

## MASSACHUSETTS COMMUNITY COLLEGE SYSTEM STUDENT CODE OF CONDUCT

### INTRODUCTION

Mount Wachusett Community College (MWCC) expects students to conduct themselves in a manner that is appropriate to a collegiate environment. Students are expected to assume responsibility for their own behavior and learning and to respect the learning environment of others. MWCC strives to maintain a learning environment that enhances the academic, intellectual, cultural and social enrichment of its students, faculty, staff and the community at large. To ensure that no member of the College community is deprived of this collegiate environment, student rights and responsibilities are clearly stated and behavior and discipline codes have been established.

The Code of Conduct was created with the goal of fostering an environment that ensures student learning and open access to higher education. All students are responsible for following the policies in the Code.

### STUDENT RIGHTS AND RESPONSIBILITIES

#### Student Rights

1. The right to pursue their education and assistance in overcoming educational, cultural, emotional and economic disadvantages that create challenges to the educational process.
2. The right to fair and equal treatment without discrimination based on a student's of race, color, religion, sex, sexual orientation, gender identity, age, disability, genetic information, maternity leave, military service and national origin.
3. The right to privacy and confidentiality under the Family Education Right and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99.
4. The right to procedural and substantive due process in disciplinary or grievance matters.

#### Student Responsibilities

1. To be knowledgeable of and to comply with federal, state, and local laws, and ordinances.
2. To be knowledgeable of and to comply with all directives, policies, and procedures of Mount Wachusett Community College.
3. To choose behavior that does not interfere with the learning environment of others inside and outside of the classroom, including College events.
4. To review all information that is shared with students in official college communications.

### PHILOSOPHY AND LEARNING OUTCOMES

The Code of Conduct process is intended to be an educational process that supports the mission of the College. The Code is intended to encourage personal responsibility, integrity and ethical decision-making.

Students who participate in this process should achieve the following learning outcomes:

1. Understand how the Code supports the goals and mission of the College;
2. Understand the possible impact of their choices on their academic and personal success;
3. Accept personal responsibility for the choices and decisions made and the impact of their behavior on the College community;
4. Reflect on their ethical obligations as a student in the College community;
5. Recognize the value of the student conduct process as an educational opportunity; and
6. Identify ways to address their behavior so it does not negatively impact their educational goals or the community in the future.

### APPLICATION OF THE CODE OF CONDUCT

Students are provided a copy of the Student Code of Conduct annually in the form of a link on the College website. Hard copies are available upon request from the Dean of Students Office, Room 141 on the Gardner campus. A link to the Code will also be included in all communications with any students involved in the conduct process, regardless of their role in the situation. Students are responsible for reading and following the policy.

The Code of Conduct shall be used to address student behavior as referenced in this policy. The Code of Conduct applies to the conduct of individual students and College-affiliated student organizations. For the purposes of student conduct, the Code defines a student as an individual who:

1. has been issued a student identification number; or
2. has received an offer of admission; or
3. is enrolled in courses, whether full-time or part-time, credit or non-credit; or
4. is participating in a non-degree, dual enrollment, or early college program; or
5. is not currently enrolled but has a continuing educational relationship with the College.

The College retains conduct jurisdiction over students who choose to take a leave of absence, withdraw, or have graduated for any misconduct that occurred prior to the leave, withdrawal, or graduation. If sanctioned, a hold may be placed on the student's ability to re-enroll, obtain official transcripts, and/or graduate and all sanctions must be completed prior to re-enrollment eligibility.

The Student Code of Conduct applies to behaviors that take place at the College; in any of its facilities; on any of its grounds, partner sites, or program centers; or at any College related activity regardless of location.

The College reserves the right to take action for off-campus student behavior when such behavior adversely affects the College community, poses a threat to the health or safety the College community; interferes with the College's pursuit of its objectives and mission, and/or if a student is charged with violating state or federal law. Proceedings under this Student Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

The Student Code of Conduct may be applied to behavior conducted online or electronically via email, social media, or other electronic format.

## **DISCRIMINATION, SEXUAL HARASSMENT AND SEXUAL VIOLENCE**

Claims of discrimination, sexual harassment and sexual violence, including Title IX offenses, such as rape, sexual assault, domestic and dating violence and stalking, shall be addressed under the College's Policy on Affirmative Action, Equal Opportunity and Diversity by the College's Affirmative Action Official and/or Title IX Coordinator. For more information, please contact the College's Affirmative Action Official and/or Title IX Coordinator.

## STUDENT CODE OF CONDUCT DEFINITIONS

**Administrative Resolution** – A resolution of a complaint, which is mutually agreed upon by the CCA and the Student. An Administrative Resolution shall be put in writing by the CCA, signed by the CCA and the Student and maintained in a student's disciplinary file. An Administrative Resolution shall result in a Student waiving their right to a Student Conduct Board hearing or Appeal.

**Appeals Officer** – The College's designated administrator responsible for reviewing appeals. In cases of academic dishonesty, the Appeals Officer shall be the College's senior academic officer or designee.

**Code of Conduct Administrator (CCA)** – The College official charged with the responsibility of administering the College's Student Code of Conduct. A member of the Massachusetts Community College Council (MCCC) shall not be selected to serve as the CCA.

**College Official** – Any person employed or contracted by the College to perform administrative, instructional, or professional duties.

**College Property** – Includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College, including adjacent streets and sidewalks.

**Complaint** – An allegation of a violation of the Code of Conduct, which is filed with or by the CCA.

**Day** – Shall mean a calendar day. The number of days indicated at each level shall be considered as a maximum. All reasonable efforts shall be made to expedite the process, but the CCA may extend the time limits at their discretion with notice to both parties in writing, including for inclement weather and/or College closures.

**Outcome** – The final determination of responsibility in the student conduct process. An outcome may either be "responsible" or "not responsible."

**Sanctions** – An obligation that a student or student organization must abide by or complete when found responsible for violating the Student Code of Conduct. Sanctions are not required to be imposed progressively, but are based on the severity and/or frequency of the violation.

Sanctions under this policy shall include, but are not limited to:

- **Written Warning** – An official written notice to a student that their conduct is in violation of College rules or regulations.
- **Restrictions/Loss of Privileges** – Restriction or loss of privileges as a student for a specified period of time, including but not limited to: attending College classes, events and/or activities; accessing College property or specifically designated areas; or participating in College organizations.
- **Educational Sanction** – A project or developmental activity imposed with the goal of educating the student about personal responsibility and/or the impacts of their behavior.
- **Restitution** – The assessment of financial charges or other forms of reimbursement for any damage or loss incurred by the College or any members of the College community.
- **Probation** – A student's status at the College is in jeopardy due to one or more violations of the Code of Conduct. Probation is a more severe sanction than a written warning. Unless expressly authorized by the CCA, a student on probation may not represent the College in any capacity. Examples include but are not limited to: running for or holding office in any student organizations; participating in intercollegiate athletic teams, intramural programs, any student clubs or organizations; representing the college in community service projects; participating in paid or unpaid internship programs or study abroad programs.
- **Suspension** – Separation from the College or a program, without financial reimbursement, for a specified period of time not to exceed three academic years. Conditions for readmission may be specified, including a reinstatement review and meeting with the CCA to demonstrate that the student is prepared to return to the college environment and abide by the expectations of behavior outlined in the Student Code of Conduct. During the suspension period, the student may not register or participate in classes, use College communication systems such as e-mail, or enter College property and loses all privileges to participate in any College functions, events, or activities without prior written approval from the CCA.
- Any suspension may be deferred for a designated period of time, not to exceed one (1) semester. Deferred suspension will be utilized in unique circumstances where deferring the suspension would be in the best interest of

the student as determined by the CCA. A student on deferred suspension who is found responsible for an additional violation of the Student Code of Conduct may be issued additional sanctions, up to and including Expulsion.

- **Expulsion** – Permanent separation from the College or a program without financial reimbursement. An expelled student may not be readmitted to the College or a program and a notation of expulsion from the College shall be placed on the student’s official College transcript.

**Standard of Proof: Preponderance of Evidence** – The standard used in resolving a complaint filed under this Code’s Disciplinary Process. The standard is met if the proposition is more likely to be true than not true (i.e.; more probable than not). Effectively, the standard is satisfied if there is greater than 50 percent chance that the proposition is true.

**Student** – The individual whose behavior may have violated the Code of Conduct including any individual who:

- has been issued a student identification number; or
- has received an offer of admission; or
- is enrolled in courses, whether full-time or part-time, credit or non-credit; or
- is participating in a non-degree, dual enrollment, or early college program; or
- is not currently enrolled but has a continuing educational relationship with the College.

**Student Conduct File** – The printed/written/electronic file, which may include, but is not limited to, investigatory materials, incident report(s), correspondence, witness statements, and student conduct history.

**Student Organization** – An association or group of persons, including, but not limited to, any recognized student club, organization, or team.

**Student Conduct Board** – Members of the College community selected and trained by the CCA to conduct a hearing when an Administrative Resolution cannot be agreed upon by the student and the CCA or at the request of the student. Members of the Student Conduct Board shall not have any conflict of interest and are required to act in a fair and impartial manner.

**Substantial Disruption or Interference** – Substantial disruption or interference includes conduct: (1) that impedes the regular and essential operations of the College; or (2) where the expressive rights of another are so disrupted or interfered with that they effectively cannot exercise their rights to engage in or listen to expressive activities. Determining what constitutes a “substantial disruption or interference” is decided on a case-by-case basis. Examples include, but are not limited to: shouting down a speaker; disrupting a faculty member’s instruction such that it impedes the learning process; failure to comply with a College Official’s appropriate directives or instructions; threats of harm; harassing conduct; fights or violent behavior; blocking access to or from any College facilities, events or services; or conduct that places health or safety at risk. Substantial disruption or interference does not include conduct that is protected under the First Amendment.

## VIOLATIONS OF THE LAW

Alleged violations of federal, state, and local laws may be reviewed and addressed under the Code. When an offense occurs over which the College has jurisdiction, the College conduct process will go forward regardless of any civil or criminal complaint or process that may arise from the same incident.

The College reserves the right to exercise its authority of interim suspension upon notification that a student is facing a criminal investigation.

## EXPECTATIONS OF STUDENT BEHAVIOR

As a public institution of higher education, which is committed to student access and success, the College maintains the following Core Values and Behavioral Expectations of its students.

1. **Integrity.** All students are expected to exemplify honesty, honor, and a respect for the truth in all of their dealings.
2. **Community.** Students are expected to positively contribute to the educational community.
3. **Safety.** Students are expected to choose behavior that is conscious of the rights and safety of others and the community and promotes a productive and diverse academic environment.
4. **Responsibility.** Students are expected to accept responsibility to themselves, to others, and to the community.

## CODE OF CONDUCT CHARGES

The College considers the following behaviors as inappropriate for the College community and in opposition to its core values and behavioral expectations. These expectations apply to all students. The College encourages community members to report all incidents of such behavior. Any student found to have committed or to have attempted to commit any of the following misconduct is subject to the sanctions outlined under this policy.

1. **Abuse of Conduct Process.** Abuse, interference, and/or failure to comply with the College's conduct process, including but not limited to:
  - a. Falsification, distortion, or misrepresentation of information during the conduct process;
  - b. Failure to provide, destroying, or concealing information during an investigation of an alleged policy violation;
  - c. Interference with the orderly conduct of the conduct process;
  - d. Attempting to discourage an individual's participation in, or use of, the conduct process;
  - e. Attempting to influence the decision of a member of a Conduct Board prior to, and/or during the course of, the Student Conduct proceeding;
  - f. Harassment (verbal or physical) and/or intimidation of a member of a Conduct Board, College official, party to a complaint or witness participating in the conduct process;
  - g. Failure to comply with the sanction(s) imposed under the Code of Conduct;
  - h. Influencing or attempting to influence another person to commit an abuse of the conduct process; or
  - i. Knowingly filing a false complaint under the Code of Conduct.
2. **Academic Dishonesty.** Acts of academic dishonesty, including but not limited to the following:
  - a. **Cheating.** Intentional use, and/or attempted use of any unauthorized assistance in any academic exercise including dependence upon the aid of sources beyond those authorized by the instructor.
  - b. **Fabrication.** Intentional and unauthorized falsification and/or invention or any information or citation in any academic exercise.
  - c. **Unauthorized Collaboration.** Deliberately submitting work prepared collaboratively with someone else without explicit permission from the instructor.
  - d. **Facilitating dishonesty.** Knowingly helping or attempting to help another commit an act of academic dishonesty, including students who substitute for other persons in examinations or represent, as their own, papers, reports, projects, or the academic works of others.
  - e. **Plagiarism.** Knowingly representing the words, ideas, or artistic expression of another as one's own work in any academic exercise, including but not limited to submitting previously-submitted assignments for which the student has earned credit, copying or purchasing other's work, patchworking source material and representing the work as one's own, or arranging for others to do work under a false name.
  - f. **Submitting, in whole or in part, prewritten term papers of another or the research of another,** including but not limited to commercial vendors who sell or distribute such material.
  - g. **Theft of materials.** The acquisition, without permission, of tests or other academic material belonging to a member of the faculty or staff, or another student.
3. **Alcohol.** Use, possession, manufacture, or distribution of alcoholic beverages, on campus or as part of any college-sponsored program, including public intoxication or the operation of a motor vehicle while under the influence of alcohol, in violation of the College's Alcohol Policy and/or state or federal law.
4. **Controlled Substances.** Use, possession, manufacture, or distribution of controlled substances as defined by state and federal law.
5. **Damage and Destruction.** Damage, destruction, or defacement of College property or the personal property of others.
6. **Election Tampering.** Tampering with the election of any College-recognized student organization.
7. **Extortion.** Threat or the implicit threat of harm to a person's safety, reputation, or property in order to obtain property, including information, from someone else without their consent.
8. **Failure to Comply.** Failure to comply with the reasonable directives of College officials and/or law enforcement during the performance of their duties and/or failure to identify oneself to these persons when requested to do so.
9. **False Reports of Danger.** False reporting of fire, bombs, other dangerous devices, or emergency situations.
10. **Falsification.** Knowingly providing or possessing false, falsified, or forged materials, documents, accounts, records, identification, or financial instruments.



11. **Fire Safety.** Violation of local, state, or federal laws, or campus fire policies including, but not limited, to:
  - a. Causing a fire on College property;
  - b. Failure to evacuate a College-controlled building during a fire alarm;
  - c. Improper use of College fire safety equipment; or
  - d. Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on College property.
12. **Gambling.** Gambling as prohibited by the laws of the Commonwealth of Massachusetts. Gambling may include lotteries, sports pools, and online betting activities.
13. **Harassment.** Severe or pervasive actions, including, but not limited to written, electronic, voice, physical, or through third party, directed toward a specific individual, group or entity with the purpose or effect of unreasonably interfering with another's work or education by creating an objectively hostile environment.
14. **Harm to Others.** Causing physical harm or endangering the health or safety of any person.
15. **Hate Crimes.** A hate crime as defined by state or federal laws, including but not limited to any criminal act to which a bias motive is evident as a contributing factor.
16. **Hazing.** Hazing as defined by state or federal laws, including but not limited to any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. For additional information, consult the Hazing Policy.
17. **Interference with College Environment.** Substantial interference or disruption to the day-to-day functions of the academic or administrative environment.
18. **IT and Acceptable Use.** Conduct resulting in a violation of the College's Computer/Technology Acceptable Use policies, Email and Social Media policies and/or related Information Technology Resource policies.
19. **Marijuana.** Use, possession, manufacture, or distribution of marijuana and marijuana products or accessories on campus or as part of any college-sponsored program, including the operation of a motor vehicle while under the influence of marijuana in violation of the College's Marijuana Policy.
20. **Prescription Medication.** Abuse, misuse, sale, or distribution of prescription or over-the-counter medications.
21. **Public Exposure.** Includes but not limited to: deliberately and publicly exposing one's intimate body parts, public urination, defecation, masturbation, and/or other public sex acts.
22. **Rioting.** Engaging in, or inciting others to engage in, harmful or destructive behavior that breaches the peace.
23. **Smoking & Tobacco.** Smoking or using any tobacco product or use of e-cigarettes, vaporizers or inhalers on College property.
24. **Solicitation and Sales.** Unauthorized solicitation and sales, requesting contributions, peddling or otherwise selling, purchasing or offering goods and services for sale or purchase, distributing advertising materials, circulars or product samples, or engaging in any other conduct relating to any outside business interest or for-profit or personal or professional economic benefit on college property or using college resources.
25. **Taking of Property.** Intentional and unauthorized taking or possession of College property or the personal property of another, whether actual or attempted, including goods, services, and other valuables.
26. **Threatening Behaviors.**
  - a. **Threat.** Written or verbal conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property.
  - b. **Intimidation.** Intimidation defined as implied threats or acts that cause a reasonable fear of harm in another.
27. **Trademark.** Unauthorized use, including misuse, of College or organizational names and/or images.
28. **Unauthorized Access and/or Entry.** Unauthorized access and/or entry to any College building (e.g., misuse of keys or access privileges), unauthorized possession, duplication or use of means of access to any college building, or unauthorized entry including trespassing.
29. **Unauthorized Recording and Dissemination.** Use of electronic or other devices to create and/or disseminate an unauthorized audio or video recording of any person(s) without the person's prior knowledge or without the person's effective consent due to intoxication, drug use, mental impairment or other conditions that may impair a person's ability to convey effective consent. This includes, but is not limited to, surreptitiously taking pictures of another person in a locker room or restroom and recording classroom or administrative activities without the person's consent.
30. **Violations of Law.** Including arrest, pending criminal charges, or adjudication of any violation of state or federal laws not otherwise enumerated herein.

31. **Weapons.** Possession of firearms, explosives, dangerous chemicals, or other dangerous weapon in violation of state or federal law, including M.G.L. Chapter 269, Section 10(J), or possession of a reasonable facsimile, simulated or prop firearm or weapon. For additional information, consult the College's Prohibition of Weapons Policy.
32. **Other Policies.** Violation of any College policies, rules, or regulations published in written copy or available electronically on the College's website.

## CODE OF CONDUCT DISCIPLINARY PROCESS

This policy is not intended to prevent members of the College community from attempting to resolve matters informally. Failure to cooperate with the College's investigation of an alleged Code of Conduct violation, including failing to appear for an Administrative Resolution meeting or a Student Conduct Board Hearing will result in discipline of the Student by the CCA and a forfeiture of their rights to a hearing or appeal.

### A. Step 1: Initiation of Student Conduct Process

The Student Conduct Process is initiated once a complaint of an alleged violation is received by the CCA. A complaint is defined as an allegation of a violation of the Code of Conduct, which is filed with or by the CCA. The CCA may act on a complaint of a potential violation whether a formal complaint form is completed or not.

### B. Step 2: Preliminary Inquiry

When the CCA files or receives a complaint alleging that a student has acted in a manner which may be in violation of the Code, the CCA may conduct a preliminary inquiry into the nature of the complaint, the evidence available, and the parties involved. The preliminary inquiry may lead to:

1. A determination that there is insufficient evidence to pursue the investigation because the behavior alleged, even if proven, would not violate the Code and therefore the process ends; or
2. A determination that the alleged behavior constitutes a possible violation of the Code, resulting in a request to schedule an Administrative Resolution meeting with the CCA within five (5) days; or
3. Further investigation is needed to make a determination.

### C. Step 3: Administrative Resolution

After a Preliminary Inquiry, or when a Preliminary Inquiry is not necessary as determined by the CCA, the CCA will meet with the Student to review the complaint, and provide the Student an opportunity to respond to the allegations.

The Student has the right to be accompanied by any advisor of their own choosing and at their own expense. The advisor may be another student, faculty member, administrator, or an attorney. An advisor's role is limited to advising the Student directly and discretely. An advisor is not otherwise permitted to participate directly in the meeting.

The possible outcomes of an Administrative Resolution meeting include:

1. A decision not to pursue the complaint based on insufficient information. The matter should be closed and the records should so indicate;
2. The Student and the CCA reach a mutually agreed upon resolution to the complaint; or
3. If no mutually agreed upon resolution is reached, the complaint is referral to a Student Conduct Board Hearing.

Under certain circumstances during the Code of Conduct process, interim measures may be imposed by the CCA including, but not limited to: no-contact orders, restriction/loss of privileges, or interim suspension, in a manner consistent with this Code.

An Administrative Resolution is reached only upon the mutual agreement of the CCA and the Student. By accepting an Administrative Resolution, the Student waives their right to a hearing before the Student Conduct Board or an appeal. An Administrative Resolution shall be put in writing by the CCA, copied to the Student and maintained in a Student's disciplinary file. If the CCA and the Student cannot agree on an Administrative Resolution the matter proceeds to a Student Conduct Board hearing.

Failure by the Student to appear for an Administrative Resolution meeting with the CCA will result in discipline of the Student by the CCA and a forfeiture of their rights to a hearing or appeal.

### D. Step 4: Student Conduct Board Hearing

#### 1. Overview

A hearing with the Student Conduct Board shall be scheduled by the CCA not later than thirty (30) days following a Student's request for a hearing. If no hearing is requested, the hearing shall be scheduled by the CCA no later than thirty (30) days from the date of the Administrative Resolution meeting.

A written Statement of Charges shall be presented to the Student not less than five (5) days prior to the hearing. The Statement of Charges shall include a summary of the complaint, administrative or remedial steps taken, the Code of Conduct



Charges, and the documentary evidence and witnesses to be presented in support of the Statement of Charges. A Student Conduct Board hearing is an administrative hearing. The rules of evidence do not apply.

In a matter involving more than one Student, the Student Conduct Board may permit at its discretion individual hearings for each Student.

The Student has the right to be accompanied by any advisor of their own choosing and at their own expense. An advisor's role is limited to advising the Student directly and discretely. An advisor is not otherwise permitted to participate directly in the hearing.

## **2. Make-Up of the Conduct Board**

The Conduct Board shall consist of 3-5 members selected by the CCA. The CCA shall appoint from the members a Chair of the Conduct Board, who shall be responsible for administering the hearing. In cases involving academic dishonesty, the Conduct Board members may include faculty, although not from the department where the alleged conduct occurred.

## **3. Student Conduct Board Hearing Procedure**

A hearing is normally conducted in private. There shall be a record created of all hearings. The record shall be the property of the College. All procedural questions are subject to the final decision of the Chair of the Student Conduct Board. Admission of any person(s) to the hearing shall be at the discretion of the Chair of the Student Conduct Board.

A hearing shall proceed as follows:

- a. The CCA presents the Statement of Charges on behalf of the College. The CCA may present documents, materials and/or witnesses in support of the Statement of Charges.
- b. Student responds to the Statement of Charges. The Student may present documents, materials and/or witnesses in response to the Statement of Charges.
- c. Following the parties' presentations, the Student Conduct Board may question each party, their witnesses and/or review all information presented. The Student Conduct Board has the discretion to request additional documents, materials or information from either party.
- d. While direct cross-examination by the parties is not permitted, each party will be given the opportunity to question the other by presenting questions through the Chair of the Student Conduct Board. If the Chair determines a question is relevant, the other party will be asked to respond.
- e. The Student Conduct Board shall have a final opportunity to question the parties.
- f. After the hearing, the Student Conduct Board shall determine by majority vote whether the Statement of Charges has been proven.
- g. A Student Conduct Board's decision shall be based on a preponderance of evidence standard.
- h. Within fifteen (15) days of the conclusion of a hearing, the Student Conduct Board shall issue a written decision that includes a summary of the hearing, findings on each charge contained in the Statement of Charges, the evidence supporting each finding, and disciplinary action taken, if any.

## **E. Step 5: Sanctions**

1. A student found in violation of the College's Code of Conduct shall be subject to sanctions as defined herein.

A student who violates the Code of Conduct while serving an existing sanction shall be subject to further discipline, up to and including expulsion. The intent of the College is to impose sanctions in a progressive manner, beginning with the least punitive sanction. However, depending on factors, such as the nature and severity of a student's violation and/or prior disciplinary history, the College reserves the right to impose any sanction at any time.

## **F. Step 6: Appeal**

Within five (5) days of receiving a written decision, the Student may file an appeal with the College's Appeals Officer. In cases of academic dishonesty, the Appeals Officer shall be the College's senior academic officer or designee.

An appeal must be submitted in writing and be based on a credible claim that:

1. The hearing was not conducted in conformity with the Code of Conduct;
2. The decision was not supported by a preponderance of the evidence presented;
3. The sanction imposed was not appropriate in light of the Student Conduct Board's decision; or
4. New evidence exists, which was not presented at hearing because it was not reasonably known to the Student at that time, and which is sufficiently relevant such that it could alter the Student Conduct Board's decision.

The Appeals Officer shall issue a written decision within ten (10) days of receiving the appeal. The Appeals Officer may accept, reject, or modify the Student Conduct Board's decision or sanction. The Appeals Officer's decision shall be final.

### **Filing a Conduct Complaint**

Any person may allege a policy violation by any student for misconduct under this code by completing the report available here:

[https://cm.maxient.com/reportingform.php?MountWachusettCC&layout\\_id=0](https://cm.maxient.com/reportingform.php?MountWachusettCC&layout_id=0) ([https://cm.maxient.com/reportingform.php?MountWachusettCC&layout\\_id=0](https://cm.maxient.com/reportingform.php?MountWachusettCC&layout_id=0))

The CCA may act on a complaint of a potential violation whether a formal complaint form is completed or not. All allegations can be submitted by a victim or third party, and should be submitted as soon as possible, but no later than 30 days, after the offending event occurs. The CCA may elect to pursue action under the Code for violations reported after thirty (30) days where the behavior posed or may continue to pose a danger to the health or safety of others. The College has the right to pursue an allegation or complaint of misconduct on its own behalf.

### **Student Conduct Authority**

The CCA is vested with the authority over administering the Student Code of Conduct and the student conduct process. The CCA may appoint administrative hearing officers and Student Conduct Board members as necessary to efficiently and effectively administer the student conduct process. The CCA or their designee will assume responsibility for the investigation of an allegation of misconduct to determine if the complaint has merit.

### **Gatekeeping**

No complaint will be forwarded for administration under the Code unless there is reasonable cause to believe that a policy violation has occurred. Reasonable cause is defined as some credible information to support the allegation including a statement by a credible witness, police reports, or news articles. A complaint wholly unsupported by any credible information will not be forwarded for administration.

### **Administrative Hearing Officers**

Administrative Hearing Officers may be chosen from a pool of annually trained administrators or faculty selected by the CCA.

### **Discipline for Conduct that Interferes with the College Environment**

Interfering in the educational process in a class (or clinical site), is prohibited under this policy. If a student engages in conduct that interferes with the college environment, a faculty member or other College employee may address and resolve the matter informally without filing a complaint under the Code, including temporarily removing the student from a class (or clinical site). On the first occasion when a student is removed, the faculty member or other College employee is strongly encouraged to notify the CCA. In all subsequent cases of removing the same student from a class (or clinical site), the faculty member or other College employee shall notify the CCA. A faculty member or other College employee may seek assistance from Public Safety if necessary to remove a student. A student may not be permanently removed from a class (or clinical site) for a conduct-related offense except upon referral to the CCA of a complaint for administration under this policy. The CCA can exercise their discretion to allow the accused student to attend class (or clinical site) during the disciplinary process upon consultation with the faculty member and the Chief Academic Officer or their designee.

### **Discipline for Academic Dishonesty**

This policy recognizes the right of faculty to manage their class, including addressing directly with students issues of academic dishonesty. When there is information that academic dishonesty occurred, a faculty member may choose to take action as outlined in the course syllabus, including issuing a failing grade for the assignment or the course. Faculty are encouraged to share that information with the CCA. If the CCA is aware of more than one incident of academic dishonesty by this student, in addition to the issuance of a failing grade by the faculty member, the student may be subject to disciplinary action under this policy. If the student

believes that there is substantial evidence of error or injustice associated with a failing grade issued because of academic dishonesty, the student may file a grievance under the Student Grievance Procedure's Grade Appeal Process.

Where the issuance of a failing grade by a faculty member for academic dishonesty will result in a student's dismissal from a program (for example in nursing and other health care programs), the charge of academic dishonesty shall be directly referred to the CCA for administration under this policy, which shall be completed, where practicable, within thirty (30) days.

### **Discipline for Off-Campus Behavior**

The College reserves the right to take disciplinary action against a student for off-campus conduct when such conduct adversely affects the College community, poses a threat to the health or safety to the College community; interferes with the College's pursuit of its objectives and mission, and/or if a student is charged with violating state or federal law. Proceedings under this Student Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

### **Interim Measures**

Under certain circumstances during the Code of Conduct process interim measures may be imposed by the CCA including, but not limited to: no-contact orders, restriction/loss of privileges or interim suspension.

The College reserves the right to issue an interim suspension when it reasonably concludes that a student:

1. Poses a threat to others;
2. Poses a threat to College property or equipment;
3. Substantially disrupts or interferes with the normal operations of the College;
4. Engages in off-campus conduct that adversely affects the College community; and/or
5. Is arrested and/or charged with a crime in violation of state or federal law.

During an interim suspension, a student is prohibited from entering upon any College property and participating in any College activities until the complaint have been resolved through the Code of Conduct process. Where reasonably practical, within ten (10) days of the issuance of the interim suspension, the CCA shall meet with the Student to determine whether to continue or revoke the interim measure during the conduct process. A student shall be notified in writing of any determination made at that meeting.

### **Group Violations**

A student group or organization and its officers and membership may be held collectively and individually responsible for violations of the Code to the same extent as any individual would be.

Investigations involving student groups or organizations follow the same student conduct procedures. In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual.

### **Amnesty**

The health and safety of every student at the College is of the utmost importance. The College recognizes that students who have been drinking and/or using drugs may be hesitant to report violations of the Code due to fear of potential consequences for their own conduct. The College strongly encourages students to report violations to the CCA. A reporting individual acting in good faith that reports a violation of the Code will not be subject to disciplinary action for violations of alcohol and/or drug use policies occurring at or near the time of the Code violation, provided that they did not harm or place the health or safety of any other person at risk. The College may require an educational conference and/or a behavioral plan for an individual who has engaged in the illegal or prohibited use of alcohol or drugs.

*The Massachusetts Community College System reserves the right to modify this code when, in its discretion, such action will serve the best interests of the Community Colleges or its students. The provisions of this Code shall not be construed to replace or supersede any state, federal or local laws that also may apply to students or others.*

Revised July 16, 2020

## STUDENT GRIEVANCE PROCEDURES

### Massachusetts Community Colleges

Revised 2013

#### Policy Goal: Conflict Resolution

Before invoking the Student Grievance Procedure, a reasonable effort shall be made by those involved in a dispute to resolve it amicably. A dispute is most effectively handled and resolved by those closest to the problem, having the best understanding of the issues, and having the ability to formulate a mutually acceptable resolution. Therefore, it is in the best interest of the student, the potential subject of a Grievance, and the College to resolve disputes through open and cooperative dialogue. Only when such efforts are unsuccessful should the Student Grievance Procedure be invoked. Throughout all phases of the Student Grievance Procedure, all reasonable efforts shall be made to maintain confidentiality in accordance with applicable law.

#### Definitions

1. **COMPLAINT:** the informal, unwritten stage of an allegation of mistreatment.
2. **DAY:** as used in this policy, shall mean a calendar day.
3. **GRIEVANCE:** a written complaint filed by a student with the person designated by the President as the Student Grievance Officer specifically alleging an abridgment of his or her rights as a student.
4. **GRIEVANT:** the student filing the Grievance. The Grievant must have been a registered student of the College at the time of the alleged mistreatment.
5. **INSTRUCTIONAL PERIOD:** the academic semester, summer session or intersession when a grievable act or omission occurs. The Instructional Period shall end on the last day of final exams.
6. **RESPONDING PARTY:** the person against whom a complaint or Grievance is directed.
7. **SENIOR OFFICER:** senior level employee who reports to the President for the Responding Party's work area.
8. **STUDENT GRIEVANCE OFFICER:** a College employee assigned responsibility for administering the Student Grievance Procedure, including the maintenance of specified records. The Student Grievance Officer shall ordinarily be the Senior Student Affairs Officer. If this individual is the person against whom the Grievance is filed, the President shall designate another College official to act as the Student Grievance Officer.
9. **SUBSTANTIAL EVIDENCE OF ERROR OR INJUSTICE:** for purpose of Grade Appeals, substantial evidence of error or injustice is defined as:
  - a. The assignment of a course grade to a student on some basis other than performance in the course; or
  - b. The assignment of a course grade to a student by resorting to unreasonable standards different from those which were applied by the same instructor to other students in that course; or
  - c. The assignment of a course grade by a substantial, unreasonable and unannounced departure from the instructor's previously articulated standards.
10. **TIME:** the number of days indicated at each level shall be considered as a maximum. All reasonable efforts shall be made to expedite the process, but, the President or his/her designee may extend the time limits in extenuating circumstances with notice to both parties in writing, or by mutual written agreement between the Grievant and the Responding Party.

#### Utilizing the Student Grievance Procedure

The Student Grievance Procedure may be used by a student to address alleged abridgment of the student's rights, as stated in the College's Student Handbook and/or Policy Guide. The student Grievant or the Responding Party may consult with the Student Grievance Officer at any time. The College's Student Grievance Officer is **Jason Zelesky**.

The Student Grievance Procedure may not be used to address allegations of discrimination, including sexual harassment. When a student believes that he/she has been discriminated against due to his/her race, creed, religion, color, sex, sexual orientation, gender identity, age, disability, veteran status, genetic information or national origin, the College's Affirmative Action Grievance Procedure is a mechanism for resolution. The College's Affirmative Action Grievance Procedure is contained in the College's Affirmative Action Plan. The College's Affirmative Action Officer is **Peter Sennett**.

If a Grievance involves a grade dispute, a student shall process the Grievance in accordance with the Student Grievance Procedure. However, if a grade dispute raises issues of discrimination or sexual harassment, the Grievance should be processed in accordance with the College's Affirmative Action Grievance Procedure and the Affirmative Action Officer shall conduct the process in collaboration with the Senior Academic Officer or designee.

Claims of physical or sexual assault shall not proceed under the Student Grievance Procedure. A claim of physical assault alleged against a student shall be reported to the Code of Conduct Officer. A claim of physical assault alleged against an employee shall be reported to the Human Resources Office. In both cases, law enforcement authorities shall also be notified. A claim of sexual assault shall be reported to the College's Affirmative Action Officer and/or Title IX Coordinator and law enforcement authorities and shall proceed under the College's Affirmative Action Plan. In matters involving physical or sexual assault, alleged victims are strongly encouraged to independently report the incident to the law enforcement authorities. The College's Campus Police/Security Department can assist with the reporting process.

At any Level of the Student Grievance Procedure, either party may request mediation by contacting the Student Grievance Officer. Mediation shall be mutually agreed upon, and not unreasonably refused by either party. The Student Grievance Officer shall select an impartial mediator who shall be mutually agreed upon and not unreasonably refused by either party, make the arrangements, determine the timetable for the mediation process, and inform the parties of the timetable in writing. Where practicable, a mediation session shall be conducted no later than thirty (30) days after requested and agreed to by the parties. The purpose of mediation is to resolve the dispute to the satisfaction of both parties. If a mediated resolution cannot be achieved, the Grievant may proceed with the Grievance Process. The Grievant has the right to be accompanied by any advisor of his/her own choosing and at his/her own expense throughout the grievance process. The advisor may be an attorney. An advisor's role is limited to personally advising the Grievant only. An advisor is not permitted to participate directly in any aspect of the grievance process.

Except for under extenuating circumstances, as determined by the President or his/her designee, failure by a party to comply with the Student Grievance Procedure during the course of a Grievance may result in the waiving of the noncompliant party's rights under the Procedure.

### Grade Appeals

Complaints or Grievances filed in connection with assigned grades represent a special case within the Grievance procedure. Grading reflects careful and deliberate assessment of a student's performance by the instructing professional(s). As such decisions are necessarily judgmental the substance of those decisions may not be delegated to the Grievance process. Nevertheless, the College recognizes that in rare cases the process of grading may be subject to error or injustice.

Except as otherwise provided by a separate appeal procedure for a clinical program as approved by the President of the College, a student who alleges an error or injustice in the grading process may file a Grievance under the Student Grievance Procedure. A grade appeal Grievance shall proceed no further than Level Two, Step Two. **For purposes of a grade appeal, the Senior Academic Officer of the College, or his/her designee, shall serve as the Student Grievance Officer throughout the grade appeal process.**

If the faculty member who assigned the challenged grade is no longer employed by the College or is not available within the timelines specified (see "Time" definition), the student may initiate his/her Level One complaint with the chief administrator of the appropriate instructional division (who shall be identified by the Senior Academic Officer).

If at any level substantial evidence of error or injustice is produced, the grading process may be remanded to the instructor of record for reassessment. If after reassessment, the dispute remains unresolved, the matter shall be referred to the Senior Academic Officer, or his/her designee, for final review. If the instructor of record is no longer available, the Senior Academic Officer or his/her designee shall instead reassess the grading process.

### Level One – Informal Procedure

This is the informal stage where most complaints are resolved. The Grievant and the Responding Party should consult with the Student Grievance Officer at this time.

A Grievant initiates the informal phase of the Grievance process. The Grievant shall first present his/her complaint orally and informally to the Responding Party. This shall be done in a reasonable period of time, not exceeding thirty (30) calendar days following the instructional period when a grievable act or omission occurs.

The Responding Party must respond to the Grievant's complaint within ten (10) days. Though this phase of the process is informal, the parties may present their positions in writing. If the matter is not resolved informally within ten (10) calendar days from the date a response to the complaint was due, the Grievant may proceed to Level Two.



### **Level Two – Formal Procedure**

Prior to filing a written Grievance at Level Two, a Grievant must consult with the Student Grievance Officer. The Responding Party should also consult with the Student Grievance Officer at this phase of the process.

#### **L2-Step One**

The Student Grievance Officer shall notify the parties in writing when a complaint is not resolved informally at Level One.

The Grievant may, within ten (10) calendar days after receipt of the Student Grievance Officer's written notice, file with the Student Grievance Officer a Grievance. The Grievance shall contain the following information: the name and title of the person(s) against whom the Grievance is directed, a statement of all known facts, documents and materials supporting the grievance, a list of individuals who have information pertinent to the grievance, and the relief sought by the Grievant. All supporting documents, if any, shall be attached to the grievance as part of the Grievance. The Grievance shall also state the date it is filed and that it is being filed at "Level Two, Step One."

The Grievance may be filed with the Student Grievance Officer by email, regular mail, certified mail, or in hand. Thereafter, the Student Grievance Officer shall deliver the Grievance, and all supporting documents, if any, to the Responding Party within five (5) calendar days. If the Responding Party is unavailable at the time the Grievance is filed, the Student Grievance Officer shall use reasonable means to deliver the Grievance within a reasonable period of time.

The Responding Party shall forward a written Level Two - Step One response to the Student Grievance Officer within ten (10) calendar days of his/her receipt of the Grievance. The Student Grievance Officer shall deliver the written response to the Grievant within five (5) calendar days of receipt.

#### **L2-Step Two (Supervisor Level)**

If the Grievance is not resolved to the satisfaction of the Grievant within ten (10) calendar days after his/her receipt of the Step One response, or if no written response is submitted, the Grievant may within ten (10) calendar days after the written response was received or due, request the Student Grievance Officer to forward the Grievance and response, if any, to the supervisor of the Responding Party, with a copy to the Senior Officer of the work area of the Responding Party.

The supervisor shall investigate the Grievance and confer with the Senior Officer. The supervisor shall forward his/her written decision to the Student Grievance Officer, within ten (10) calendar days after receipt of the Step Two Grievance. Thereafter, the Student Grievance Officer shall deliver the decision to the Grievant and the Responding Party within five (5) calendar days.

At any time before the issuance of the Supervisor's Step Two decision, the Senior Officer may request that the parties meet to discuss the issue and attempt to resolve it.

Grade appeals do not go beyond this Step (Level Two - Step Two) per the section on Grade Appeals.

No new issues or allegations may be raised by either party after Step Two.

#### **L2-Step Three (Student Grievance Committee Level)**

If the Grievance is not resolved to the satisfaction of the Grievant within the period allowed at Level Two - Step Two, the Grievant may request a hearing before a Student Grievance Committee. Such a request must be in writing and presented to the Student Grievance Officer within ten (10) calendar days from the issuance of the Supervisor's Level Two - Step Two decision.

Within ten (10) calendar days of the Student Grievance Officer's receipt of the Grievant's request for a hearing, the Student Grievance Officer shall arrange a hearing before a Student Grievance Committee. The Student Grievance Officer shall use reasonable efforts to schedule the hearing at a time mutually convenient to the parties. At least twenty-four (24) hours prior to the hearing, the Student Grievance Officer shall provide each member of the Committee and all parties to the Grievance with copies of the Grievance, responses to the Grievance, decisions issued, and all relevant supporting documentation and materials. The Committee's make-up and hearing rules are discussed later in this policy.

The Committee shall deliver its findings and recommendations to the Student Grievance Officer within ten (10) calendar days following the hearing. A copy of the Committee's findings and recommendations shall be delivered to the President or his/her designee, within five (5) calendar days of receipt.



Within ten (10) calendar days of the President's receipt of the Committee's findings and recommendations, the President or his/her designee, shall issue a written statement accepting, modifying or rejecting the Committee's recommendations.

The decision of the President, or his/her designee, shall be final and binding on all parties.

### **Membership of the Student Grievance Committee**

The composition of the College's Student Grievance Committee shall consist of five members: one student, one unit professional, one faculty member, one non-unit professional and one unit classified employee. The President or his/her designee shall appoint each member from among the recommendations submitted by the Student Grievance Officer.

Service on the Committee shall be voluntary, provided that a member who has a personal interest in a particular Grievance shall be ineligible to serve on the Grievance Committee. All College employees serving on the Student Grievance Committee, and acting within the scope of their official duties on the Committee, shall be protected from liability to the full extent provided under Massachusetts General Laws, Chapter 258, and eligible for indemnification as provided for pursuant to M.G.L. Chapter 258, Section 9.

All Student Grievance Committee members, as well as all others in attendance at a student Grievance proceeding, shall maintain the confidentiality of the proceedings. The Student Grievance Officer shall attend all Committee hearings but shall not vote.

### **Student Grievance Committee Hearing and Decision Guidelines**

The following guidelines provide the framework for conducting a Student Grievance Committee Hearing:

1. Prior to the hearing, the newly impaneled Committee shall meet to elect a Committee Chairperson. The Chairperson shall be selected by a simple majority vote.
2. The Chairperson on the Committee shall be responsible for conducting the hearing and drafting the decision of the Committee, but shall vote only in the event of a tie.
3. All hearings shall be closed and deliberations of the Committee shall be confidential and conducted in private.
4. The Grievant and the Responding Party shall be in attendance at the hearing. Each party may be accompanied by an advisor at the hearing. The advisor, however, may not participate in the hearing or question witnesses. Either party may at anytime during a hearing consult in private with his/her advisor.
5. Witnesses may be asked by the Committee to remain outside of the hearing room until they are called to testify.
6. The Grievant will address the Committee first. The Grievant will state the nature of his/her Grievance and may present relevant evidence and/or witnesses in support of the Grievance.
7. The Responding Party may respond to the Grievant's allegations and present relevant evidence and/or witnesses in opposition to the Grievance.
8. Once the parties have presented their respective positions, the Committee may question the parties and/or witnesses.
9. After the Committee has questioned the parties, each party will be given the opportunity to question the other party and their respective witnesses. All questions must be directed through the Committee. If the Committee determines that a question is relevant to the Grievance, the party or witness to whom it is addressed will be asked to respond.
10. Following the parties' questioning of each other, the Committee will have another opportunity to question the parties and witnesses.
11. Hearings before the Committee shall not be subject to the formal rules of evidence. In all cases, the hearing shall be conducted in a fair and impartial manner.
12. If a party to a Grievance fails to appear for a scheduled hearing, the Committee has the discretion to proceed with the hearing and issue its findings and recommendations in the party's absence.
13. The decision of the Committee shall be based on the relevant evidence presented at the hearing. The decision shall be in writing and include: a list of all documentary evidence and witnesses presented; a summary of the testimony offered by both parties and their respective witnesses; the findings of the Committee and its recommendations. Copies of the decision and recommendations of the Student Grievance Committee shall be forwarded by the Student Grievance Officer to the President or his/her designee for review and final disposition. The President or his/her designee shall accept, reject or modify the Committee's decision and/or recommendations and issue a final written decision.
14. All findings and decisions reached under this Procedure shall be based on a "preponderance of evidence" standard (i.e.; more likely than not). Any action taken hereunder shall be reasonable under the circumstances, in accordance with applicable college rules and procedures and be grounded in fundamental fairness.

**Withdrawal**

A student may withdraw his/her Grievance at any time. Withdrawal must be accomplished in writing or by oral agreement confirmed in writing.

**Retaliation**

No member of the College community shall retaliate or threaten to retaliate against, interfere with, restrain, or coerce any student in the exercise of his/her rights under the Student Grievance Procedure or his/her participation in any Grievance proceedings.

**Collateral Rights of Person Grieved by Student**

If the recommendations made at any level of the Grievance procedure result in sanctions against a college employee, the sanctions shall be regarded as administrative actions subject to all conditions of applicable collective bargaining agreements and College or Board of Higher Education personnel policies.

**Alternative Forums**

Filing a Grievance in accordance with the Student Grievance Procedure in no way abrogates a student's right to file a complaint with an appropriate state or federal agency or in another forum.

**Student Complaints**

Students seeking a forum to file a complaint about MWCC outside of the college may address their concerns to either the Board of Higher Education found at this site (<http://www.mass.edu/forstufam/complaints/complaints.asp>) or (for matters requiring attention related to Massachusetts state law) the Commonwealth of Massachusetts Attorney General's Office at this site (<https://www.mass.gov/how-to/file-a-civil-rights-complaint/>).

**Online Students**

Please note that the Student Grievance Procedures apply to online complaints as well. Please review our online student complaints webpage (<https://mwcc.edu/academics/online-learning/state-authorization-online-learning/>) for more information.

