

Code of Student Conduct Trustee Doc. # T-94-059

Acting upon the authority granted to it by the provisions of Chapter 75 of the General Laws, the Board of Trustees adopts the policies and procedures herein contained which govern the conduct of students.

PREFACE.

The University of Massachusetts is a scholarly community united by its engagement in the exchange of ideas and the advancement of knowledge. Learning also involves reflecting on decisions and improving decision-making skills. By establishing expectations for the community, the Code of Student Conduct (CSC) serves as an integral part of the University's educational mission. The CSC describes principles for living and acting responsibly in a community setting, with respect for the rights of all members of that community, and for their property, common resources, and values. The purpose is to reinforce and encourage the development of good decision-making and personal integrity and to teach these skills where they are lacking. It is the University's goal that as students make their way through any aspect of the conduct process, they will leave that process as better educated students, better members of the University community, and better global citizens.

I. GENERAL INFORMATION.

A. Jurisdiction.

1. The Code of Student Conduct (CSC) is applicable to any student enrolled in or accepted for an academic course or program, regardless of credits carried. Each student shall be responsible for personal conduct from the time of admission through the actual awarding of a degree even though that conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.
2. The CSC also applies to any fraternities, sororities, Registered Student Organizations or other student groups.

3. Generally, the regulations contained in the CSC apply to student conduct which occurs at the University of Massachusetts Amherst or on the grounds of the other four colleges within the Five College Consortium (Smith College, Amherst College, Hampshire College, Mount Holyoke College) or at any event sponsored by any of these institutions. However, the University reserves the right to take action based on any student conduct, regardless of location, that is contrary to the pursuit of the educational mission of the University or that may adversely, distinctly or directly affect the University community and or its international programs.

B. Notice to Parents, Families, or Third Parties.

1. Students are adults, capable of making their own decisions, as well as accepting the consequences for those decisions. Except in limited circumstances, it is the student who notifies the parent(s) or self-selected third parties about a pending case. If a student decides to include a concerned third party in the conduct process,



the Dean of Students office will be responsive to the inquiry, but the student must ultimately reply to the meeting request and forthrightly participate in the process. Conversations are between the University and its students.

2. If a student is found responsible for an alcohol or drug violation, the parents or legal guardians of dependent students under 21 will be notified. The University may waive parental notification in exceptional circumstances if a student makes a bona fide showing that such notification will create significant hardship such as potential violence or financial abandonment that may result in withdrawal from the University.
3. The University reserves the right to notify parents or families without a student's prior consent in health or safety emergencies.

C. Standards.

1. Since the functions of a university depend on honesty, integrity and civility among its members, the University of Massachusetts expects a higher standard of conduct than the minimum required to avoid disciplinary action.
2. While many of the University's standards of conduct parallel the laws of society in general, University standards also may be set higher and more stringently than those found elsewhere in society. For these reasons, the University focuses primarily on educating students about their behavior, but may impose sanctions up to and including suspension and expulsion in order to preserve a safe and healthy environment for the University community.
3. The University does not ascribe to the rules of evidence or standard of proof found in criminal or civil proceedings, nor does it inquire into civil proceedings without first obtaining the expressed consent of students involved. The burden of proof shall at all times rest upon the complainant. The standards of proof for deciding a matter shall be by a preponderance of the evidence.

D. Relationship to Other Proceedings.

1. Students may be accountable to both civil authorities and to the University for acts which constitute violations of law and of the CSC. Disciplinary action at the University will normally proceed during the pendency of criminal proceedings and will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced.

E. Additions and Amendments.

1. These University expectations are set forth in writing in order to give students general notice and examples of prohibited conduct. The descriptions should be read broadly and are not designed to define expectations or misconduct in exhaustive terms.
2. The provisions of the CSC are not to be regarded as a contract between the student and the University. The University also reserves the right to amend any provision herein at any time. The University will publish such amendments in relevant campus publications.

F. Additional Administrative Consequences.

1. When the outcome of a disciplinary action is suspension from the university, a restriction will be placed prohibiting the student from performing any registration transactions during the period of suspension. The restriction will not be removed, and the student will not be allowed to perform registration transactions, until the stated period of suspension has expired and all disciplinary obligations are met.
2. Administrative holds affecting registration transactions and the posting of a degree may be placed when students fail to fulfill terms of their disciplinary obligations. Such situations may include failure to respond to a written notice indicating a required appointment with a designated university disciplinary official and failure to complete disciplinary sanctions by an established deadline.

G. Student Status During Conduct Process.

1. The status of a student in most instances will not be altered and disciplinary sanctions are not initiated until completion of an initial review or an appeal, if any.

H. Mental Capacity.

1. Any behavior which may have been influenced by a student's mental state (irrespective of the ultimate evaluation), or voluntary use of drugs or alcoholic beverages shall not in any way limit the responsibility of the student for the consequences of her or his actions.

I. Limitation.

1. The University will neither assume responsibility for, nor act in the collection of, privately incurred debts involving students.

J. Additional Processes.

1. The University may establish additional informal and/or educational programs to complement the formal conduct process. The purpose of such programs is to maximize opportunities for student learning and development in conduct management, conflict resolution, self-awareness, ethics, and integrity.

K. Definitions.

1. A business day is defined as a day when University administrative offices are open.

II. PROCEDURES REGARDING CONDUCT RESOLUTION.

The resolution of conflict involving students is an educational endeavor. All members of the community are expected to report all violations of the Code of Student Conduct to the Dean of Students Office, maintain appropriate privacy for investigations and proceedings, and refrain from filing complaints in bad faith, or in retaliation against any individual. Visitors to campus may also report violations. At all times

the privacy of reporting parties and their witnesses will be treated with the utmost respect and shared with appropriate University and non-University officials consistent with federal and local laws.

A. Scope.

1. **Administrative Units** – Policy or contractual non-compliance issues in Residential Life, Campus Recreation, Academic Honesty Policy, University Store, Transportation Services, Office of Information Technologies, and other administrative units will be handled primarily by those respective offices using process and procedure set out by those administrative units.
2. **Dean of Students Office** – Serious cases of behavior or allegations of behavior that could result in expulsion, suspension and/or removal from housing deferred or imposed will be handled primarily by the Dean of Students Office. These include, but are not limited to sexual assault, harassment, stalking, domestic violence, bias related incidents, campus disturbances, threatening behavior, fire safety violations, use and/or possession of weapons and fireworks, records falsification, physical assault, operating under the influence, drug and alcohol possession or distribution, town or state violations and matters resulting in a student's arrest or citations by local municipalities or campus police. Additionally, matters that impact the health and safety of the community or its members and matters requiring interim action, health and safety considerations, repeat or egregious violations of policy or contractual non-compliance in administrative units as defined jointly by the Dean of Students Office and the administrative unit should be handled by the Dean of Students Office.

B. Dean of Students Office Procedures.

1. **Investigation and Charges.**
 - a. At the request of any student, faculty or staff member, guest of the University, or independently the University may investigate

an allegation of student misconduct. The review may include interviewing relevant students, witnesses, review of document or other steps that will assist the Dean of Students Office to determine whether charges are warranted. If appropriate, the University may file charges against the student(s).

- b. A complaint alleging student misconduct must be filed no later than one year after discovery of the alleged violation and the identity of the student(s) involved by the victim.
- c. The University may bring charges at any time. If a student has withdrawn or withdraws after the filing of charges, a registration hold may be placed on the student's academic record and the University may proceed to resolve the disciplinary action with an in absentia finding.
- d. If no charges are filed, but in the judgment of the Dean of Students or her or his designee grounds exist to believe that the student would benefit from education on a topic related to the investigated behavior, the University may assign a student to an educational process or program to address the concern. No conduct history will result from such an assignment, but failure to complete the assignment could result in subsequent charges.

2. Notice of Charge.

- a. Upon the filing of charges, the named student(s) will receive a Notice of Charge and will have two (2) business days to call the Dean of Students Office to schedule a Conduct Conference. The Notice will contain a statement of the charges as outlined by the Code of Student Conduct and a summary of the facts upon which the charges are based including the date and location of the incident. If a student does not respond to a Notice of Charge, the student may receive an in absentia finding.

3. Conduct Conference.

- a. At the Conduct Conference, the student(s) will meet with a member of the Dean of Students' staff to discuss the nature of the conduct complained about, the student's responsibility for the allegations, and the options to resolve the matter. The student(s) will also be advised of the range of possible sanctions.

4. Conduct Conference Outcomes.

- a. At the end of the Conduct Conference the student(s) or group of students may be found not responsible, the Dean of Students Office staff may issue a warning letter, the student(s) or group of students and the Dean of Students Office staff may sign a Voluntary Administrative Review or the Dean of Students Office staff may issue a Summary Administrative Review. In cases which may result in expulsion, suspension, or removal from housing imposed or deferred, the matter may be referred to a Conduct Hearing Board.
- i. **Finding of Not Responsible:** After a review of the facts the students(s) or group of students may be found not responsible for some or all the charges after the Conduct Conference.
- ii. **Insufficient Information:** If the Dean of Students Office staff concludes that there is insufficient information to hold the student(s) or group of students responsible for a violation of the Code



of Student Conduct, the case will be closed as Insufficient/Not Responsible. The University may make an educational assignment pursuant to paragraph II.B.1.d above at its discretion.

- iii. **Warning Letter/Responsible:** The University may provide notice to a student that her or his alleged behavior may have violated University expectations and if repeated such behavior may be subject to the conduct process. The University may make an educational assignment pursuant to paragraph II.B.1.d. above at its discretion. A warning is not a formal disciplinary record and cannot be appealed.
- iv. **Voluntary Administrative Agreement/Responsible:** If the Dean of Students Office staff and the student(s) or group of student(s) can agree on the substantive facts in the case and the recommended sanction the case can be resolved by both parties signing a Voluntary Administrative Agreement. A signed Administrative Agreement constitutes acceptance of the sanction(s) and a waiver of a hearing or appeal.
- v. **Summary Administrative Review/Responsible:** If the student(s) or group of student(s) agrees with the facts in a case, but disputes the appropriateness of the recommended sanctions, and the matter will not result in expulsion, suspension and/or removal from housing deferred or imposed, the Dean of Students Office staff will issue a Summary Administrative Review. The student(s) or group of students can request a Sanction Hearing which will consist of a review of the Conduct Conference notes and sanction(s) conducted by the Dean of Students or her or his designee based on one or more of the following grounds:
 - 1. The sanction is unsupported by substantial evidence; or
 - 2. The sanction is unsupported by the charges and/or the student's disciplinary history.

- vi. **Hearing Board:** In cases which may result in expulsion, suspension and/or removal from housing deferred or imposed, and where the student(s) or group of student(s) and the Dean of Students Office staff cannot agree on the facts and/or sanctions, the matter will be referred to a Hearing Board.

5. Procedures Regarding Conduct Resolution.

- a. Any student charged with violating the Code of Student Conduct may request to delay a Conduct Conference or a Hearing. In a case where criminal charges related to the alleged Code of Student Conduct violation(s) are pending against a charged student, upon the charged student's request, a reasonable delay shall be granted to secure the advice of legal counsel except in the case of Interim Restrictions. All other delays shall be granted to either party at the discretion of the staff member prior to the hearing or by the Hearing Board once the hearing has begun.

III. HEARING BOARD PROCEDURES.

The University shall establish appropriate Hearing Boards to conduct hearings concerning alleged violations of the Code of Student Conduct that could result in expulsion, suspension and/or removal from housing deferred or imposed. Appointments to Conduct Hearing Boards are made by the Dean of Students. For Academic Honesty Board membership and procedures, see Academic Honesty Policy and Appeal procedures.

A. Assistance for Charged and Complaining Students.

- 1. The charged and complaining student(s) may access assistance of an advocate from the University community to represent him/her, provided, however, that such an advocate may not be an attorney.
- 2. When there is a pending criminal case or when there is a reasonable likelihood that a

criminal complaint will be sought against the student(s) arising out of the same facts as the charge(s), the student(s) may, at her or his own expense, be accompanied by an attorney who may not participate in the hearing. Any student who elects to be accompanied by an attorney must notify the Dean of Students at least three business days in advance of the hearing. Attorneys assisting students must not be employees of the Student Legal Services Office supported by University funds. Where language or communication difficulties exist, the student(s) may communicate through an interpreter.

B. Conduct Hearing Board Composition and Training.

1. A Conduct Hearing Board, composed of University employees and students, shall have not fewer than three, nor more than five members. Before appointing the student members of the Hearing Board, the Dean of Students shall solicit recommendations from the SGA, Residence

Hall Association and GSS. The Dean of Students Office shall take affirmative steps to appoint diverse and representative Boards. The Dean of Students Office will be responsible for ensuring all Hearing Board members attend a thorough training covering all aspects of the conduct process. The training program must include but is not limited to specialized training in addressing sexual assault and bias related incidents, and how to conduct an investigation and hearing process that protects the safety of victims, promotes accountability and ensures that the rights of both the complainant(s) and the charged student(s) are respected and protected throughout the process.

2. The Dean of Students or her or his designee(s) may conduct sanction hearings.

C. Hearing Board Procedures.

1. **Notice of Hearing.**
In the event of a hearing, the charged student(s) and the complainant(s) shall be notified at least five business days prior to the date of the hearing.



A hearing to review an alleged violation of Interim Restrictions may be called within one business day. An additional five business day notice is not required for rescheduled hearings. Such notice shall be in writing and shall include the following:

- a. The specific charge(s) citing the appropriate University policies or regulation(s) allegedly violated.
 - b. A description of the alleged act(s), including the time and place of the alleged act(s) (insofar as may reasonably be known) and a summary of the information upon which the charges are based.
 - c. The time and place of the proposed hearing.
 - d. The procedures to be followed in the hearing.
 - e. The assistance available to charged student(s) and complainant(s) on campus.
6. A presiding officer chosen by the Hearing Board shall exercise control over the hearing. A Hearing Board follows prescribed procedures, but need not observe the rules of evidence observed by courts, and the presiding officer may exclude unduly repetitious or irrelevant evidence.
 7. Hearing Board members may take notice of matters which would be within the general experience of University students or officials.
 8. Any person, including the charged student, who disrupts a hearing or who fails to adhere to the rulings of the presiding officer, may be excluded from the proceedings.
 9. The Hearing Board shall make the determination of whether or not the student is responsible for any of the charges.
 10. The deliberations of the Hearing Board shall be conducted in private and shall remain confidential.
 11. Any recommendation of a Hearing Board shall be based only upon evidence and testimony at the hearing.
 12. A Hearing Board shall include in the record a written summary of testimony, findings of fact(s), and rationale. The entire record shall be forwarded, within two business days, to the Dean of Students.
 13. The designated University official shall, within five business days after receiving the Hearing Board's report, render a written decision in the disciplinary matter, consisting of findings of fact, sanction(s), and reasons therefore, which shall be included in the record. The official shall send a copy of said decision to the charged student(s).
 14. In cases involving allegations of acts of violence or non-forcible sexual misconduct, the complainant(s) will be advised of the outcome of any conduct proceedings, subject to applicable privacy statutes and regulations.

D. Hearing Board Requirements.

1. The member(s) of the board shall be impartial, i.e., not personally involved in the alleged acts(s) with which the student is charged.
2. The hearing shall be open only to the complainant(s), the charged student(s), Hearing Board members and witnesses. Others shall be permitted only if the charged student(s) and the complainant(s) agree.
3. A recording of the hearing will be made for the use of the Hearing Board, the official making the final determination, and any student(s) appealing the decision as set forth below.
4. The University shall bear the burden of proving the elements of the contested charge(s) by a preponderance of the evidence. In cases where a charged student fails to appear after proper notice a hearing may be conducted despite the student's absence.
5. The Hearing Board may rely upon oral statements of witnesses and upon written reports and other documents.



IV. APPEALS.

- A. The University shall establish a University Appeals Board (UAB), consisting of such University employees and students as may be appointed by the Chancellor or her or his designee(s). The UAB will be composed of three University employees and/or students.
- B. A charged student may appeal the decision of the University official that results from a hearing by delivering a letter of appeal to the UAB within five (5) business days of the student's receipt of the official's decision. In cases involving sanctions of suspension of more than ten days or expulsion, this letter may be submitted by an attorney. The letter of appeal shall specifically allege and factually support one or more of the following grounds:
 1. A procedural error or irregularity that materially affected the decision;
 2. New evidence that was not reasonably available to the appealing party prior to the hearing which would have materially affected the decision (non-attendance at a hearing by a charged student or witness does not constitute new evidence);
- C. If a sufficient claim is presented under one or more of the specified grounds, the UAB shall review a copy of the hearing records. A recommendation from the UAB may include, but not be limited to, changes in sanction(s), or remanding to a new Hearing Board. The Vice Chancellor for Student Affairs and Campus Life will review the UAB's reports and recommendation and issue a decision. The Vice Chancellor is not limited to those sanctions imposed by the Dean of Students Office or to those recommended by the UAB, even though such decisions may result in the imposition of more severe action.
- D. In cases involving violence or non-forcible sexual misconduct, a complainant shall have the same rights of appeal as the charged student(s) and may file such an appeal by delivering a letter of appeal to the UAB within five (5) business days of the complainant's receipt of notice of the sanction imposed. The charged student shall receive written notice and a copy of the complainant's appeal within three (3) business days of receipt of the appeal by the University and may submit a response by delivering a letter of response to the

UAB within five (5) business days of the charged student's receipt of the complainant's appeal.

- E. Within fifteen (15) business days from receipt of the student's letter of appeal, the appropriate University official shall render a written decision in the case, or request the appropriate board to clarify its recommendation. Upon receipt of said clarification, the official may proceed to decide the matter as specified herein. The decision of the appropriate official shall be final, and shall be based only on the record. A copy of the decision shall be sent to the charged student and included in the record, which shall be returned to the Dean of Students Office.
- F. In exceptional cases in which the Chancellor or designee determines that the safety or well-being of the campus community warrants, the Chancellor or designee may use professional discretion or upon the request by an involved party, review the decision of the University official. The Chancellor or designee may refer the case back to any level for further review, may affirm the decision, or may overturn the decision. The Chancellor or designee's decision shall be final.

V. REGULATIONS FOR STUDENT CONDUCT AND SCHOLARSHIP.

A. *Integrity, Personal Identification and Representation.*

Students are expected to be honest and respectful in all of their interactions with the administration, faculty, staff and students of the University.

The following are examples of the behavior that violates this section of the Code of Student Conduct:

1. Academic dishonesty, which includes but is not limited to:
 - a. **Cheating** – intentional use, and/or attempted use of trickery, artifice, deception, fraud and/or misrepresentation of one's academic work;

- b. **Fabrication** – intentional and unauthorized falsification and/or invention of any information or citation in any academic exercise;
 - c. **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, or the academic works of others;
 - d. **Plagiarism** – knowingly representing the words or ideas of another as one's own work in any academic exercise;
 - e. **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 materials.
2. Representing one's self as another person with or without that person's permission, or representing one's self improperly, and not by error, as any other member of the community.
 3. Representing the University, any Registered Student Organization or chartered group, or any official University group without the explicit prior consent of the officials of that group.
 4. No student group may represent itself as acting for or on behalf of the University in any commercial enterprise or in the solicitation or collection of funds for any purpose whatsoever without approval in advance by the appropriate University agency. (This applies to all means of communication including, but not limited to, mail, telephone, or other means.)
 5. Tampering with or falsifying any University records, official documents, computer files, storage units, terminals or programs which contain electronic records, or student discipline records. (Knowingly submitting false information for inclusion into these records is interpreted as tampering with the official record system. Health Service records are herein included.)

6. Unauthorized accessing of the records of any individual, whether such access is obtained through paper records, computer files or systems, where such information is protected by the University regulations concerning privacy and confidentiality.
7. Dishonesty or misrepresentation, either orally or in writing, regarding charges brought under the CSC before hearing boards or officials of the University. This shall not include a denial of the charge(s) by a student under Part III.D.4.
8. Refusal to identify one's self to any properly identified (by name and position) member of the University staff (including the staffs of the dining commons, Dean of Students Office, Residential Life, Student Activities Office, and the Campus Center Management), acting in performance of

their duties, when appropriately requested to do so. The preferred form of identification shall be a current, valid University Identification Card.

9. Altering, improperly possessing, or lending a University Identification Card to another person for any reason not expressly authorized by the University. A University Identification Card falling into any of these categories may be confiscated by any student, staff or faculty member in the course of their charged work responsibilities.
10. Misrepresentation. This includes, but is not limited to, misuse of purchasing authority, accepting unearned funds, and submitting false time sheets.

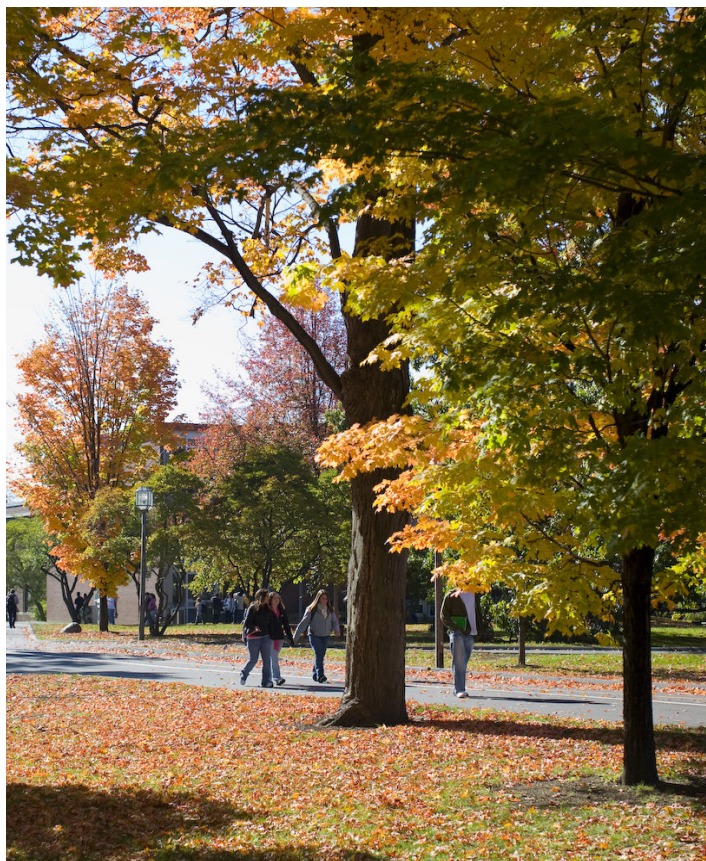
B. Civility, Safety, and Environmental Health

Students are expected to uphold a high standard of civility and to be responsible along with all members of the University community for ensuring a safe and healthy campus. Students are expected to demonstrate their respect for all members of our richly diverse community.

The University has special concern for incidents in which individuals or groups are subject to physical assault, harassment, threats, intimidation, or coercion because of membership or perceived membership in a particular racial, religious, gender, gender identity, gender expression, or sexual orientation group, color, national origin, disability or veteran status. Such incidents damage not only individuals, but also the free and open academic environment of the University.

The following are examples of the behavior that violates this section of the Code of Student Conduct:

1. **Campus Safety.**
 - a. **Physical Assault:** Physical Assault includes physical attack upon or physical interference with a person that causes that person to suffer actual physical injury.
 - b. **Threatening Behavior:** Any behavior that puts another person in objectively reasonable fear for her or his physical safety, and/or results in minor or reactive physical contact with another person.



- c. **Harassment:** Harassment is defined as repeated use of written, verbal, or electronic expression or physical act or gesture, or any combination thereof, directed at a person that places that person in reasonable fear for her or his physical safety or prevents the person from conducting her or his customary or usual affairs, or substantially interferes with her or his educational experience.
 - d. **Creating a Disturbance:** A willful interruption or disturbance of the day-to-day conduct of the academic or administrative business of the University. Examples of such interruption include demonstrations and actions that are in violation of the University of Massachusetts Amherst Picketing Code.
 - e. **Failure to Comply:** A failure to act in accordance with the directions of University officials acting in performance of their duties.
 - f. **Possession or Use of Dangerous Items:** Possession or use of fireworks, firearms, or other hazardous or dangerous weapons, including, but not limited to, facsimiles of weapons that might be construed to be capable of or are capable of firing projectiles of any kind.
 - g. **False Reports:** Falsely reporting fire or other dangerous conditions, failure to report a fire properly, or any interference with the response of University or Town officials to such emergency calls.
 - h. **Hazard Creation:** The creation of a fire hazard, the improper use of electrical appliances or the improper use or possession of inflammable or hazardous substances.
 - i. **Reckless Behavior:** Endangering the safety of persons (self or others) or property, or any action that might lead to loss of life or serious physical harm to others, including but not limited to throwing or dropping objects from buildings, tampering with or damaging elevator equipment or other machinery, damaging or removing a fire extinguisher or any part of a fire alarm and snowball or other object fights which involve other than willing participants.
 - j. **Disturbing Behavior:** Engaging with others in, or inciting others to engage in, harmful or destructive behavior, in the context of a group of persons disturbing the peace. Specific behaviors may include but are not limited to using violence or threatening violence to others, damaging or destroying property, stealing or looting, setting fires, throwing bottles or other projectiles, impeding or impairing emergency personnel services or equipment, obstructing traffic, refusing to leave when asked by an authorized person, or otherwise engaging in any action that might lead to intentionally or recklessly harming or endangering the physical safety or property of another.
 - k. **Failure to Evacuate:** Failure to get out of any University building after a fire alarm has sounded, or other notice has been given.
2. Sexual Assault and Harassment.
- Subject to exceptions that can apply to law enforcement personnel, licensed clinicians, certified rape crisis or domestic violence counselors, or clergy, any employee or contractor who becomes aware of a potential incident of sexual assault, sexual harassment, relationship violence or other assault or harassment involving a student at the University of Massachusetts Amherst – either as victim or perpetrator – on or off campus must promptly report the matter either to the Dean of Students Office or a supervisor, who must promptly notify the Dean of Students Office. The person making the report to the Dean of Students Office should not attempt to investigate the matter. The Dean of Students Office will undertake all such investigations, as appropriate under the circumstances and take every precaution to ensure privacy.
- Any person who becomes aware of a sexual assault or other violence is encouraged to assist the victim in obtaining medical attention, contacting the

University of Massachusetts Police Department (UMPD) or accessing other resources on or off campus including the Center for Women and Community, and the Center for Counseling and Psychological Health, available 24 hours a day, seven days a week.

The following are examples of the behavior that violates this section of the Code of Student Conduct:

- a. **Sexual harassment:** Repeated unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - 1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's education, living conditions, employment or academic work; or
 - 2) submission to or rejection of such conduct by an individual is used as the basis for educational, residential, employment or academic decisions affecting such individual; or
 - 3) such conduct has the purpose or effect of unreasonably interfering with an individual's performance by creating an intimidating, hostile or sexually offensive educational, residential, working or academic environment.

Examples of sexual harassment include, but are not limited to the following behaviors when they are unwelcome or unwanted, and are both objectively and subjectively offensive:

- sexual flirtations, advances or propositions;
- verbal abuse or innuendo of a sexual nature;
- uninvited physical contact such as touching, hugging, patting, brushing or pinching;
- verbal comments of a sexual nature about an individual's body or sexual terms used to describe an individual;
- display of sexually suggestive pictures, posters or cartoons;
- jokes, language, epithets or remarks of a sexual nature;
- prolonged staring or leering;

- making obscene gestures or suggestive or insulting sounds;
- demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment or academic status
- indecent exposure.

- b. **Sexual misconduct:** Sexual misconduct is defined as:

- i. Engaging in a sexual act with another person:

- a)-by forcing the other person to participate in a sexual act without consent or by threatening or coercing the other person, or
- b)-by placing the other person in fear that any person will suffer imminent bodily injury, or
- c)-having substantially impaired the ability of the other person to appraise or control their own conduct by administering or employing alcohol or other drugs without the knowledge or against the will of the other person.

- ii. Engaging in a sexual act with another person when that other person:

- a)-is incapable of understanding, or for any reason including intoxication, is unaware of the sexual act, or
- b)-is physically incapable of resisting or communicating either consent or unwillingness to participate, or
- c)-is under the age of 16.

- c. **Definitions.**

- i. Sexual act is defined as any intentional sexual touching (including anal, oral, and vaginal penetration), however slight, with an object or body part without consent.

- ii. Consent is defined as informed, freely, and actively given, mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon sexual activity.

Consent may be withdrawn. Consent may never be given by minors (in Massachusetts, those not yet 16 years of age), persons not legally competent to make their own decisions, and those who are incapacitated as a result of alcohol or other drug consumption (voluntary or involuntary), or those who are unconscious, unaware or otherwise physically helpless, or in need of medical attention as a result of alcohol consumption or any other cause. Agreeing to a sexual act as a result of coercion, intimidation, threat of force, or force is not consent.

3. Group Violations.

- a. **Hazing:** Hazing, which includes but is 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, such as extended deprivation of sleep or rest, forced consumption of food, liquor, beverage, or drugs, beating or branding.

4. Drugs and Alcohol.

Although Massachusetts law permits the use of medical marijuana, federal laws prohibit the use, possession, and/or cultivation of marijuana at

educational institutions. Federal laws also require any institution of higher education which receives federal funding to have policies prohibiting the possession and use of marijuana on campus. The use, possession, or cultivation of marijuana for medical purposes is therefore not allowed in any University housing or on any other University property. The University will continue to enforce its current policies regarding controlled substances, and any student who violates University policy prohibiting the use or possession of illegal drugs on campus, may be subject to disciplinary action.

- a. **Distribution or Sale of Alcohol:** The manufacture, distribution, dispensing or sale of, or the attempted manufacture, distribution, dispensing of alcohol which is unlawful or otherwise prohibited by or not in compliance with any University policy or campus regulations or being unable to exercise care for one's own safety because one is under the influence of alcohol. This provision shall not apply to circumstances in which the person under the influence was given alcohol without her or his knowledge and permission or if a referral meets the requirements as outlined in the University's medical amnesty policy.
- b. **Unlawful Possession or Use:** The possession or use of alcohol which is unlawful or otherwise prohibited by or not in compliance with any University policy or campus regulations.
- c. **Self Safety:** Being unable to exercise care for one's own safety because one is under the influence of alcohol. This provision shall not apply to circumstances in which the person under the influence was given alcohol without her or his knowledge and permission or if a referral meets the requirements as outlined in the University's medical amnesty policy.
- d. **Controlled Substances** – Unlawful manufacture, distribution, dispensing, possession, use or sale of or the attempted manufacture, distribution,



dispensing or sale of controlled substances identified in Federal or State law or regulation or being unable to exercise care for one's own safety because one is under the influence of controlled substances. This provision shall not apply to circumstances in which the person under the influence was given a controlled substance without her or his knowledge.

- e. **Possession of Drug Paraphernalia** as identified in Federal or State law or regulation; this includes objects used or primarily intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, including but not limited to pipes, water pipes, bongs, roach clips, and vials. Determination of whether an item is drug paraphernalia will be made by considering all relevant facts, including but not limited to, the proximity of the item to controlled substances.
 - f. **Possession of Hypodermic Instrument(s):** The unauthorized possession of a hypodermic syringe, hypodermic needle, or any instrument adapted for the administration of controlled substances by injection.
5. **Other Violations.**
- a. **Violations of University Policies and Regulations:** Violations of University policies including but not limited to, the Alcoholic Beverage and Tobacco-Free policies.
 - b. **Failure to comply with any authorized sanction(s)** or to complete any assignment(s) made by the Dean of Students Office.
 - c. **Violations of Law:** Any act chargeable as a violation of local, state or federal law may be charged as a violation of a relevant section of the University Code of Student Conduct, whether or not charges are brought by civil authorities, when such act(s) occur on university premises, or at university sponsored

activities or events, or when such conduct distinctly and directly affects the university community and/or the pursuit of its objectives.

C. Care of Property.

Students are expected to respect property that belongs to other people, the community, or to the University and to use such property with due care, and only when authorized to do so.

Property is defined as belongings, equipment, or materials. In addition, property may include the belongings, equipment or materials produced, owned or in possession of students, faculty, staff, guests, vendors, contractors or members of the community. University property that is damaged or removed and not returned will be billed to the individual or group responsible for such damage at the standard rate established by the University for repair and replacement.

The following are examples of the behavior that violates this section of the Code of Student Conduct:

1. Theft, unauthorized possession, use, removal of, defacing, or tampering with property, or damage to or destruction of such property.
2. Unauthorized presence in or use of University premises, facilities or property.
3. Shoplifting in any University retail unit (e.g. University Store, Textbook Annex, Mini Store, Food Services Facility, etc.).

VI. SANCTIONS.

In determining a sanction, a designated University official should consider the student's present demeanor and past disciplinary record, the nature of the offense, the severity of any damage, injury, or harm resulting therefrom, evidence that the student has learned from the experience, and other factors. If the student is found responsible for charges, the designated University official may impose one or more of the following sanctions:

- A. **Warning** – The University may provide notice to a student that her or his alleged behavior may have violated University expectations and if repeated such behavior may be subject to the conduct process.
- B. **Restitution**, including replacement costs, penalties and fines – Restitution may be paid directly to the person whose property was damaged, destroyed or lost. Any other funds assessed shall be deposited in the general scholarship fund administered by the University.
- C. **Group Sanctions** – Fraternities, sororities, Registered Student Organizations or other student groups may receive sanctions which may include restrictions on access to University facilities, programs and services.
- D. **Developmental Sanctions** – Other sanctions may be imposed instead of or in addition to those specified above, such as work requirements, restrictions upon privileges, educational service projects, courses, readings, reflection papers, community service, and other sanctions as deemed appropriate by the Dean of Students Office staff.
- E. **Housing Relocation** – Housing Relocation may occur when it is in the best interests of the Residence Hall community.
- F. **Housing Reprimand** – This is an official notice to a student that her or his behavior is unacceptable. The student is advised that any further violation of the CSC may result in more severe disciplinary action.
- G. **Housing Probation** – Housing Probation is a specified time period during which any further violations of the CSC may subject the student to Housing Removal.
- H. **Deferred Housing Removal** – When mitigating factors are present, Housing Removal may be deferred; this provides a student with one final opportunity before he or she is removed from University housing. If the student is found responsible for another violation of the CSC during the sanction period, the Housing Removal may take effect as of the date of the later sanction.
- I. **Housing Removal** – Housing Removal results in a removal of the student from University housing for a specified period of time.
- J. **University Reprimand** – This is an official notice to a student that her or his behavior is unacceptable. The student is advised that any further violation of the CSC may result in more severe disciplinary action.
- K. **University Probation** – University Probation is a specified period of time during which any further violations of the Code of Student Conduct will also result in a probation violation and could subject the student to suspension or expulsion.
- L. **Deferred Suspension** – When mitigating factors are present, suspension may be deferred; this provides a student with one final opportunity before he or she is suspended. If the student is found responsible for another violation of the CSC during the sanction period, the suspension may take effect as of the date of the later sanction.
- M. **Suspension** – Suspension is a separation of the student from the University for a specified period of time, but not less than the remainder of the semester. Suspensions that take effect during a semester may result in the loss of academic credit for that semester. The student should not participate in any University sponsored activity and shall be barred from University premises.

After the student completes the term of the suspension, the student must apply for readmission to the University. In order to enroll, the student must file a Readmission application, including the readmission fee, with the Registrar by the appropriate readmission deadline.

When the outcome of a disciplinary action is suspension from the university, a restriction will be placed to prohibit the student from

performing any registration transactions during the period of suspension. The restriction will not be removed and the student will not be allowed to perform university transactions until the stated period of suspension has expired and all disciplinary obligations are met.

- N. **Expulsion** – Expulsion is a permanent separation of the student from the University. The student shall also be barred from University premises.

VII. INTERIM RESTRICTIONS.

- A. Either the Chancellor or the Vice Chancellor for Student Affairs or their designee may impose restriction(s) upon a student pending disciplinary proceedings, such interim restrictions to become effective immediately without prior notice when in the professional judgment of a properly designated university official there is reason to believe that the student is an imminent threat to himself or herself, to others, or to property, or to cause imminent disruption to the orderly operation of the University.

The following is a partial list of CSC violations where an interim restriction may apply:

- Bomb threat or knowingly issuing false bomb warning.
- Willful destruction of property.
- Willful disruption of scheduled University activities.
- Violence against persons which results in bodily injury.
- Repeated and persistent harassment of any member of the community.
- Violence against persons which constitutes sexual assault.
- Administering or causing to be administered to any person unknowingly or against the person's will any controlled substances.

- Sale or distribution of, or aiding or assisting in the sale or distribution of, any controlled substance.
 - Possession of a firearm or any other dangerous weapon.
 - Participation in a riot or civil disorder.
- B. Interim restrictions may include, but are not limited to, the following:
1. suspension;
 2. assignment to alternate housing;
 3. limitation of access to designated University housing facilities and/or other campus facilities by time and location;
 4. restriction of communication with named individuals or groups within the University community; and/or
 5. the requirement to secure advance authorization to engage in a specified activity.
- C. Notwithstanding any other provision of the CSC to the contrary, after oral or written notice to the student of the alleged conduct, a meeting between the student and the designated University official will be held prior to the imposition of interim restrictions whenever reasonably possible. Otherwise, the meeting will be held on the first business day that the student is available. At the meeting, if the alleged conduct is denied, the student shall be informed of the basis of the allegation and offered the opportunity to present her or his own version of the facts. The official or her or his designee shall determine in writing whether the interim restrictions will continue or others be imposed, together with the reasons therefore.
- D. If there is reason to believe that any of the interim restrictions imposed has been violated, the official shall request an expedited hearing under Part III.C. Violation of interim restrictions may result in suspension from the University.

VIII. CRIMINAL RECORDS.

Admitted students and matriculated students are required to report any convictions, wherever they occur, for crimes that would constitute felonies under Massachusetts law, and those who report such convictions are required to provide, upon request by the University, a CORI report or such other documentation as the University may require.

IX. RECORDS AND CONFIDENTIALITY.

Records of student conduct actions are maintained in the Dean of Students Office in compliance with the Family Educational Rights and Privacy Act (FERPA), Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), Massachusetts State law, and University regulations. The Dean of Students Office shall maintain the official disciplinary records and a disciplinary tracking system, which shall include, but not be limited to, the student's name and related identifying information, applicable CSC section(s), parties involved, description of the incident, sanction(s), expiration dates, agreements or restrictions, and any other data deemed relevant. Student conduct records are maintained separate and apart from all other student records.

Such record will be maintained for seven years after the date of the last incident which led to the initiation of disciplinary action. In cases where the final disposition is an expulsion, the Office of the Dean of Students retains student discipline records indefinitely. Disciplinary records and related information shall be made available to hearing boards and University personnel designated in the CSC, as necessary. Upon receipt of a request from professional schools, graduate programs, employers or others for the disciplinary records of a student, after the student provides an appropriate confidentiality waiver, the Dean of Students office will report CSC violations consistent with attendant record keeping policies outlined above and align reporting with the educational underpinnings of a university disciplinary process.



Students may arrange to review their own disciplinary records and related information by contacting the Dean of Students Office. Except as provided in the CSC, the University shall not communicate a student's disciplinary record and related information to any person or agency without the prior written consent of the student or, when the student is a minor, of the student's parents or legal guardian, except as required by law. All proceedings under the CSC shall be confidential.