

Code of Conduct

Section 1: Overview

Purpose

Members of the Mount Mercy University community support the University's mission and embrace the core principles of reflective judgment, strategic communication, the common good, and purposeful living. When members of the University community violate our shared principles, the Code is used to affirm our principles through adjudication. The Student Code of Conduct defines minimum expectations for student behavior at Mount Mercy University and outlines the processes for students to bring a complaint, procedural due process, and appeal procedures.

Authority

The Student Code of Conduct is not a code of criminal law; criminal law concepts, processes, and procedures do not apply to it. The University will take appropriate action when student conduct runs contrary to the University mission or a clear and distinct university interest, regardless of whether a criminal offense has occurred. The University reserves the right to take necessary and appropriate action to protect the health, safety and well-being of the University community and its members.

Students and student organizations are subject to the provisions of local, state, and federal law and to all legal and judicial authorities as part of their responsibilities to the larger society. If a visitor or guest of a university student or organization does not comply with university policies and/or with local, state, or federal law, the student or organization may be subject to University sanctions, as well as to the provisions of local, state, or federal law. Those who believe a crime has occurred should inform Public Safety and/or a local law enforcement agency. Proceedings under the Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

Standard of Evidence

The standard of evidence that will be used to determine violations of the Student Code of Conduct is preponderance of the evidence. Preponderance of the evidence means that the evidence given (including complaint, response, witness statements, physical evidence, university documents and interview notes) is enough to suggest that a circumstance is *more likely than not* to have occurred as described.

Equal treatment

The University has an obligation to apply its rules equally to all students. This does not mean, however, that the University is required to refrain from engaging in the conduct process with some students because there are others who cannot be identified, or who are not similarly charged. Procedural fairness incorporates adequate notice of the charges, the opportunity for a fair hearing, and the right of appeal.

Nondiscrimination

For purposes of this Policy, the following characteristics are considered protected and, to the extent permitted by applicable law, individuals cannot be discriminated against based on these characteristics: race, color, religion, sex, gender, age, sexual orientation, pregnancy, national origin, disability, veteran status, genetic information, or any other status protected under applicable federal, state, or local law.

Freedom in the Classroom

A. Campus Expression

Students enjoy freedom of speech and expression on campus and at University-sponsored off-campus events or activities. Civil discourse, characterized by mutual respect for individuals and for opposing viewpoints, is an inherent responsibility of all members of the University community.

Free speech and expression does not include illegal activity or activity that endangers or threatens to endanger the safety of any member of the community, or any of the University's physical facilities, or any activity that disrupts or impedes the functions of the University or threatens such disruption or hindrance.

Offensive expression on matters including but not limited to race, ethnicity, religion, gender, disability, or sexual orientation is inappropriate in the Mount Mercy community and will be treated as harassment.

B. Classroom Expression

Students enjoy freedom of speech and research, of legitimate classroom discussion, and of advocacy of alternative opinions to those expressed in the classroom.

Students will be evaluated on knowledge and academic performance and not on the basis of personal or political beliefs.

C. Public Speakers

Students may invite and hear speakers of their choice on subjects of their choice, subject to the limitation that the University may withhold approval of an event or a speaker if holding such an event or providing a forum for the speaker is determined to be contrary to the mission of the University. Any community member inviting a speaker to campus should reference the University speaker policy located in the Mount Mercy University governing documents.

D. Campus Publications and Communications

The student press enjoy reasonable editorial freedom. This freedom carries with it the obligation to operate responsibly according to journalistic and broadcast ethics, consistent with the University's mission and any applicable legal regulations. Student editors and managers will not be suspended because of student, faculty, administration, alumni, or community disapproval of reasonable editorial policy or content.

Academic institutions exist for the transmission of knowledge, the pursuit of truth, the development of students, and the general well-being of society. Free inquiry and free expression are indispensable to the attainment of these goals. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in a sustained search for truth. Freedom for the individual is defined as the right to act or speak, so long as it does not adversely affect the rights of others. Believing in this concept, Mount Mercy University will protect freedom of action and freedom of speech for students, so long as it is not of an inflammatory or demeaning nature, is truthful and accurate and does not interfere with the students' living and study conditions. It shall constitute a disruptive act for any member of the campus community to engage in any conduct which would substantially obstruct, interfere with or impair instruction, research, administration, authorized use of University

facilities, the rights and privileges of other members of the Mount community, or student conduct proceedings.

Good Standing

The awarding of a degree from Mount Mercy University is conditioned upon a student's good standing with the University and satisfaction of all university graduation requirements. "Good standing" means the student has resolved any unpaid fees or acts of academic or behavioral misconduct and complied with all sanctions imposed as a result of any misconduct. Mount Mercy University may deny the awarding of a degree if the student is dismissed from the university based on misconduct.

Communication with the University

University email is Mount Mercy's primary means of communication with students. Students are responsible for receiving and reading all communication delivered to their University email address.

Responsibility for Guests

Students and student organizations are responsible for the conduct of guests and must use their best efforts to ensure that guests comply with the Student Code of Conduct and other University policies. This includes but is not limited to guests attending university-sponsored events on or off university property, visitors to residence halls, or attendees of activities sponsored by recognized student organizations.

Section 2: General Standards of Conduct

Any student who commits any of the following acts of misconduct shall be subject to disciplinary action by Mount Mercy. A student's presence at an incident where a violation is occurring and the student's behavior shows he/she did not choose to remove him/herself from the situation, and may be considered to be a **passive participant** to that violation even if he/she did not directly participate in the violation.

2.a. Disorderly Conduct

Conduct that disrupts the orderly process of Mount Mercy or is immoral, lewd, or indecent according to commonly accepted standards. A violation may include, but is not limited to, any conduct that an individual knowingly engages in an unreasonable manner such as to alarm or disturb another and/or to provoke a breach of the peace. Behavior that disrupts or obstructs any University activity, including but not limited to teaching, research, administration, residential living, proceedings, recreational activities, guest speaker presentations, and cultural events. Additionally, it includes any behavior that causes a substantial disruption to the living or learning environment of the campus or residence halls/apartments.

2.a.i. Disorderly Conduct I may include, but is not limited to:

1. Disturbing, disrupting, or obstructing the peace, or assisting or encouraging another person to do so
2. Intentional or reckless obstruction that unreasonably interferes with freedom of movement for either pedestrians or vehicles on university premises
3. Disruptions that can be reasonably traced to a specific individual or location
4. Throwing objects or playing sports within residential facilities. (Individuals and/or residential communities may be held financially responsible for repairing damages, painting costs, and general maintenance related to hall sports.)
5. Disruptive noises that can be reasonably traced to a specific individual or location

6. Strong odors that can be reasonably traced to a specific individual or location

7. Actions that incite and counsel others to deny to other students and members of the Mount Mercy community their right to attend and/or implement authorized programs and functions of the institution.

2.a.ii. Disorderly Conduct II may include, but is not limited to:

1. Conduct that a reasonable person would find offensive such as lewd, indecent, obscene, or profane actions
2. Abuse of self or others through physical/emotional abuse, threats, intimidation, violence, and/or other conduct which threatens or endangers the health or safety of any person, including one's self
3. Acts, or threats, of physical assault or abuse
4. Forcible detention
5. Threatening behavior (that may or may not include discriminatory acts which intentionally denigrate any category of residents are prohibited.)
6. Alcohol poisoning or drug overdose
7. Public intoxication
8. A repeated violation of lesser regulations.

2.b. Unauthorized Activity

A violation may include, but is not limited to, any unauthorized entry - either physical or electronic, either actual or attempted- into any University facility, building, or computer system. Additionally, actual or attempted unauthorized use of electronic or other devices to make an audio or video record of any person without prior knowledge or consent, when such a recording is likely to cause injury or distress to the subject of the audio or video record. Doing so is a violation of the individuals rights and may be subject to legal as well as civil action. This policy prohibits, but is not limited to, the following:

2.b.i. Unauthorized entry into or occupation of any Mount Mercy room, building or area of the campus, including such entry or occupation at any unauthorized time, or an unauthorized or improper use of any Mount Mercy property, equipment or facilities.

2.b.ii. Actions that obstruct or deny access to services or facilities of Mount Mercy or intentionally incite and counsel others to deny individuals their right of ingress or egress throughout the campus.

2.b.iii. Improper or unauthorized entry or exit of a University building, facility, or campus residence (e.g. entering or exiting a University building through a window) Leaving or entering a residence hall or Mount Mercy housing or assisting others to do so in any manner except the proper manner.

2.b.iv. All Mount Mercy University students, faculty, and staff are issued an identification card. This card can be programmed to grant access to approved buildings. This card is linked to individuals directly. Misuse, abuse, or lending this card to others is prohibited and can result in access being revoked.

2.c. Demonstrations

Demonstrations on the campus or within the interior of any Mount Mercy building or structure, except as specifically authorized and subject to reasonable conditions imposed to protect the rights and safety of other persons, and to prevent damage to property.

2.d. Theft

Theft, misappropriation, or misuse of Mount Mercy property, or private property on campus, including possession of stolen property. A theft violation may include, but is not limited to, taking or attempting to take another's property—personal, public or institutional—without his/

her express permission. This includes, but is not limited to, physical, electronic, and intellectual property.

2.e. Harassment and bullying

Physical or emotional abuse through actions, intimidation, or threats of another person during daily university life or at any Mount Mercy-sponsored or supervised function or event.

2.e.i. Harassment is any behavior intended to create - or could reasonably be expected to result in - a hostile, intimidating, or offensive environment that would undermine an individual's ability to work, learn, or fully participate in University life.

Harassing conduct may be verbal, written, electronic, or physical in nature. Mount Mercy University considers three parameters when investigating a harassment complaint:

1. Severity of the alleged behavior or action(s)
2. Persistence of the alleged behavior or action(s)
3. Pervasiveness of the alleged behavior or actions(s)

Violations of this conduct code could include, but are not limited to:

- Unwelcome or inappropriate contact
- Unwelcome or inappropriate communication, whether in person, via email, via whiteboard on a bedroom door, or other means of interaction
- Unwelcome or inappropriate sexual advances
- Create a hostile curricular or co-curricular environment for a student.

2.e.ii. Harassment becomes **bullying** when the intent of the action is to cause, or is perceived as causing, distress or intimidation to one or more students. Bullying interferes with another student or students' ability to be fully immersed and engaged as contributing members of the campus community. Bullying includes, but is not limited to, conduct by a student against another student that a reasonable person knows has the potential to:

- Harm a student.
- Damage a student's property.
- Place a student in reasonable fear of harm to his or her person or property.
- Create a hostile curricular or co-curricular environment for a student.

2.f. Act of Dishonesty

Misrepresentation of any material fact to any member of the faculty or staff of Mount Mercy or to any office, department, or committee thereof, or willful misrepresentation to anyone within or without the Mount Mercy community of his or her status or academic performance with the institution or of the support, sponsorship or approval of Mount Mercy of the services or activities of any person, group or organization.

Violations can include, but are not limited to:

2.f.i. Failure to comply with directions of University officials or law enforcement officers acting in the performance of their duties and/or failure to accurately identify oneself to these persons when requested to do so.

2.f.ii. Failure of any student or student organization to appropriately address a known or obvious violation of the Student Code of Conduct or state or federal law that poses a risk to the health and safety of any person.

2.f.iii. Providing false information, altering or misusing Mount Mercy documents and records, instruments, or property (eg. Identification cards/keys)

2.f.iv. Misrepresentation of any material fact to any member of the faculty or staff of Mount Mercy or to any office, department, or committee thereof, or willful misrepresentation to anyone within or without the Mount Mercy community of his or her status or academic performance with the institution or of the support, sponsorship or approval of Mount Mercy of the services or activities of any person, group or organization.

2.f.v. Fleeing the scene of an incident while an investigation or inquiry is in progress

2.f.vi. Refusing to Comply with MMU Conduct Process. A violation may include, but is not limited to:

- Failure to obey any notice from a university Conduct Board or university official to appear for a required meeting.
- Willful falsification, distortion, or misrepresentation of information during the student conduct process.
- Disruption or interference with a university conduct proceeding.
- Filing fraudulent charges or initiating a university conduct code proceeding in bad faith.
- Attempting to discourage an individual's proper participation in, or use of, the student conduct system.
- Attempting to influence the impartiality of a member of the university conduct system prior to, and/or during the course of, any university student conduct proceeding.
- Harassment (verbal, physical, through use of technology) and/or intimidation of a member of a university Conduct Board or student conduct administrator prior to, during, and/or after any university conduct proceeding.
- Verbal, physical, or technological harassment, intimidation, and/or retaliation against a person for their exercise of rights under the Student Code of Conduct or participation in the student conduct process as a complainant, respondent, or witness.
- Failure to comply with any sanction(s) imposed pursuant to a student conduct proceeding.
- Influencing or attempting to influence another person to commit an abuse of the university conduct process.

2.g. Alcohol & Controlled Substances

Alcohol

Mount Mercy is committed to maintaining a safe and healthy environment for members of the University community by promoting a drug-free environment. Mount Mercy does not encourage consumption of alcoholic beverages, nor does Mount Mercy promote the use or abuse of them. In keeping with the federal Drug Free Schools and Communities Act of 1989, and with other federal legislation, Mount Mercy has established policies and programs which address the use and abuse of alcohol. Such policies are a requirement for the receipt of federal financial assistance, including financial aid to students.

Mount Mercy students are considered to be responsible individuals who are expected to behave in accordance with state and local law and the Mount Mercy alcohol policy. Mount Mercy respects students' privacy and autonomy, assumes they will behave legally and responsibly, and will not use unjustified means to verify compliance. When violations of law or policy come to the attention of school officials or agents, however, justified sanctions will be imposed and repeat violations will be dealt with more severely.

Under state law, the legal age for possession or drinking of alcohol is 21. State law prohibits public intoxication; consuming alcohol in public places not covered by a liquor control license; driving or being a passenger in a motor vehicle with an unsealed receptacle containing an alcoholic beverage in the passenger area of the vehicle; giving or

selling an alcoholic beverage to anyone intoxicated; and possession of an alcoholic beverage under legal age. Violation of federal, state, and local laws as well as University policies concerning the use of alcoholic beverages or drugs.

2.g.i. An alcohol violation may include, but is not limited to, any unlawful use, possession, or distribution of alcohol beverages and any use, possession and distribution in violation of Iowa State Law.

Controlled Substances

In compliance with the Drug Free Schools and Communities Act of 1989 and the Drug Free Workplace Act of 1988, all Mount Mercy students are herein notified that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is strictly prohibited. Controlled substances include but are not limited to: cannabis, cocaine, heroine, acid, LSD, methamphetamine.

Violators of this policy may be subject to a variety of sanctions, up to and including expulsion from Mount Mercy. Parents or legal guardians may be notified concerning violations of underage possession, use, or provision to others of alcohol or any illegal substances, as provided for under the Higher Education Amendments Act of 1998.

The use, possession, or distribution of controlled substances is prohibited. Drugs or drug related paraphernalia may be confiscated and used as evidence. A violation may include, but is not limited to, the unlawful possession, manufacture, distribution, use, or sale of drugs or drug paraphernalia. A violation may occur if the odor of a drug is present when more than one individual can reasonable trace it to a specific individual or location.

2.g.ii. A drug violation may include, but is not limited to the unlawful possession, manufacture, distribution, use, or sale of drugs or drug paraphernalia.

2.g.iii. Odor of a drug is present when more than one individual can reasonably trace it to a specific individual or location.

2.h. Physical Assault

Any unwelcome physical contact that is intentional or reckless including, but not limited to, striking, slapping, hitting, punching, shoving, or kicking another person. Such actions are violations of the student Code of Conduct and will be referred to the Dean of Students. Students are also encouraged to file a report with the Cedar Rapids Police Department.

A violation may include, but is not limited to:

- Intentional and/or unwanted physical contact
- Use of violence and/or fighting
- Attempt to harm another person

2.i. Group Offenses

A group violation may include, but is not limited to, actions by organizations, societies, clubs, and similarly organized groups that result in violations of University policies. Repeated individual violations of the Student Code of Conduct may constitute a group offense if there is a nexus between the behavior and an activity or location in control of the group (for example, multiple alcohol or drug-related medical transports from or arrests made at a group-controlled property or as a consequence of a group-sponsored event over the course of a semester). Sanctions for groups may result in permanent or temporary suspension, loss of recognition or charter, social probation, or other actions deemed appropriate by the University. An individual involved in a group offense and/or sanction can also be subject to additional individual charges and sanctions.

2.j. Academic Dishonesty

Academic dishonesty, including cheating, plagiarism, or academic misconduct. (See Academic Integrity Policy).

2.k. Fiscal Misconduct

A violation may include, but is not limited to:

- 2.k.i. Falsification of Mount Mercy University or student organization financial records
- 2.k.ii. Any purchase and/or financial transaction made without appropriate organization membership and institutional approval, including, but not limited to, long-distance calls, copier use, signature of contracts, travel expenses, and rentals
- 2.k.iii. Failure to relinquish student organization financial records to officers/advisors, and/or university/SGA officials
- 2.k.iv. Failure to uphold the financial obligations and agreements entered into on the part of an individual or student organization
- 2.k.v. The writing of non-sufficient funds (NSF) checks to the University, forgery, and/or embezzlement

2.l. Demonstrations

Demonstrations on the campus or within the interior of any Mount Mercy building or structure, except as specifically authorized and subject to reasonable conditions imposed to protect the rights and safety of other persons, and to prevent damage to property.

2.m. Discrimination

Enforcing the diversity of views, cultures, and experiences is critical to the academic mission of higher education. Such diversity enriches the intellectual lives of all, and increases the capacity of Mount Mercy University to serve the educational needs of its community. Mount Mercy University is committed to preventing harassment while protecting individual rights. The Mount Mercy community promotes an environment in which incidents of discriminatory harassment are less likely to occur; an environment that is hospitable to all members of the University community regardless of race, sex, color, national origin, religion, age, sexual orientation, disability or status. A violation occurs when an individual or group of individuals is treated adversely (for example, denied rights, benefits, equitable treatment, or access to facilities or groups open to all others) based on the protected characteristics listed above.

2.n. Arson & Fires

Setting of fires in any Mount Mercy building or on the campus without the proper authority, or intentional sounding of a false fire alarm or improper use of fire prevention equipment in any Mount Mercy building or on the campus. The theft, tampering with or improper use of fire detection/fighting equipment is prohibited. Students found responsible for triggering the alarm systems due to mischief or negligence will be billed for the CRFDs services. A violation may include, but is not limited to, any violation of local, state, federal, or campus fire policy, including:

- 2.n.i. Intentionally or recklessly causing a fire which damages property or personal property or which causes injury,
- 2.n.ii. Failure to evacuate a university-controlled building during a fire alarm, unless directed to stay in an area of evacuation assistance by a university official
- 2.n.iii. Improper use of fire safety equipment
- 2.n.iv. Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on university premises

2.o. Improper Computer Usage

Mount Mercy encourages computer use as a tool to further its teaching, scholarly research, and service goals. Mount Mercy provides

faculty, students, and staff with equipment and facilities that provide access to campus and global information resources. Computing resources are to be used in an ethical, courteous and fair manner. Use of Mount Mercy computing facilities is restricted to current faculty, staff, students, and other employees. With permission of lab supervisors, alumni and non-university individuals may be permitted to use Mount Mercy technology resources. This latter access will be granted on a case by case basis, by the Director of IT or IT staff.

The purpose of this policy is to extend these expectations to include acceptable uses of information technology resources. Furthermore, the policy extends these expectations to cover circumstances in which the interests and rights of others must be protected and preserved. These guidelines apply to all Mount Mercy faculty, staff, and students using Mount Mercy information technology resources. These policies also extend to alumni and non-university individuals and entities that access information through Mount Mercy technology resources.

Information technology resources are those facilities, technologies, and information resources required to accomplish processing, storage, and communication, whether individually controlled or shared, stand alone or networked. Included in this definition are departmental/building technology centers and labs, classroom technology, equipment, personal computers owned by students, staff, and faculty but used on campus, and computing and electronic communication devices and services.

Specialized computer labs within the Mount Mercy community may define conditions of use for facilities under their control. These statements must be consistent with this overall policy, but may provide additional detail, guidelines, and/or restrictions. In addition, any network traffic exiting the institution is subject to the acceptable use policies of Mount Mercy's national and international network connectivity providers.

Technology Operations does not allow or support personal devices such as game servers, routers, hubs/switches, access points, etc. to be plugged in to or access the Mount Mercy University network. Failure to comply with this policy can cause serious effects on the campus network and can cause costly down time to the campus and/or repairs. If a device is found to be on the network without authorization, the port will be disabled indefinitely and the device will be subject to confiscation. Allowable devices are personal computers and printers. Tablets, iPad's and phones may also access the wireless network. If you have any questions about what is allowed and what is not, please contact Technology Operations at extension 4357 or help@mtmercy.edu.

Student violation of these policies constitutes computer abuse and disciplinary actions will be governed as outlined in appropriate policy manuals of Mount Mercy. Computer abuse by faculty and employees of Mount Mercy will be handled by appropriate administrative channels. The Director of IT's role in the process will be to call attention to the situation, gather and validate pertinent information to the appropriate dean, vice president or supervisor. Violations of courtesy are to be referred to the Director of IT or the supervisor of the individual lab or electronic device.

Persons using electronic mail with Mount Mercy information technology resources are expected to treat the contents of electronic files as private and confidential. Inspection of electronic files and electronic mail, and any action based upon such inspection, will be governed by all applicable United States and Iowa laws. The Mount Mercy community is advised that all files stored on main systems, including electronic mail, are backed-up regularly and may be subject to review by Mount Mercy and/or subpoena.

Mount Mercy cannot monitor and does not control the information available through the Internet. Parents or guardians are responsible for monitoring the materials accessed by minors.

Information technology resources may be used for the following purposes:

- Class assignments
 - Campus community and public service projects
 - Campus publications and announcements
 - Academic research and investigation
 - Computing for personal and professional development
 - Administrative and instructional support
 - Staff and faculty consulting, subject to Mount Mercy policies
- Computer users must not engage in unauthorized or inappropriate conduct on the Mount Mercy network, email, or Internet.

Disrupting access of other students, faculty or staff members to Mount Mercy computer resources. Violations include but are not limited to:

- 2.o.i. Obtaining without or without authorization access to a computer account assigned to another person of an inactive or inactive account
- 2.o.ii. Attempting to read or access another person's electronic mail or protected files belonging to another Mount Mercy student, faculty or staff member or academic department for other than its intended purpose with or without permission from the owner
- 2.o.iii. Unauthorized tampering with or modification of network resources including but not limited to cracking or access systems, whether on campus or off, in an unauthorized or inappropriate manner
- 2.o.iv. Falsifying or altering records or documents using Mount Mercy computer equipment to interfere with the lawful rights of others
- 2.o.v. Damaging programs belonging to another that may or may not involve knowingly distributing or actively developing a computer virus, worm, or Trojan Horse.
- 2.o.vi. Using technology or facilities to threaten or harass another person.
- 2.o.vii. Copying or distributing software in a violating copyright laws, license agreements, and intellectual property as outlined in the Copyright Law of the United States of America, revised March 1, 1989, in Title 17 of the United States Code, Section 117.
- 2.o.viii. Using technology or facilities to engage in illegal or criminal activities.
- 2.o.ix. Assisting another person to do any act proscribed under this paragraph.

Personal Web Page Guidelines

Copies of Mount Mercy's Web page policy, "Guidelines for Personal Web Pages," can be found in the Busse Library.

2.p. Relationship Abuse and Violence

A violation may include the use of physical, sexual, verbal, emotional, or technological abuse, or similar behaviors that a reasonable person would conclude is intended to control a partner, or harm, threaten, intimidate, or control another person in a relationship of a romantic or intimate nature, regardless of whether that relationship is continuing or has concluded or has the number of interactions between the individuals involved.

2.p.i. Dating violence: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with

the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

1. The length of the relationship.
2. The type of relationship
3. The frequency of interaction between the persons involved in the relationship

2.p.ii. Domestic Violence: felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

2.q. Sexual Misconduct

The expectations of our community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity.

Consent is permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence--without actions demonstrating permission--cannot be assumed to show consent.

Additionally, there is a difference between seduction and coercion.

Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation.

Individuals who consent to sex must be able to understand what they are doing. Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "no."

A person who knows or reasonably should have known that the other person was incapacitated may not engage in sexual contact or intercourse with that person.

Sexual Misconduct Offenses include, but are not limited to:

2.q.i. Sexual Harassment: unwelcome, sex-or gender-based conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies, or limits a person's ability to participate in or benefit from the University's educational program or activities and is based on power differentials ("quid pro quo"), or creates a hostile environment. Examples of sexual harassment include, but are not limited to:

1. An attempt to coerce an unwilling participant into a sexual relationship
2. A one-time instance or repeated instances that subject a person to unwelcome sexual attention, or unwanted comments, communications or jokes of a sexual nature or about their sexual experiences or orientation

3. Conduct that punishes a person for a refusal to comply with a sexual request
4. Conditioning a benefit on submitting to sexual advances
5. Threatened or actual sexual violence
6. Bullying someone on the basis of sex or gender including for exhibiting what is perceived as a stereotypical characteristic for their sex or for failing to conform to stereotypical notions of masculinity and femininity, including repeated use of degrading words, gestures, or sounds to describe a person.

2.q.ii. Non-Consensual Sexual Contact (or attempts to commit same): Any intentional sexual touching, however slight, with any object (including body parts), by one person upon another person, that is without consent and/or by force. Examples of sexual contact include, but are not limited to:

1. Contact with the breasts, buttock, groin, or genitals, or touching of another with any of these body parts
2. Making another touch another person or themselves with or on the breasts, buttocks, groin, or genitals
3. Bodily contact in a sexual manner, though not involving contact with breasts, buttocks, groin, genitals, mouth, or other orifice.

2.q.iii. Non-Consensual Sexual Intercourse (or attempts thereof): Sexual intercourse is non-consensual when a conduct occurs ranging from forcible intercourse to nonphysical forms of pressure that compel individuals to engage in sexual activity against their will. Examples of non-consensual sexual intercourse (sexual assault) under this policy include, but are not limited to, the following behaviors, however slight, when consent is not present:

1. Sexual intercourse (anal, oral, or vaginal). Intercourse, however slight, meaning vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; or oral copulation (mouth to genital contact or genital to mouth contact)
2. Attempted sexual intercourse (anal, oral, or vaginal)
3. Intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts
4. Any other intentional unwanted bodily contact of a sexual nature
5. Use of coercion, manipulation, or force to make someone else engage in sexual touching, including breasts, chest, and buttocks
6. Engaging in sexual activity with a person who is incapacitated and unable to provide consent due to the influence of drugs, alcohol, or other mental or physical condition (e.g., asleep or unconscious).

2.q.iv. Sexual Exploitation: Occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses.

Examples of sexual exploitation include, but are not limited to:

1. Invasion of sexual privacy
2. Prostituting another student
3. Non-consensual video or audio-taping of sexual activity
4. Duplication, distribution, or publication of a consensually made recording of a sexual activity without the consent of all parties involved in the recorded sexual act
5. Going beyond the boundaries of consent (such as letting someone else watch a consensual act while hiding)
6. Engaging in voyeurism
7. Knowingly transmitting an STI or HIV to another student

8. Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals
9. Sexually-based stalking and/or bullying may also be forms of sexual exploitation

2.q.v. Sexual Intimidation: threatening another person that you will commit a sex act against them; engaging in indecent exposure; or stalking another person who reasonably perceives the stalker is pursuing a romantic and/or sexual relationship.

2.r. Stalking

Stalking occurs when a person on at least two separate occasions follows another person or places the person under surveillance, knowingly and without lawful justification; and at any time transmits a threat or places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint.

Examples of prohibited stalking can include, but are not limited to:

1. Non-consensual repeated communication including in-person communication, telephone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on web sites, written letters, gifts, ordering goods or services, or any other communications that are undesirable
2. Following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a recipient of unwelcome conduct
3. Monitoring online activities, surveillance and other types of observation, whether by physical proximity or electronic means, attempts to gather information about the recipient of unwelcome conduct;
4. Vandalism, including attacks on data and equipment;
5. Direct physical and/or verbal threats against a recipient of unwelcome conduct or loved ones of a recipient of unwelcome conduct, including animal abuse;
6. Gathering of information about a recipient of unwelcome conduct from family, friends, coworkers, and/or classmates;
7. Manipulative and controlling behaviors such as threats to harm oneself, or threats to harm someone close to the recipient of unwelcome conduct;
8. Defamation or slander against the recipient of unwelcome conduct; posting false information about the recipient of unwelcome conduct; posing as the complainant in order to post to web sites, news groups, blogs, or other sites that allow public contributions; and/or encouraging others to harass the recipient of unwelcome conduct;
9. Posing as someone other than oneself to initiate transactions, financial credit, loans, or other contractual agreements;
10. Arranging to meet the recipient of unwelcome conduct under false pretenses.

2.s. Trespass

Failure or refusal to leave University ground, a University facility, or a specific portion of a facility, when requested by a University official.

2.t. Hazing

Any action required of or imposed on current or potential members of a group that intentionally or recklessly endangers the physical health or safety of a student for the purpose of initiation or admission into, or affiliation with, any organization operating in connection with the University. Mount Mercy University is committed to enforcing state law regarding hazing (see Iowa Code 708.10 Hazing):

2.s.i Level 1 violations: Verbal abuse, servitude, shaming, and/or shunning

2.s.ii Level 2 violations: Physical abuse, property damage, mental duress, forced/coerced substance abuse, forced/coerced consumption, coerced participation in public or private activities, and sexual acts.

2.u. Firearms and Weapons

Possession, use, and transportation of any dangerous or potentially dangerous weapons is prohibited on Mount Mercy University properties or events. This policy shall apply to all faculty, staff, students of Mount Mercy University, and to all visitors to the campus or University properties. This policy shall not apply to duly authorized law enforcement officials in the lawful discharge of their duties. Temporary exclusions may be granted by the Director of Public Safety for job related, educational, or demonstration purposes, which shall include an agreement on storage by the Public Safety Director. Examples of firearms and weapons include, but are not limited to:

- 2.u.i. Ammunition hunting knives, swords, bows and arrows, sling shots, and bayonets shall not be brought on campus or kept in student rooms/apartments/suites/Hazel houses.
- 2.u.ii. Fire arms (shotgun, rifles, hand guns)
- 2.u.iii. Explosives, fireworks, fire crackers, and explosive devices
- 2.u.iv. Pellet guns, BB guns, air guns, taser or stun gun, or any other object a reasonable person may believe to be a gun
- 2.u.v. Knives (switchblade knife, butterfly knife, sword, or otherwise bladed object)
- 2.u.vi. Any object intended for use as a weapon

Violation of any other regulation or any other rule or policy that may be promulgated by the President of Mount Mercy or an authorized representative, by any department, residence, office or other facility within the scope of its authority, provided such rules, regulations or policies were published, posted or otherwise adequately publicized or the student had actual knowledge of such rule, regulation or policy.

All provisions contained in Mount Mercy residence hall or apartment contracts that pertain to personal conduct shall be deemed rules subject to this regulation with respect to all residence hall students.

2.v. Bribery and/or Extortion

A violation may include, but is not limited to, bribery, attempted bribery, acceptance of a bribe, and/or failure to report a bribe.

2.v.i Bribery includes, but is not limited to, offering money and/or some other form of payment including gifts to a member of the University community in order to influence any academic or administrative process or to influence any athletic or university event.

2.v.ii Extortion includes, but is not limited to, getting or attempting to get money and/or anything of value by violence, threats, and/or misuse of authority.

2.w. Health and/or Safety Hazards

A violation includes creation of a health and safety hazard for any member of the university community or guest and campus visitors.

Examples of health and safety hazards include, but are not limited to:

- 2.w.i. Participating in dangerous pranks;
- 2.w.ii. Hanging out of or climbing on windows, balconies, or roofs; or
- 2.w.iii. Any other conduct that creates an unreasonable risk of harm to a person or property.

2.x. Unmanned Aircraft System

The use of any property owned, leased, licensed or otherwise controlled by the University, including, but not limited to, any "air rights"

recognized by federal or state law, to operate any Unmanned Aircraft Systems ("UAS"), commonly referred to as "unmanned aerial vehicles" or drones, as well as any small unmanned aircraft or model aircraft ("model aircraft"), poses inherent health, security, and privacy risks to the University community. Accordingly, use of University property or air rights for the purpose of operating any UAS or model aircraft is prohibited at all times. This prohibition includes the associated support equipment, control station, data links, telemetry, communications and navigation equipment, etc., necessary to operate the vehicle. The use and operation of UAS is strictly regulated by the Federal Aviation Administration and is also governed by state law. Any person who observes the use of any UAS or model aircraft on University property should immediately notify the Department of Public Safety at 319-363-1323 ext.1234.

Any person or entity using or operating any UAS or model aircraft in violation of this policy shall be subject to all criminal and civil penalties and liability to the maximum extent possible under federal and state law.

2.y. Vandalism/Destruction/Damage or Misuse of Property

A violation may include intentional, negligent, or attempted acts resulting in destruction, damage, abuse, fraudulent or misuse of University or private property including computer, fleet vehicles, and telephone services.

2.z. Violation of any other regulation or any other rule or policy

Violation of any other regulation or any other rule or policy that may be promulgated by the President of Mount Mercy or an authorized representative, by any department, residence, office or other facility within the scope of its authority, provided such rules, regulations or policies were published, posted or otherwise adequately publicized or the student had actual knowledge of such rule, regulation or policy. All provisions contained in Mount Mercy residence hall or apartment contracts that pertain to personal conduct shall be deemed rules subject to this regulation with respect to all residence hall students. Violations of Other Duly Promulgated University Policies and Regulations

All provisions contained in Mount Mercy residence hall or apartment contracts that pertain to personal conduct shall be deemed rules subject to this regulation with respect to all residence hall students. Violations include but are not limited to, alcohol, pets, smoking, solicitation/commercial enterprises, demonstrations, assistance/service animals, guest/visitation,

2.aa. Violations of Residence Life Regulations

As compiled in the Residence Hall Contract, Good Book, and Movin' On documents. A student present but not actively involved in an incident arising out of a residence hall may be subject to disciplinary action.

2.bb. Acts Against the Administration of This Code

Violations of rules and regulations, or conduct, not covered above but considered detrimental to the educational process, missions or goals of Mount Mercy or threatening the health, well-being, or safety of any member of the Mount Mercy community.

Section 3: Definitions

Conduct Body

The term "Conduct Body" means any person or persons authorized by the Vice President for Administration, Enrollment, and Student Services or her/his designee to determine whether a student has violated the Student Code of Conduct and to determine appropriate sanctions for the violation. This can be a single individual, such as a Hearing Officer (individual faculty or staff member), a group of people, such as a Conduct Board or Appellate Board, and/or, in instances of academic dishonesty, a faculty member.

Consent

Consent: Consent is affirmative, clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- Affirmative consent means that a verbal, conscious, and voluntary agreement to engage in sexual activity.
- Affirmative consent must be ongoing throughout any activity and can be revoked at any time.
- Each person involved is responsible for ensuring they have affirmative consent of any other person engaging in the sexual activity.
- Sober (someone too drunk to drive or walk home on her/his own is too drunk to give consent)
- Of age (the Student Code of Conduct requires each party to be at least 18 years old)
- Awake and conscious. Lack of protest or resistance does not mean consent. Silence does not mean consent.
- Uncoerced and unthreatened (each party must feel free and safe to say yes or no)

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

- NOTE: There is no requirement that a party resists the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.
- In order to give effective consent, one must be of legal age.
- Sexual activity with someone who one should know to be -- or based on the circumstances should reasonably have known to be -- mentally or physically incapacitated (by alcohol or other drug

use, unconsciousness or blackout), constitutes a violation of this policy.

- Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
- This policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>
- Use of alcohol or other drugs will never function as a defense for any behavior that violates this policy.
- The sexual orientation and/or gender identity of individuals engaging in sexual activity is not relevant to allegations under this policy. For reference to the pertinent state statutes on sex offenses, please see [insert reference here].

Sexual Abuse: The Iowa Code defines sexual abuse as follows: Any sex act between persons is sexual abuse by either of the persons when the act is performed with the other person in any of the following circumstances:

- The act is done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats of violence toward any person, or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other.
- Such other person is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.
- Such other person is a child.

Discriminatory Harassment: In addition to sexual harassment defined above, the University prohibits harassment based on any other characteristic protected by law, including, race, color, national origin, creed, religion, age, disability, sex, gender identity and sexual orientation. Like sexual harassment, harassment based on one of these protected characteristics undermines the mission of the University through its detrimental impact on individual students, faculty and on the University community as a whole.

- Prohibited harassment is conduct based on one or more of the above characteristics that has the purpose or effect of unreasonably interfering with an individual’s work or educational performance or of creating an intimidating, hostile, or offensive environment for work or learning. Examples of the types of behavior that may lead to other discriminatory harassment include unwelcome conduct aimed at another because of a protected characteristic that would denigrate, distress, or humiliate a reasonable person, such as:
 - name-calling
 - jokes or negative comments about protected characteristics
 - physical intimidation
 - vandalism or pranks
 - displays of reading materials or pictures containing negative material about protected characteristics, including electronic materials.

Any student, faculty or staff member who believes he or she has been subjected to other discriminatory harassment may follow the Sexual Harassment complaint procedures set forth above.

**This definition is not intended to restrict usual standards of academic freedom.

- Intimate Partner Violence Policy: The Campus SaVE Act requires institutions of postsecondary education eligible to participate in federal student aid programs to adopt, and disclose in their annual security report a summary of, a policy regarding sexual assault (an existing requirement of the Clery Act) and other intimate partner violence. The term “intimate partner violence” is defined to mean “any physical, sexual, or psychological harm against an individual by a current or former partner or spouse of the individual”. It includes stalking, dating violence, sexual violence, or domestic violence.

False Reports

Any individual making deceitful allegations of will be subject to appropriate sanctions.

Faculty member

The term “faculty member” means any person who regularly conducts classroom activities for the University.

Hostile Environment

A “hostile environment” is created if conduct is sufficiently serious that it interferes with or limits a person’s ability to participate or benefit from Boise State’s programs and services. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. A single or isolated incident of sex or gender-based harassment or discrimination may create a hostile environment if the incident is sufficiently severe.

Member of the University Community

The term “member of the University community” includes any person who is:

1. A student;
2. A faculty or staff member;
3. A University official;
4. Identified to conduct business for the University; or
5. Guests, to include but not limited to, volunteers, event attendees, participants in university sponsored co-curricular or auxiliary programs.

A person’s status in a particular situation will be determined by the Vice President for Administration, Enrollment, and Student Services or her/his designee.

Protected Characteristics

The term “protected characteristics” means personal characteristics or factors that cannot be targeted for discrimination or harassment. For purposes of the Student Code of Conduct the following characteristics are considered protected and individuals cannot be discriminated against or harassed based on these characteristics: race, color, religion, sex, gender, age, sexual orientation, pregnancy, national origin, physical or mental disability, veteran status, genetic information, or any other status protected under applicable federal, state, or local law.

Quorum

The term “quorum” means one more than fifty percent of the voting membership of a conduct body. A conduct body consisting of a single individual always consists of a quorum. A conduct panel is comprised

of 5 members, with a minimum to meet quorum being 3 (to always include at least one student and one faculty member).

Retaliation

Retaliation of any kind against anyone who in good faith files a complaint of misconduct or participates in the investigation process is prohibited and may be sanctioned. An individual who engages in retaliation against a person who files, or participates in an investigation into, a complaint will be subject to appropriate sanctions. Anyone who believes they have been subjected to retaliation should immediately report the situation to the Dean of Students.

Student

The term “student” includes all persons taking courses at the University, either full-time or part-time, degree seeking or non-degree seeking, as well as persons who have been admitted but are not yet taking classes. Persons who withdraw after allegedly violating the standards of conduct, who are not enrolled for a particular term but who have continuing relationships with the University (including suspended students), or who have been notified of their acceptance for admission are also considered students.

Student Conduct Administrator

The term “Student Conduct Administrator” means the University official authorized by the Vice President for Administration, Enrollment, and Student Services:

1. Advise Respondents and Complainants on student conduct processes and procedures;
2. Serve as a hearing officer as designated by the Dean of Students;
3. Serve as the advisor to the student conduct process;
4. Maintain official conduct records;
5. Monitor sanction compliance; and
6. Coordinate the training and development of student conduct bodies

Student Organization

The term “student organization” means any group of individuals who have complied with the formal requirements for University recognition. These groups may include, but are not limited to, athletic teams or organizations.

University

The term “University” means Mount Mercy University.

University Official

The term “University official” includes:

1. Any person employed by the University performing assigned administrative or professional responsibilities including but not limited to entities such as Parking and Transportation and Resident Assistants acting as University employees;
2. Any student who is an assigned or appointed formal member of a University Conduct Body.

University premises

The term “University premises” includes all land, buildings, facilities, and other property in the possession of (or owned, used, leased, or controlled) by the University including, but not limited to, items such as adjacent streets and sidewalks, vehicles, and computers, web sites and university owned and/or operated computer networks, including wireless internet access.

Additional Applicable Definitions

New Reporting Categories for Clery: Under VAWA’s SaVE Act institutions are required to add three categories that must be reported

under the Clery Act, if incidents are reported to campus security authorities or local police agencies. That’s according to the American Council on Education’s (ACE) “New Requirements Imposed by the Violence Against Women Re-authorization Act” summary (4/1/13). The three categories, as defined in the National Association of College and University Attorney’s (NACUA) “A Brief Analysis of The Violence Against Women Act (VAWA) and Changes to the Clery Act & Title IX Compliance” document (March 2013), are:

1. **Dating Violence**—violence committed by a person
 - a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i The length of the relationship.
 - ii The type of relationship
 - iii The frequency of interaction between the persons involved in the relationship
2. **Stalking** – Stalking is conduct directed at a specific person that would cause a reasonable person to feel fear and that significantly disrupts the person’s work, educational performance, on-campus living, or participation in a university activity on or off campus. A pattern of conduct perceived as threatening or harassing may violate university policy under a reasonable-person standard even if the person who commits the conduct did not intend to make the party feel threatened or harassed. A behavior pattern that the target of the conduct finds distressful may be considered a violation even if the target did not specifically direct the person who commits the conduct to refrain from contacting him or her.
3. **Domestic Violence** –felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

Section 4: Jurisdiction Over Student Conduct

The Code and the processes for its administration and enforcement exist for the protection and advancement of the University community’s particular institutional interests. The Code applies to individual students and student groups/organizations and is used to enforce University policies and regulations. Regardless of how it is handled by the court system, a violation of law may also be treated as a violation of University regulations.

Conduct proceedings on campus are designed to deal developmentally with student behavior in the University community that is prohibited or is deemed unacceptable to the University community. When the behavior is aggravated or presents a continuing danger to the University community, accused students are subject to separation from the University.

Conduct action is not a substitute for judicial mechanisms of the larger community. Criminal prosecution in the court system is designed to be punitive and to provide social consequences for convicted offenders. Student offenders may be charged under either or both systems. University sanctioning power, therefore, applies only to instances

of student misconduct that are basic to its appropriate interests, as follows:

1. The opportunity of all members of the University community to attain educational objectives
2. The protection of the health, safety, welfare, and property of all persons in the University community
3. The protection of the University's integrity and its property.

The University's jurisdiction extends to all admitted or enrolled students while they are present on premises owned by the University, on city streets running through or adjacent to the campus, and in off-campus buildings occupied by students by virtue of their association with a group/organization given formal recognition by the University or at a host institution or other site for an academic or extracurricular University-related experience. In addition, the Code may also be invoked against students whose off-campus behavior:

- Potentially harms the institutional educational interests of the University. This standard is fulfilled when the behavior creates general and negative public opinion of the University or its students or employees
- Threatens the well-being of its students or employees. This standard is fulfilled when the behavior has already threatened a member or members of the general public and there is reason to believe that such behavior might threaten or endanger students or employees if not addressed in the institutional community.

On occasion, instances of student misconduct may constitute offenses against the larger community. Students are responsible for knowing and observing all federal and state laws, and local ordinances. The fact that a student is or has been prosecuted in criminal court for a violation of law or the dismissal of criminal court charges does not preclude University jurisdiction over the misconduct. Civil or criminal authorities are not precluded from taking action against students for on-campus violations of public laws and ordinances.