

**DIN: 3310-1-01**  
**Title of Policy: Learner Code of Conduct**

**Policy**

**SECTION I. LEARNER CONDUCT**

**A. Learner Conduct**

It is the responsibility of the College to provide an environment that facilitates learning. Any action by a learner that interferes with the learning process of any other learner or interferes with the operations of the College in carrying out its responsibility to provide a learning environment will be considered a violation of the Learner Conduct Code. Violations of the Learner Conduct Code will be subject to disciplinary action through due process procedures.

**B. College Jurisdiction**

The College asserts jurisdiction for violations of the Learner Conduct Code which occur on College property. The College also asserts jurisdiction for violations of the Learner Conduct Code which occur off College property when:

- The violation occurs while participating in a College-sanctioned or sponsored activity;
- The victim of the violation is a member of the College community;
- The violation constitutes a felony under state or federal law;
- The violation interferes with or adversely affects the educational, research or service functions of the College.
- The violation takes place on Bemidji State University property.

**Violations**

Pending action on the charges, the status of each learner should not be changed or their right to be present at the College and to attend classes suspended, except for reasons related to their physical or emotional safety or well-being or that of the College community. The following behaviors are defined as violations of the Learner Conduct Code and are subject to disciplinary sanctions outlined in this policy.

1. **Scholastic Dishonesty**: submission of false records of academic achievement; cheating on assignments or examinations; plagiarizing; altering, forging, or misusing a College academic record; taking, acquiring, or using test materials without faculty permission; acting alone or in coordination with another to falsify records or to dishonestly obtain grades, honors, awards or other professional endorsement.
2. **Falsifications**: willfully providing College offices or officials with false, misleading, or incomplete information; intentionally making false reports of a bomb, fire, natural disaster, or other emergency to a College official or an emergency service agency; misusing, altering, forging, falsifying, or transferring to another person a College-issued identification; forging, or altering official College documents without appropriate authorization or conspiring with or inducing others to forge or alter College records or documents without proper authorization; violating copyright regulations; tampering with the election of any College-recognized learner organization.

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3. Identification and Compliance: willfully refusing to or falsely identifying one's self; willfully failing to comply with a proper order of summons when requested by an authorized College official; failure to comply with directions of College officials or law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.
4. College Facilities and Service: acting to obtain fraudulently (by deceit, unauthorized procedure, bad check or misrepresentation) goods, services, or funds from College departments or learner organizations or individuals acting in their behalf; misuse, alteration, or damage of fire-fighting equipment, safety devices, or other emergency equipment or interference with the performance of those specifically charged with carrying out emergency services; wrongful use of College properties or facilities.
5. Disorderly conduct on the Campus or at a College sanctioned or sponsored activity: intimidation, threats to, physical abuse of, or harassment which threatens to or endangers the health, safety or welfare of a member of the College community; breach of the peace; physically assaulting another; fighting; obstructing or disrupting teaching, research, administration or public service functions; obstructing or disrupting disciplinary procedures or authorized College activities; vandalism; lewd or indecent conduct.
6. Theft and Property Damage: theft or embezzlement of, destruction of, damage to, unauthorized possession of, or wrongful sale or gift of property belonging to the College, or a member of the College community or a campus guest.
7. Theft or other abuse of computers, including but not limited to:
  - a) Unauthorized installation of software, unauthorized entry into a file, to use, read or change the contents or for any other purpose.
  - b) Unauthorized transfer of a file.
  - c) Unauthorized use of another individual's identification or password.
  - d) Use of computing facilities to interfere with the work of another learner, faculty member or College official.
  - e) Use of computing facilities to send obscene or abusive messages.
  - f) Use of computing facilities to interfere with normal operation of the College computing system.
8. Hazing: hazing, for the purpose of initiation, admission, affiliation or membership in a group or organization, which endangers the mental or physical health or safety of a learner or which destroys or removes public or private property. Hazing is defined to include any actions, activities, or situations intentionally created to produce the unnecessary, undue mental or physical discomfort, embarrassment, harassment, ridicule, excessive fatigue, interference with scholarship or personal lives, or expose to situations where one's physical or mental well-being may be endangered.
9. College Rules: violating published College policies, rules or regulations; violating other College departments' regulations that have been posted or publicized. Provisions contained in College contracts with learners shall be deemed "rules" under this code.

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10. Weapons on campus or at College sponsored activities: possession of firearms, incendiary devices, explosives, articles or substances usable as weapons or means of disruption of legal campus functions, activities, or assemblies; or use of firearms, incendiary devices, explosives, articles or substances calculated to intimidate, disrupt, discomfort or injure a member of the College community excepting those instances where expressly authorized by an appropriate College representative whose activities properly require the use or possession of any of the enumerated items.
11. Disruptive Demonstrations: intentional participation in a campus demonstration which disrupts the normal operations of the College and infringes on the rights of other members of the College community; leading or inciting others to disrupt scheduled and/or normal activities of any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement, both pedestrian and vehicular, on campus.
12. Keys: possession, making, or causing to be made any key to operate locks or locking mechanisms on campus without proper authorization or using or giving to another a key for which there has been no proper authorization.
13. Violations of Federal or State Laws of Special Relevance to the College: when violation of federal or state law, including but not limited to those governing alcoholic beverages, drugs, gambling, sex offenses, indecent conduct, or arson occurs on campus or at a College sponsored activity, the offense will also constitute an offense against the College community.
14. Sound Amplification: using sound amplification equipment such as a bullhorn on campus or in a campus building without written permission of the Campus Provost, except when such use is authorized for official College purposes.
15. Controlled substances: the possession, sale, use, or distribution of any narcotic drug, marijuana, alcoholic beverage, or other addictive, hallucinogenic or other mood modifying substances.
16. Failure to meet financial obligations or writing of dishonored checks
17. Abuse of the Judicial Process, including but not limited to:
  - a) Failure to obey the summons of the Judicial Board, the Co-Curricular Services Coordinator, the Provost or his/her designee.
  - b) Falsification, distortion, or misrepresentation of information before a judicial body.
  - c) Disruption or interference with the orderly conduct of a judicial proceeding.
  - d) Initiation of a judicial proceeding intentionally without cause.
  - e) Attempting to discourage an individual's proper participation in, or use of, the judicial system.
  - f) Attempting to influence the impartiality of a member of the judicial board prior to and/or during the course of the judicial proceeding.
  - g) Harassment and/or intimidation of a member of a judicial board prior to, during, and/or after a judicial proceeding.

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- h) Failure to comply with the sanction(s) imposed under the Learner Conduct Code.
- i) Influencing or attempting to influence another person to commit an abuse of the judicial system.

**Violation of Law and College Discipline**

If a learner is charged with an off-campus felony violation of federal, state, or local laws, but not with any other violation of this Code, no sanction may be imposed unless the learner has been found guilty in a court of law or has declined to contest such charges, although not actually admitting guilt (i.e. “no contest” or “nolo contendere” ). Exception: If there is reasonable evidence to be concerned for the immediate safety and well-being of the members of the College community, Provost may impose the sanction of Summary Suspension, outlined in Section III, number 6 of this policy.

College disciplinary proceedings may be instituted against a learner charged with violation of a law that is also a violation of this Learner Conduct Code. For example, College disciplinary proceedings may be instituted if both violations result from the same factual situation, without regard to pending civil litigation in court or criminal arrest and prosecution. Proceedings under this Learner Conduct Code may be carried prior to, simultaneously with, or following civil or criminal proceedings off-campus.

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

When a learner is found to have violated the Learner Code of Conduct and disciplinary actions include sanctions which terminate enrollment status of the learner, the College will hold the learner responsible for payment of tuition, fees and other educational costs associated with attendance in the term of enrollment.

**SECTION II. JUDICIAL PROCESS**

**A. Charges and Informal Process**

1. Any member of the college may file a written complaint alleging that a learner or organization has violated the Learner Conduct Code. Charges should be in writing for the record but can proceed upon verbal notification to the Provost or his/her designee.

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2. The Provost (or designee) may conduct a preliminary investigation to determine the validity of the charges by meeting with the complainant(s) and accused learner(s) within five (5) days of receiving the complaint. Upon determination that the charges are valid, the Provost (or designee) shall:
  - a) Provide written notice to the accused learner(s) that a complaint has been filed which accused the learner(s) of violating the Learner Conduct Code. This notice will include specific violation(s) alleged and the date the alleged violation(s) occurred. This written notice will be sent to the accused learner(s) within five (5) days of violation determination.
  - b) Provide the accused learner(s) with a copy of the Learner Conduct Code.
  - c) Inform the accused learner(s) of the nature of evidence available to support the complaint.
  - d) Specify a date and time when the learner is required to meet with the Provost (or designee) to attempt to reach a mutually acceptable resolution of the charges. Allow the learner(s) at least 48 hours to prepare for this meeting.
  - e) Inform the learner(s) that failure to appear for this informal meeting shall result in referral of the charges for a formal hearing before the Judicial Board.
  
3. If a mutually acceptable resolution cannot be reached during the information meeting, including any applicable sanctions, the Provost (or designee) shall refer the case to the Judicial Board. If a resolution is reached, all parties shall sign the written confirmation of the resolution and the Provost (or designee) shall send copies, including applicable sanctions, to all parties within 48 hours of the meeting.

**B. Formal Process**

The formal process will consist of a hearing following these guidelines:

1. A judicial board will be in place comprised of the Campus Dean, the advisor of the accused learner or organization, a member of the Campus Government, and a faculty member. A counselor shall also be in attendance as an ex-officio member to assist with mediation and counseling, but shall not be expected to act in a disciplinarian role. The person bringing forth the claim of misconduct may also be in attendance, but may not serve on the judicial panel.
  
2. The accused learner or organization must be provided with written advance notice of the time, place and date of the hearing. The accused learner or organization must also be provided in advance with written information regarding the 1) charges; 2) evidence to be presented against the learner/organization; and 3) a list of witnesses and the nature of their testimony. If the accused learner or organization representatives fail to appear at the appointed time, the hearing may still proceed as scheduled.
  
3. The accused learner or organization will be given the opportunity to speak in his/her own defense, to question any witnesses and to have an advisor present. This advisor may give advice to the accused learner or organization, but may not question the judicial panel members or witnesses. This advisor may not be the same advisor serving on the judicial panel.

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4. The accused learner or organization will be provided with a written statement of the findings, conclusions and any sanctions imposed within a reasonable length of time after the formal hearing.
5. If the conduct violation is likely to proceed to criminal prosecution, the accused learner or organization representatives may desire to seek the advice of an attorney.

**SECTION III. SANCTIONS**

The following sanctions may be imposed on any learner(s) found to have violated the Learner Conduct Code. More than one of these sanctions may be imposed for any single violation:

1. Warning and Admonition: the issuance of a written warning that states that the learner(s) is violating or has violated institutional regulations.
2. Probation: a written reprimand for violation of the specified regulations. Probation imposed will be for a designated period of time and includes of the probability of more severe disciplinary sanctions if the learner(s) is found to be violating any institutional regulation during the probationary period.
3. Discretionary Sanctions: Work assignments, service to the College or other related discretionary sanctions. This will be coordinated by the Provost (or designee).
4. Suspension: termination of enrollment for specified period of time, after which the learner(s) is eligible to return. Conditions for re-admission may be specified.
5. Expulsion: Permanent termination of learner status from the College.
6. Summary Suspension: A suspension imposed by the Provost or his or her designee without a formal hearing to ensure the safety and well-being of members of the College community. In such cases, the Provost (or designee) shall first give the learner(s) oral or written notice of the intent to determine whether a summary suspension is an appropriate action. This notice shall include the following:
  - a) statement of the alleged violation(s) of the Learner Conduct Code;
  - b) statement of the nature of any evidence in support of the charge(s);
  - c) statement of the place, date, and time of the summary suspension hearing, which shall be within 36 hours of the delivery notice to the learner(s); and
  - d) provide an oral or written explanation of the summary suspension that may be imposed on the learner(s).

At the place and time designated for the summary suspension hearing, the Provost or his or her designee shall consider the following:

- a) the evidence relating specifically to the probability of danger to members of the College community by the continued presence of the learner(s) on campus;

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- b) provide the learner(s) an opportunity to demonstrate why continued presence on the campus does not constitute a danger to others;
- c) provide immediate oral notice of his/her decision; to be followed by written notice within 24 hours; and
- d) if summary suspension is warranted, summarily suspend the learner for no more than 9 days, with a hearing before the Judicial Board to have commenced by the end of the suspension period.

**SECTION IV. APPEALS**

1. A decision reached by the Judicial Board may be appealed by the accused learner(s) to the Provost within five (5) school days of the decision. Appeals must be in writing and shall be delivered to the Office of the Provost.
2. An appeal shall be limited to review of the verbatim record of the initial hearing and supporting comments for one or more of the following purposes:
  - a. To determine whether the original hearing was conducted in a fair manner in light of the charge(s) and evidence presented, and in conformity with prescribed procedures allowing the accused learner(s) a reasonable opportunity to prepare and to present a rebuttal of the charge(s) and evidence.
  - b. To determine whether the evidence confirmed that a violation of the Learner Conduct Code occurred.
  - c. To determine whether the sanction(s) imposed were appropriate for the specific violation of the Learner Conduct Code.
3. Following a review of the hearing and the appeal presented by the learner(s), the Provost shall render a decision. The Provost may: uphold the Judicial Board’s decision and sanction(s); determine that the decision was reached in error or inappropriately; or may determine that the sanction was inappropriate. In the latter case, the Provost may issue a lesser sanction. If the Provost decides that the sanction(s) was reached in error or inappropriately, the Provost may require the Judicial Board to hear the case de novo or may choose to absolve the learner(s).
4. The Provost shall notify the learner(s) in writing of his or her decision any of any new sanction imposed.
5. The Provost’s decision shall be final with the institution and with MnSCU.
6. If the sanction involved suspension for 10 days or more, the learner(s) shall be informed of the right to a contested case hearing under Chapter 14 of Minnesota Statutes which states that an appeal may be made to an Administrative Law Judge at the Minnesota State Hearing Examiners Office, St. Paul, Minnesota. The learner(s) may request a hearing in writing within five (5) days of receipt of written suspension notice. If the learner(s) does not file an appeal within the five (5) days, any further right to appeal shall be waived. The attorney assigned to the System by the Attorney General shall represent the College at this hearing. The Administrative Law Judge shall prepare a report, which contains a recommendation, to the College President. Within a period of

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not less than twelve (12) nor more than twenty (20) days following receipt of the recommendation, the College President will make a decision. The decision of the College President is final. During this appeal process, the learner(s) shall have the right to attend classes and to receive services related to the College program until a final decision has been made, unless the process is the result of actions deemed harmful or potentially harmful to other persons or property.

**SECTION V. INTERPRETATION**

1. Any questions of interpretation regarding the Learner Conduct Code shall be referred to the Dean of Academic and Co-Curricular Affairs.
2. The Learner Conduct Code shall be reviewed every three (3) years under the direction of the Dean of Academic and Co-Curricular Affairs.

**SECTION VI. MAINTENANCE OF RECORDS**

1. Records relating to learners’ histories of learner conduct shall be kept for a minimum of three (3) years and shall be kept separate from learners’ regular records. The only persons having access to these records shall be the College President, the Dean of Academic and Co-Curricular Affairs, and the Campus Provost (or designee). Any other person who wishes to review these files must have permission from the Dean of Academic and Co-Curricular Affairs or the Provost.

**Purpose of Policy**

To ensure that learners understand acceptable norms of behavior, and to ensure that learners accused of behaving inconsistently with this code will be given due process.

**Responsibility**

The table below describes responsibilities for this policy:

<b>Group/Individual</b>	<b>Responsibility</b>
Dean of Academic and Co-Curricular Affairs	Conduct hearings, make findings, impose sanctions
Provost	Hear and decide appeals
Co-Curricular Services Coordinator	Advise learners on code of conduct; facilitate communications, hearings, and appeals processes.
Learner	Comply with Code of Conduct; participate in hearing process for Code of Conduct alleged violations.

**Supporting References**

Listed below are college document(s) that support this policy:

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**Compliance References:**

Listed below are references to compliance requirements (e.g. MnSCU policy, federal regulations).

MnSCU Policy

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