer to the Student Handbook for a full copy of the *Mount Marty University Alcohol Policy*.

### **A. Basic Guidelines**

Mount Marty University is alcohol free. Possession and/or consumption of alcohol is in violation with the MMU Alcohol Policy.

The following is a list of MMU alcohol policy violations:

1. *Possession or consumption of alcohol by a person.*
2. *Possession of empty alcohol containers by a person under the age of 21;*
3. *Being present in an area where alcohol is prohibited while alcohol is present;*
4. *Furnishing, selling, or providing (including access to) alcohol to a person under the age of 21;*
5. *Hosting a party where persons exceeds guest limits and/or excessive alcohol is present and persons under the age of 21 are consuming or have consumed alcohol;*
6. *Driving Under the Influence/Driving While Intoxicated:* Mount Marty University is concerned about students who violate state and local laws regarding consumption of alcohol and the operation of motor vehicles. In accordance with state law, the university abides by the legal definition of intoxicated as "not having the normal use of mental or physical faculties by reason of introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body" or 0.08 Breath or Blood Alcohol Concentration. In addition, students under the legal minimum drinking age of 21 years who are found to have any detectable amount of alcohol in their systems will be considered driving under the influence of alcohol and subject to penalties under that offense.
7. *Possessing, using, or serving from a common source:* common sources include punch bowls, kegs, party balls, or equivalent;
8. *Possessing excessive quantities of alcohol:* Egregious amounts of alcohol present will impact the severity of sanctions considered in a violation.
9. *Being intoxicated or showing physical or mental impairment following or resulting from alcohol use regardless of age:* a person is showing physical or mental impairment if the person is unable to coherently and respectfully answer questions, comply with the instructions of a university official, or is unable to walk unassisted;
10. *Participating in or being present during a drinking game or simulated drinking game regardless of age; and*

11. *Possession of alcohol including empty containers, regardless of the student's age, in any location other than a residence hall room, residence hall apartment, or university sponsored event where alcohol is specifically permitted.*

## **B. Sanctioning**

Hearing officers have been trained to carefully weigh a variety of factors when determining sanctioning. Below are three lists of violation categories and common sanctions for each offense. The list below is a suggestion; each hearing officer must consider a variety of aggravating and mitigating factors. Potential aggravating factors include but are not limited to: hosting a party where persons under 21 are consuming alcohol; failing to cooperate with the instructions of a university official or law enforcement officer; disorderly conduct; being verbally abusive toward staff or students; quantity of alcohol; potential for injury to self or others; and past conduct history. Potential mitigating factors include but are not limited to: compliance with the instructions of staff; admitting responsibility during the hearing or the documentation of the incident; conducting oneself in an appropriate manner; student is able to articulate personal responsibility; student creates and follows a treatment plan prior to hearing; and assisting the staff addressing the incident.

Minor Violations of the Alcohol Policy including but not limited to: being present while alcohol is being consumed; possession of an empty alcohol container; and consumption/possession by a person under the age of 21.

1. First Offense—Possible sanctions include, but are not limited to:
  - a) Warning - Level I Conduct Probation;
  - b) Participation in an alcohol education class.
  - c) Fine of \$50 for students 21 or older or \$75 for minors.  
Other sanctions as determined by Chief Conduct Officer (or designee).
  - d)
2. Second Offense— Possible sanctions include, but are not limited to:
  - a) Level I Conduct Probation – Level II Conduct Probation
  - b) Authorship of a research/reflection essay; and/or
  - c) Other sanctions as determined by Chief Conduct Officer.
  - d) Fine of \$100 for students 21 or older or \$150 for minors.
3. Third and Subsequent Offenses—Possible sanctions include, but are not limited to:
  - a) Level II Conduct Probation.
  - b) Mandated substance abuse assessment by an approved agency and required compliance with the assessing counselor's evaluation;
  - c) Authorship of a research/reflection essay;
  - d) Notification of parents/guardians of dependent students as defined by FERPA;
  - e) Subsequent offenses will result in loss of housing, suspension, or expulsion from the university; and/or
  - f) Other sanctions as determined by the Chief Conduct Officer.

Serious violations of the university alcohol policy, including but not limited to: hosting a party where persons under the age of 21 are consuming or have consumed alcohol; non-compliance with or disrespect toward staff while also violating a policy that would be categorized as a minor violation of the alcohol policy; consuming alcohol in a space other than designated areas; and furnishing, selling, or providing alcohol to a person under the age of 21.

1. First Offense—Possible sanctions include, but are not limited to:
  - a) Level I Conduct Probation;
  - b) Participation in an alcohol education activity at the student’s expense and as determined by the hearing officer;
  - c) Authorship of a research/reflection essay; and/or
  - d) Other sanctions as determined by the Chief Conduct Officer.
  - e) Fine of \$50 for students 21 or older or \$75 for minors.
  
2. Second and Subsequent Offenses—Possible sanctions include, but are not limited to:
  - a) Level II Conduct Probation
  - b) Authorship of research or reflection paper
  - c) Fine of \$100 for students 21 or older or \$150 for minors.
  - d) Notification of parents/guardians of dependent students as defined by FERPA
  - e) Subsequent offenses will result in loss of housing, suspension, or expulsion from the university and/or
  - f) Other sanctions as determined by the Chief Conduct Officer.

Major violations of the university alcohol policy, including but not limited to: possessing, using, or serving from a common source of alcohol; driving under the influence where there is no injury or other aggravating factors; and consuming alcohol to the point where intervention by staff, police, or EMS is required.

1. First Offense—Possible sanctions include, but are not limited to:
  - a) Level II Conduct Probation
  - b) Participation in an alcohol education activity and/or a Minor in Possession course, at the student’s expense and as determined by the Chief Conduct Officer (designee);
  - c) Observation of one or more sessions of the County Misdemeanor or Felony Drug Court as determined by the Chief Conduct Officer;
  - d) Community services hours to be performed at a specific location as determined by the Chief Conduct Officer;
  - e) Authorship of a research/reflection essay;
  - f) Fine of \$50 for students 21 or older or \$75 for minors;
  - g) Notification of parents/guardians of dependent students as defined by FERPA ;
  - h) and/or Other sanctions as determined by the Chief Conduct Officer.
  
2. Second and Subsequent Offenses— Possible sanctions include, but are not limited to:
  - a) Suspension or expulsion from the university;
  - b) Fine of \$100 for students 21 or older or \$150 for minors.
  - c) Notification of parents/guardians of dependent students as defined by FERPA; and/or
  - d) Other sanctions as determined by the Chief Conduct Officer.

### **III. Illegal Drug Policy**

The following sections describe the university’s policy regarding the sale, manufacture, distribution, possession and use of controlled substances (including cannabis used or possessed for medical purposes) on or off university property or at university-sponsored events in accordance with federal, state and local laws. This policy provides flexibility for the university in addressing drug-related offenses which occur on or off-campus. Moreover, it permits the university to address its fundamental mission of holistic education and the development of human potential. While recognizing that there is a need to address violations related to the use or possession of controlled substances, the university must address the education and well-being of all its students and

employees. In addition to university imposed sanctions, students and employees are subject to all legal sanctions under federal, state and local law for any offenses involving illegal drugs on university property or at university activities.

#### **A. Basic Guidelines**

MMU strictly prohibits the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances (including cannabis used or possessed for medical purposes) by MMU students or employees while on MMU property, at an MMU sponsored activity, or in any workplace controlled by MMU. Students or employees with valid prescriptions for the use of controlled substances are permitted to store or use those controlled substances as needed; however, all medications must remain in the prescription bottle with the student's or employee's identification clearly printed. For purposes of this section, a prescription does not include a written certificate for medical marijuana pursuant to SDCL 34-20G-1(23) or other similar statute in another jurisdiction. Students or employees who use medical cannabis pursuant to a validly issued written certification when not on property controlled by MMU or at an MMU sponsored activity may subsequently report to class, work, or participate in MMU activities as long as such use does not cause impairment or disrupt academic or campus activities. .

The following is a list of Mount Marty University drug policy violations:

1. *Possession of Drug Paraphernalia, including but not limited to;*
  - a. bong, rolling paper, pipes, bats, grinder, vaporizer, scales, etc.
  - b. any container that a reasonable person would believe is for the use or storage of illegal, synthetic drug, or unlawfully obtained prescription drug;
2. *Possession of Illegal Drug(s), including but not limited to;*
  - a. any form of illegal drug, synthetic drug, or unlawfully obtained prescription drug, including cannabis used or possessed for medical purposes;
3. *Use of Drug Paraphernalia;*
4. *Use of Illegal Drug(s) (including cannabis used or possessed for medical purposes);*
5. *Being present in an area where drugs or drug paraphernalia are present;*
6. *Furnishing, selling, or providing (including access to) drugs or drug paraphernalia;*
7. *Hosting a party where persons exceeds guest limits and/or drugs are present and/or have been consumed/used;*
8. *Driving Under the Influence/Driving While Intoxicated:* Mount Marty University is concerned about students who violate state and local laws regarding drug use and the operation of motor vehicles. In accordance with state law, the university abides by the legal definition of intoxicated as "not having the normal use of mental or physical faculties by reason of introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body."
9. *Showing physical or mental impairment following or resulting from drug use regardless of location:* Impairment may be indicated by, but is not limited to, the following: employee or student self-reports, interactions with co-workers or students, manual dexterity, coordination, alertness, speech, vision acuity, concentration, response to feedback, suicidal or threatening statements, changes in personal hygiene, memory, excessive absenteeism, a pattern of absenteeism, the odor of alcohol or marijuana, or the inability to coherently and respectfully answer questions;
10. *Intent to or action of distribution, selling, or manufacturing any form of illegal, synthetic drug, or unlawfully obtained prescription drug.*

## **B. Safe Harbor**

The university has a Safe Harbor rule for students. The university believes that students who have a drug and/or addiction problem deserve help. If any MMU student brings their own use, addiction or dependency to the attention of university officials outside the threat/use of drug tests or conduct sanctions and seeks assistance, a conduct complaint will not be pursued. A written action plan may be used to track cooperation with the Safe Harbor program by the student. Failure to follow the action plan will nullify the Safe Harbor protection and campus conduct processes will be initiated.

## **C. Sanctioning**

Hearing officers have been trained to carefully weigh a variety of factors when determining sanctioning. Below are two lists of violation categories and common sanctions for each offense. The list below is a suggestion; each hearing officer must consider a variety of aggravating and mitigating factors. Potential aggravating factors include but are not limited to: failing to cooperate with the instructions of a university official or law enforcement officer; disorderly conduct; being verbally abusive toward staff or students; potential for injury to self or others; and past conduct history. Potential mitigating factors include but are not limited to: compliance with the instructions of staff; admitting responsibility during the hearing or the documentation of the incident; conducting oneself in an appropriate manner; student is able to articulate personal responsibility; student creates and follows a treatment plan prior to hearing; and assisting the staff addressing the incident.

*Manufacture, Sale or Distribution of Illegal Drugs (including cannabis used or possessed for medical purposes):*

1. First Offense—Sanctions include, but are not limited to:
  - a) Suspension or expulsion from the university;
  - b) Immediate removal from housing;
  - c) Notification of parents/guardians of dependent students as defined by FERPA;
  - d) Notification of law enforcement authorities; and/or
  - e) Other sanctions as determined by the Chief Conduct Officer (or designee).

*For the Possession or Use of Drug Paraphernalia, Synthetic Substances and/or Illegal Drugs:* Drug paraphernalia (e.g. bongs), illegal drugs, and synthetic substances (e.g. K2, Spice) whose common purpose is to replicate the effects of illegal substances are prohibited on campus.

1. First Offense—Possible sanctions include, but are not limited to:
  - a) Level I – Level II Conduct Probation
  - b) Participation in a drug education activity, at the student's expense and as determined by the Chief Conduct Officer (or designee);
  - c) Observation of one or more sessions the County Misdemeanor or Felony Drug Court as determined by the Chief Conduct Officer (or designee);
  - d) Authorship of a research/reflection essay;
  - e) Fine of \$100;
  - f) Notification of parents/guardians of dependent students as defined by FERPA; and/or
  - g) Other sanctions as determined by the Chief Conduct Officer (or designee).
2. Second and Subsequent Offenses—Possible sanctions include, but are not limited to:
  - a) Loss of housing, permanent loss of good conduct standing, suspension or expulsion from the university;
  - b) Fine of \$200;
  - c) Notification of parents/guardians of dependent students as defined by FERPA; and/or
  - d) Other sanctions as determined by the Chief Conduct Officer (or designee).



## **PART 12: DISCRIMINATION & SEXUAL MISCONDUCT POLICY**

Mount Marty University welcomes students of all faiths and promotes a policy of non-discrimination in all programs and employment with respect to sex, race, age, color, national origin, religious preference, and disabilities.

In accordance with Title IX of the Education Amendments of 1972, Mount Marty University prohibits discrimination on the basis of sex in all academic and extracurricular programs and activities, including intercollegiate athletic activities. Title IX protects all people, regardless of gender or gender identity, from sexual harassment and sexual violence (including sexual misconduct and sexual assault), which are forms of sex discrimination. Title IX also prohibits retaliation against people for making or participating in complaints of sex discrimination.

Mount Marty University is in the process of reviewing its sexual misconduct policies and procedures to ensure compliance with guidance issued by the United States Department of Education Office of Civil Rights (OCR). During this process, the content on the university website supersedes all print documents and will serve as the essential resource for current information about policies, procedures and resources.

## **PART 13: ABUSIVE AFFILIATIONS POLICIES**

Mount Marty University believes that all students are entitled to be treated with considerable respect at all times. The university is unconditionally opposed to any situation created to produce mental or physical discomfort, embarrassment, ridicule, or social ostracism. Thus, all forms of abusive affiliations are prohibited. In addition to being violation of Mount Marty University abusive affiliations policy, hazing is a criminal offense in the State of South Dakota. As such, it carries serious penalties.

In determining whether a specific behavior violates MMU's abusive affiliation policy, consideration will be given to how the behavior relates to the university's mission and purpose.

Mount Marty University defines abusive affiliation as any mental, physical or social requirement, request, or obligation placed upon any person that could cause discomfort, pain, fright, disgrace or injury; that is personally degrading or humiliating; that would cause a reasonable person to believe that s/he would experience social ostracism for failing to participate; or that violates any federal, state or local statute or university policy, the willingness of an individual to participate in such activity is notwithstanding. A person is defined as a university student, a pledge, associate member, member, affiliate alumnus, guest of any campus organization, or other individual. Abusive affiliation includes but is not limited to the following activities:

### **I. Physical**

- A. Encouraging or requiring persons to consume excessive amounts of alcohol or other fluids (e.g., encouraging or requiring individuals to use beer bongs, play drinking games, or drink unknown substances, including water);
- B. Requiring that person do or submit to any act that will alter his or her physical appearance in any significant degree for any substantial period of time (e.g., branding; tattooing; using makeup, paint, or markers on a person; or shaving the head or body);
- C. Requiring activities that disrupt a person's normal schedule. A normal schedule includes three reasonably spaced meals per day, the opportunity for sufficient rest at night (at least six full hours), time requires for study outside of scheduled class hours, and reasonable time for personal hygiene;
- D. Requiring a person to engage in physical activity of unusual kind or duration, such as calisthenics; overly difficult work assignments; activities that may be excessive for a person with physical disabilities; activities that require a person to remain in a fixed position for an

extended period of time; being naked: or being confined in a room that is too hot or too cold, too noisy, or too small.

- E. Hitting or pretending to hit an individual; and/or
- F. Performing acts that are, or seem to be dangerous.

## **II. Psychological**

- A. Requiring a person to pretend to or actually violate a law;
- B. Yelling or screaming at individuals;
- C. Calling individuals demeaning names;
- D. Booing, hissing, or demeaning individuals when they make mistakes;
- E. Interrogating individual in an intimidating or threatening manner;
- F. Requiring a person to perform acts of servitude or perform personal errands for others;
- G. Deceiving new members prior to their gaining membership in an attempt to convince them they will not be initiated or will be hurt;
- H. Forcing a person to publicly wear apparel that is abnormal and not normally in good taste.
- I. Requiring a person to appear nude at any time; and/or
- J. Engaging in activity that compels an individual or group to remain in a certain place or transporting anyone without their knowledgeable consent (e.g., taking a person on a road trip to an unknown destination, or kidnapping).

## **III. Social Ostracism**

- A. Exiting a room when a particular person arrives;
- B. Requiring persons to attend event where illegal activities are taking place;
- C. Intentionally ignoring, or not responding, to a particular member of an organization or team;
- D. Using coercion (e.g. threats, intimidation, or demeaning comments) to obtain consent to engage in activities; and/or
- E. Expressly stating or implying that engaging (or failing to do so) in an activity would help or hurt an individual's membership;

## **IV. Distinction between Abusive Relationships by Organizations and Abusive Relationships by Individuals**

The following statement will help distinguish hazing violations by individuals from hazing violations by student organizations;

- A. It is presumed that hazing incidents involve only those persons directly participating in the incident and those who are present at the time it occurs and who do nothing to stop its occurrence.
- B. A hazing incident may also be an organizational chapter activity, for which the organization itself may be disciplined, if any of the follow characteristics are present:
  - 1. A faculty or staff member who has responsibility for the organization (e.g. head coach, assistant coach, advisor, etc.) is aware of the incident sufficiently in advance of its occurrence to prohibit its taking place and takes no action to prohibit it.
  - 2. A faculty or staff member who has responsibility for the organization (e.g. head coach, assistant coach, advisor, etc.) knows the identity of the members involved in the incident and refuses to divulge that information to the appropriate university authorities or the police.
  - 3. The incident takes place in any public place.
  - 4. The incident involves the expenditure of any organizational funds.
  - 5. The incident involves or is actively or passively endorsed by a majority of the members of the organization and/or a majority of the student leadership (e.g. president, vice-president, new member chair, captain, etc.).

**V. Sanctions**

Organizations, teams, or individuals found to be responsible of hazing are subject to disciplinary action and sanctions outlined in the *Community Conduct Code*. Additionally, individuals and organizations may face additional sanctions from the appropriate department (e.g. athletics, student activities, etc.), including possible suspension from the organization, team and/or termination of recognition for an organization or season for an athletic team.