



Michigan  
Technological  
University

*Academic and Community Conduct*

# Student Code of Community Conduct



Effective: September 01, 2020

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# 1. Introduction

## 1.1 Student Affairs

Michigan Technological University is a globally recognized technological university that educates students, advances knowledge, innovates to improve quality of life, and promotes mutual respect and equity for all people of Michigan, the nation, and the global community. The Student Code of Community Conduct supports the University's role in preparing students to create the future. Informed by its mission, vision, and values, Student Affairs provides opportunities for students to put our culture of integrity into action. Innovative student-centered activities, programs, and services promote civic engagement and responsibility and help our students develop strong leadership and team-building capabilities, critical thinking skills, and ethical awareness.

## 1.2 Our Mission

We prepare students to create the future and we make their success our highest priority.

## 1.3 Our Vision

Create Possibilities. Inspire Learning. Exceed Expectations.

## 1.4 Our Goals

- Create Pride and Affinity
- Foster Student Success
- Cultivate a Culture of Philanthropy
- Provide the Michigan Tech Experience

## 1.5 Our Values

The success of Michigan Tech students is the most important measure of our progress. Given this, we are committed to inspiring:

- An engaged community that actively seeks improvement through acceptance and understanding.
- Students achieve world-class scholarship through academics, research, and continued learning.
- The creation of all conceivable possibilities through innovative use of their skills and knowledge.
- Individuals to hold themselves accountable, and to act with integrity, honesty, and diligence.
- The tenacity required to make ethical choices and to persevere through all obstacles.

## 1.6 Our Learning Outcomes

Students engaged in programs, initiatives, and experiences offered by Student Affairs will:

- Exemplify qualities of ethically and civically engaged leaders.
- Develop communication skills necessary to adapt and engage effectively in groups.
- Acquire and demonstrate personal responsibility and accountability.

- Obtain and apply intercultural knowledge to thrive in our global society.
- Exhibit a sense of pride and affinity for Michigan Tech.

### 1.7 Purpose of the Student Code of Community Conduct

Michigan Technological University “prepares students to create the future.” In doing so, the University inspires the values of community, scholarship, possibilities, accountability, and tenacity. These values should serve to guide decisions and foster learning. Standards of conduct are set forth in the *Student Code of Community Conduct* to assist the University community in furthering its mission and values. The Office of Academic and Community Conduct has been given the responsibility for enforcing these standards.

Attendance at the University is both voluntary and a privilege. Upon enrollment, students have the responsibility to uphold the rules and values of the University, and the right to a fair and equitable conduct process. Students, student groups, and/or student organizations are responsible for knowing and complying with the information, policies, and procedures outlined in the Code.

The student conduct process is not intended to punish students; rather, it exists to protect the interests of the community and to guide and educate students whose behavior is not consistent with University policies. The Office of Academic and Community Conduct approaches student conduct as an educational and restorative process.

The purpose of the student conduct process is to determine responsibility, not guilt or innocence. The conduct process is not a criminal or civil trial; it is educational in nature, although non-criminal sanctions can be imposed if a student is responsible for a conduct violation. Sanctions are intended to challenge student’s moral and ethical decision-making and to help them bring their behavior into accord with the University’s values.

While the University has a primary duty to supervise behavior on its premises, there are many circumstances where the off-campus behavior of students affects the University and warrants action. The University expects students, groups/organizations to conduct themselves in accordance with the law. Engaging in conduct prohibited under local, state, or federal laws as well as conduct prohibited under University regulations is a clear violation of the Code.

The Code may be applied to conduct online, via email, or other electronic media. Students should also be aware that online postings such as blogs, web postings, chats, and social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. The University does not regularly search for this information but may act if and when such information is brought to the attention of University officials. Most online speeches by students not involving University networks or technology is protected as free expression and not subject to this Code, with two notable exceptions:

- A. A true threat, defined as “a threat a reasonable person in the circumstances would interpret as a serious expression of intent to inflict bodily harm upon specific individuals.”
- B. A speech posted online about the University or its community members that causes or is intended to cause a significant on-campus disruption of the University’s educational activities.

The University will take all actions that it deems necessary and appropriate to protect the integrity and best interests of the University and the University community. The Code (which also encompasses behavior that might constitute a violation of the law) provides ample interpretive latitude. If desired, an expedited review and modification process can be created with advance notice and opportunity to comment provided. While some deviation from practices described in the Code may at times be necessary, every effort will be made to ensure that the intent of fairness of the Code is maintained. The Code is a dynamic document, and as such is periodically reviewed, and can be modified. It is the responsibility of every member of the University community to periodically review the Code. Final authority in conduct matters is vested in University administration and the Board of Trustees.

### 1.8 Modifications and Review of Policy

Michigan Tech reserves the right to modify this policy to consider applicable legal requirements. Michigan Tech will regularly review this policy to determine whether modifications should be made. The effective date of this policy is September 01, 2020. Modifications made: December 17, 2020.pl

### 1.9 Health and Safety

When incidents arise that jeopardize the health and safety of members of our Michigan Tech community, the Office of Academic and Community will continue to view misconduct through an educational lens as opposed to a punitive lens. We anticipate students are going to make mistakes, hopefully very minor in scope. By approaching these mistakes as learning opportunities, our goal is to educate students about the impact their actions have on our community. We further hope students will take the knowledge gained and help educate their peers to not make the same mistakes. By reinforcing the Michigan Tech values, our expectation is that our students will hold themselves accountable for complying with the protocols put in place to protect the health and safety of the University Community. Individuals not adhering to these protocols can be held accountable by reporting concerns online, or to appropriate university officials. Any university community member experiencing interpersonal conflicts related to holding others accountable for compliance can request assistance. In cases of emergency, individuals should dial 911.

### 1.10 Inclusivity

Ethnic harassment or bullying exacerbates hatred, harms individuals, and is never justified, no matter the circumstances. These behaviors cultivate misunderstanding and fear, and hurt all of us. Michigan Tech does not tolerate discrimination or harassment. As a University, we strive to

ensure that all students, faculty, and staff are able to study, work, teach, and learn in an environment that is healthy, safe, and free from bias or discrimination.

Through our own language and conduct, we must demonstrate that health and tolerance are compatible values. Both are central elements of educational excellence. For more information or assistance, contact the Center for Diversity and Inclusion at [diversitycenter@mtu.edu](mailto:diversitycenter@mtu.edu) or 906-487-2920, or Institutional Equity at [equity@mtu.edu](mailto:equity@mtu.edu) or 906-487-3310. You can also report a concern.

### 1.11 Students with Disabilities

Michigan Tech is committed to providing qualified students with disabilities reasonable accommodations and support needed to ensure equal access to academic programs and activities. A student requesting any accommodations related to filing a report and/or participating in the student conduct process should contact Disability Services as soon as possible so appropriate arrangements can be made. Disability Services will review documentation provided by the student, and in consultation with the student, determine which accommodations are appropriate to the student's particular needs.

### 1.12 Good Samaritan Provision: Intent Regarding Medical Emergency

Student welfare is the University's primary concern. The Good Samaritan Provision is intended to encourage students to seek swift medical assistance for themselves and others without fear of penalty. Students are urged to not only to take care of their own well-being but to behave in an equally responsible way with their peers.

There may be times when safety concerns arise from a student's excessive drinking or drug use, and in these situations, students should not hesitate to seek help from the Residence Education and Housing Services staff, Public Safety and Police Services, medical or counseling professionals, and/or off-campus police out of fear of student conduct action. Under this Good Samaritan Policy, neither the student in distress nor the student or organization seeking assistance will ordinarily be subject to student conduct action for the possession, provision, or consumption of drugs or alcohol.

This policy refers to isolated incidents only, and does not excuse or protect those who flagrantly or repeatedly violate the Abuse of Alcohol and Other Drugs by Students and Student Organizations Policy, nor does it preclude disciplinary action arising from violations of other University policies. However, in cases involving additional policy violations, the University will consider the positive impact of reporting an incident as well as the health and safety needs of the involved student(s) when determining the appropriate course of action. This statement of intent applies only to administrative enforcement of the Code and does not provide immunity/amnesty from arrest or criminal prosecution.

### 1.13 Amnesty

Reporting of violations of the Student Code of Community Conduct is encouraged at Michigan Tech. Thus, it is imperative that individuals share information when participating in a conduct investigation without fear of potential consequences for certain policy violations including, but not limited to, underage consumption of alcohol or the use of illicit drugs. Michigan Tech offers parties and witnesses amnesty from such violations but may include educational opportunities for individuals in lieu of a finding of responsibility or punitive sanctions.

## 2. Definitions

### 2.1 Advisor

An advisor is an individual chosen by a party to support a complainant or respondent through the conduct process for charges of alleged sexual misconduct and/or if criminal charges are pending for a Student Code of Community Conduct violation. Advisors serve in a limited role during the conduct process. Advisors may be, but are not required to be, an attorney.

### 2.2 Charge

Charge means reasonable cause has been established that a violation of the Code has occurred.

### 2.3 Code

Code means any and all University codes, regulations, rules, and policies, including this *Student Code of Community Conduct*.

### 2.4 Complainant

Complainant refers to any member of the University community, of the public, or any law enforcement agency representative who makes a report to the Office of Academic and Community Conduct. In situations where the individual(s) reports information but wishes not to be involved in the conduct process, the University may choose to become the complainant.

### 2.5 Consent

Consent is the affirmative, conscious, and voluntary expression to engage in sexual activity through clear words or actions. Consent is ongoing and can be revoked by words or actions at any point during the interaction. When consent is withdrawn or can no longer be given, sexual activity must stop. Consent cannot be given when it is the result of coercion, intimidation, force, or threat of harm.

It is the responsibility of each person to ensure they have consent from the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence do not, alone, constitute consent.

The existence of a dating relationship or past sexual relations between the complainant and respondent will never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct).

The respondent's belief that the complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the decision-maker(s) will consider all of the facts and circumstances the respondent knew, or by a reasonable person standard, should have known at the time. In particular, the respondent's belief is not a valid defense where:

- A. The respondent's belief arose from the respondent's own intoxication or recklessness;
- B. The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented;  
or
- C. The respondent knew, or by a reasonable person standard should have known at the time, that the complainant was unable to knowingly and willingly consent because the complainant was incapacitated, in that the complainant was:
  - asleep or unconscious,
  - involuntarily restrained,
  - unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication,
  - unable to communicate due to a mental or physical condition.

## 2.6 Crime of Violence

Crime of violence refers to prohibited conduct where the responding student(s) uses, or threatens to use, violent force against another person. Crimes of violence include crimes committed with and without weapons. Crimes of violence include, but are not limited to: murder, rape, robbery, and assault and battery.

## 2.7 Cross-examination

Cross-examination is the direct or indirect, live questioning of the complainant and/or respondent or the complainant and/or respondent's witness during a hearing to determine the credibility (knowledge, accuracy, potential ulterior motives, etc.) of that person's statements. The parties may cross-examine each other directly, or may choose to do so indirectly through the procedural officer. The parties may cross-examine witnesses directly, or indirectly through the procedural officer. In hearings of responsibility, cross-examination will take place. All questioning must be relevant to the charge(s) and/or case.

## 2.8 Federally Illegal Drugs

Federally illegal drugs are defined by the *Controlled Substances Act (CSA)*, and any amendments to that act. Under CSA, marijuana is classified as a Schedule I controlled substance: all forms of cannabis are federally illegal, including medical marijuana regardless of state drug policies. In compliance with the *Drug-Free Schools Act*, the possession, use, manufacture, and/or distribution of any federally illegal drug on University property is strictly prohibited.

## 2.9 Group Violation

Group Violation means a code violation where a student group/organization and its officers and/or membership may be held collectively and individually responsible when such violations

of the code: take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or implied; and/or have received the consent or encouragement of the organization or of the organization's leaders or officers; and/or were known or should have been known to the membership or its officers.

#### 2.10 Interim Action

Interim action means any lawful action, order, restriction, or demand made pursuant to the code, as a means to protect individuals, property, and/or the best interests of the University.

#### 2.11 Maxient

Maxient is the conduct management system used by the University. All email correspondence generated from the address **Maxient System** <[notifications@maxient.com](mailto:notifications@maxient.com)> should be treated as official communication.

#### 2.12 Mediation

Mediation means utilizing a neutral third party to assist in reaching an agreement on actions to be taken to resolve conflict where the allegations of misconduct do not fall within the definitions of sexual and/or relationship misconduct.

#### 2.13 Medical Emergency

Medical emergency is defined as any situation where a student's physical and/or psychological health is at serious risk and immediate action must be taken to protect the individual or others.

#### 2.14 Probation Early Release Certification

Probation Early Release Certification, or PERC, is a program for students/student organizations sanctioned to conduct probation to complete a series of educational conditions that will in turn release them early from their term of conduct probation, and restore them to good conduct standing.

#### 2.15 Preponderance of Evidence

Preponderance of evidence means the totality of all available evidence indicates it is more likely than not that a policy violation did/did not occur. The burden is not on a party, but on the institution. The concept of "preponderance of the evidence" can be visualized as a scale representing the standard of proof, with the totality of evidence collected during the University's investigation resting on the respective trays on either side of the scale. If the scale tips ever so slightly to one side or the other, the weightier side will prevail.

#### 2.16 Procedural Officer

Procedural officer means all administrative staff with delegated authority to resolve academic and community conduct issues.

#### 2.17 Property

Property means all tangible and intangible property.

## 2.18 Reasonable

Reasonable means fair and appropriate given all facts and circumstances.

## 2.19 Reasonable Cause

Reasonable cause means there is sufficient information alleged by a complainant to warrant belief by a reasonable person that a respondent has violated the code. Evidence is sufficient if a reasonable person would believe that further inquiry into whether a violation occurred is warranted.

## 2.20 Reasonable Person

Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.

## 2.21 Respondent

Respondent means the student(s)/group(s)/organization(s) alleged to have violated the code.

## 2.22 Sexual Misconduct Investigator

Sexual misconduct investigators are neutral and impartial fact-finders who gather evidence regarding an allegation against students. It is the responsibility of the investigators to adhere to prescribed timelines throughout the investigation for the entire investigation. The investigators are responsible for completing an investigative report at the conclusion of the investigation that fairly summarizes all relevant evidence and information gathered during the investigation. Sexual misconduct investigators are annually trained Title IX investigators.

## 2.23 Student

Student means any individual who is an admitted applicant, is currently enrolled, or was enrolled at the time of the conduct at issue regardless of their age or status in regard to parental dependency. Student status is maintained during semester breaks.

## 2.24 Support Person

Support person means any member of the University community (faculty/staff/student) chosen by the complainant or respondent to provide support during the conduct process. The support person may not be an immediate family member. Support persons may not participate directly in the conduct process, but may offer advice, guidance, and/or support to the student (complainant or respondent). Students with alleged violations of sexual misconduct and/or that have criminal charges pending may have a support person in addition to their advisor.

## 2.25 University

University includes all schools, programs, and divisions of Michigan Technological University, be they on-campus, online learning programs, or on a foreign campus, and at all levels, undergraduate, graduate, or professional.

## 2.26 University Community

University community means students, faculty, and staff.



## 2.27 University Conduct Board

University conduct board means a group of trained University faculty, staff, and/or students convened for the purpose of reviewing the conduct violation and determining appropriate consequences as needed, known as hearing decision-makers.

## 2.28 University Premises

University premises means buildings, facilities, or grounds owned, leased, operated, controlled, or supervised by the University. University premises also include websites operated by the University, including the official University website and online courses offered by the University.

## 2.29 University Sponsored Activity

University sponsored activity means any activity on or off University premises that is directly initiated or supervised by the University.

## 2.30 Written Notice

Written notice means all written communication in any form whatsoever, including and without limitation, communication through campus and/or U.S. mail, and all forms of electronic communication to the student's or organization's last known University address. Students will be held accountable for retrieving their University mail/email in a timely manner. Email sent to a student's University email address constitutes official communication, and is deemed delivered at the moment the email is sent and/or date of the mailing of the notice.

# 3. Standards of Conduct

## Purpose of Standards of Conduct

The purpose of publishing the standards of conduct is to give students, student groups, and/or student organizations general notice of prohibited conduct. The University considers the behaviors described in the following subsections as inappropriate for the University community. These behaviors are in opposition to the core values set forth in this document. These expectations and rules apply to all students, student groups, and/or student organizations. The University's rules are not written with the specificity of a criminal statute. Students, student groups, and/or student organizations are responsible for choices they make about their actions and accepting the consequences of those choices. Attempts to commit acts prohibited by these rules may be sanctioned to the same extent as completed violations. Repeated or aggravated acts of prohibited conduct may result in progressively more severe sanctions. The following activities are prohibited:

## 3.1 Academic Misconduct

See also Senate Policy 109.1— Academic Integrity Policy

### *3.1.01 Plagiarism*

Knowingly copying another's work or ideas and calling them one's own or not giving proper credit or citation. This includes, but is not limited to, reading or hearing another's work or ideas and using them as one's own; quoting, paraphrasing, or condensing

another's work without giving proper credit; and purchasing or receiving another's work and using, handling, or submitting it as one's own work.

### *3.1.02 Cheating*

Intentional, unauthorized use of any study aids, equipment, or another's work during an academic exercise. This includes, but is not limited to, unauthorized use of notes, study aids, electronic or other equipment during an examination; copying or looking at another individual's examination; taking or passing information to another individual during an examination; taking an examination for another individual; allowing another individual to take one's examination; and stealing examinations. Cheating also includes unauthorized collaboration. All graded academic exercises are expected to be performed on an individual basis unless otherwise stated by the instructor. An academic exercise may not be submitted by a student for course credit in more than one course without the permission of all instructors.

### *3.1.03 Fabrication*

Intentional and/or unauthorized falsification or invention of any information or citation during an academic exercise. This includes, but is not limited to, changing or adding an answer on an examination and re-submitting it to change the grade; and inventing data for a laboratory exercise or report.

### *3.1.04 Facilitating Academic Misconduct*

Knowingly or recklessly allowing or helping another individual to plagiarize, cheat, or fabricate information.

## **3.2 Alcohol Misuse**

University Policy 7.01 addresses the abuse of alcohol and other drugs by students and student organizations. Also see Section 1.12— Good Samaritan Provision: Intent Regarding Medical Emergency. Alcohol misuse includes, but is not limited to:

### *3.2.01 Possession and/or Use of Alcohol*

Alcohol misuse includes possession and/or use of alcohol except as expressly permitted by law or University policy 7.01. Alcoholic beverages may not be used by or possessed by any person under the legal drinking age (i.e., 21 years of age in Michigan).

### *3.2.02 Manufacture, Sale, and/or Distribution of Alcohol*

Alcohol misuse includes manufacture, sale, and/or distribution except as expressly permitted by law or University Policy 7.01. Alcoholic beverages may not be distributed to any person under the legal drinking age (i.e., 21 years of age in Michigan).

### *3.2.03 Intoxication*

Alcohol misuse includes intoxication to the point of endangering one's own health or safety; causing a disruption to the University community; and/or having a negative impact on other members of the surrounding community, regardless of age.

#### *3.2.04 Causing Involuntary Intoxication*

Alcohol misuse includes causing involuntary intoxication by any act which causes a person to consume alcohol without their effective consent.

#### *3.2.05 Violation of the Code while Intoxicated*

Alcohol misuse includes violating the code while intoxicated, regardless of age.

### 3.3 Animals

Bringing an unauthorized animal into a University building or to a University sponsored event, with the exception of working service animals. “Service animal” is defined by the Americans with Disabilities Act (ADA) as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. “Disability” means a medically diagnosable physical or mental condition or impairment that substantially limits one or more major life activities, such as walking, seeing, hearing, speaking, breathing, working, and/or learning.

### 3.4 Bullying

Intentional, repeated, and/or severe aggressive electronic, written, verbal, or physical acts of physical, social, or emotional domination that are intended to and do objectively and subjectively intimidate, harm, or control another physically or emotionally so as to substantially interfere with or limit their ability to participate in or benefit from an educational program or employment.

### 3.5 Bystanding

Complicity with or failure of any student to appropriately address known or obvious violations of the Code. Complicity with or failure of any organized group/groups to appropriately address known or obvious violations of the Code or laws by its members.

### 3.6 Chalking

Any member or members of the Michigan Technological University community found chalking in a way that is inconsistent with the requirements set forth by the University Policy 5.07—Chalking.

### 3.7 Community Order

Engaging in conduct prohibited under local, state, or federal laws and/or under University regulations. If a person has been asked by an authorized University official to leave the University premises, a University event, or a restricted area and refuses to do so, the person is trespassing and may be lawfully removed to maintain community order.

### 3.8 Dangerous Materials

Unauthorized use, possession, distribution, sale, storage, explosion, or detonation of chemicals, explosives, fireworks, or other hazardous materials on University premises or at University sponsored activities.

### 3.9 Discrimination

Unequal or unfair treatment of a person in University program and/or activity on the basis of that person's race, religion, color, national origin, age, sex, sexual orientation, gender identity, height, weight, genetic information, marital status, disabled veteran status, veteran status, or disability. Discrimination can occur when persons are excluded from participation in, or denied the benefits of, any University program or activity because of their protected status.

### 3.10 Disruptive Behavior

Causing a substantial disturbance, disruption, or interference, including without limitation substantially disturbing, disrupting, or interfering with the use or enjoyment of University premises or the surrounding community, research and teaching, University administration, conduct hearings, grievance procedures, or fire, police, and emergency services.

### 3.11 Drugs

University Policy 7.01 addresses the abuse of alcohol and other drugs by students and student organizations. Also, see Section 1.12— the Good Samaritan Provision: Intent Regarding Medical Emergency. Drug misuse includes, but is not limited to:

#### *3.11.01 Possession and/or Use*

Drug misuse includes possession and/or use of any *Federally Illegal Drug*, or any possession or use of any prescription drug or other controlled substance except under the direction of a licensed physician. Marijuana, including medical marijuana, is prohibited on campus in all circumstances.

#### *3.11.02 Manufacture, Sale, and/or Distribution*

Drug misuse includes the manufacture, sale, and/or distribution of any *Federally Illegal Drug*, including cannabis in any form, and is prohibited.

#### *3.11.03 Being Under the Influence*

Drug misuse includes being under the influence of any *Federally Illegal Drug*, prescription or non-prescription drug, or other controlled substance to the point of endangering one's own health or safety, regardless of age.

#### *3.11.04 Causing Involuntary Drug Use*

Drug misuse includes causing involuntary drug use where any act which causes a person to ingest any *Federally Illegal Drug*, prescription drug, or other controlled substance without their consent.

#### *3.11.05 Violation of the Code while Under the Influence*

Drug misuse includes violation of the code while under the influence of any *Federally Illegal Drug*, prescription drug, or other controlled substance in violation of this policy, regardless of age.

### 3.12 Emergency Alarms, Drills, and Equipment

Misusing, tampering with, or unauthorized disabling or impairing of any emergency alarm system or other safety equipment in any campus building or on University property; and/or failing to leave any University building during any emergency alarm or emergency evacuation procedure.

### 3.13 Endangerment

Any act that directly or indirectly creates a substantial risk to anyone's medical or mental health or safety (including one's own health or safety) regardless of intent.

### 3.14 Failure to Comply with Conduct Decisions

Intentionally or recklessly violating the terms of any conduct sanction and/or educational condition(s) imposed in accordance with this Code.

### 3.15 Failure to Comply with Official Request

Failing to comply with legitimate official requests, including without limitation requests made by, University administrative staff, faculty, student employees, and/or law enforcement agencies.

### 3.16 False Reporting

Knowingly initiating or causing to be initiated any false report of a Code violation or violation of law; or any false warning or false threat of fire, explosion, or other emergency.

### 3.17 Financial Obligations

Failure to promptly meet financial responsibilities to the University, including, but not limited to knowingly passing a worthless check or money order in payment to the University, or to an employee acting in an official University capacity.

### 3.18 Furnishings and Fixtures

Any unauthorized moving of University equipment or furnishings from room to room; or from rooms, lounges, lobbies or buildings; placing furniture in the hallway; and/or removing window screens.

### 3.19 Harassment (General)

Unwelcome conduct of a verbal, written, online, or physical nature that could reasonably be understood as being sufficiently severe, persistent, or pervasive, and disrupting or undermining a person's ability to participate in or benefit from a University program, activity, and/or employment.

### 3.20 Harassment (Protected Class)

Unwelcome conduct that is based on race, religion, color, national origin, age, sex, sexual orientation, gender identity, height, weight, genetic information, marital status, disabled veteran status, veteran status, or disability, and where enduring the offensive conduct becomes a condition of continued employment, or the conduct is sufficiently severe, persistent, or

pervasive, and subjectively and objectively offensive as to substantially or effectively disrupt or undermine a person's ability to participate in or benefit from a University program, activity, and/or employment.

### 3.21 Hazing

Violating University policy against hazing.

### 3.22 Host Liability

Hosts are responsible for their guests' behavior on University property.

### 3.23 Information Technology Resources

Violating University Policy 1.06— Acceptable Use of Information Technology Resources.

### 3.24 Littering

Disposing refuse of any kind on University premises, except in receptacles provided for that purpose; and/or placing any flier in or on any vehicle parked on University property without University authorization.

### 3.25 Misrepresentation

Furnishing false information to any University official, faculty member, or office. Forgery, alteration, or misuse of any University document, record, or instrument of identification.

### 3.26 Misuse of Services

Unauthorized use, or providing such use to another, of official identification, or of the University's properties, services, programs, facilities, supplies, name, logo, insignia, documents, keys, or permits.

### 3.27 Motorized Vehicles

Unauthorized use of a motor vehicle, including but not limited to cars, ATVs, snow vehicles, or similar motorized devices, while on University property, except in designated locations.

### 3.28 No Contact Directive Violation

Failing to comply with an official no contact directive put in place by the Office of Academic and Community Conduct or the Title IX Coordinator.

### 3.29 Physical Misconduct

Intentionally or recklessly causing physical harm to any person, or any intentional action resulting in non-accidental physical contact with a person without their consent.

### 3.30 Posting

Placing of advertisements, posters, signs, etc. on designated bulletin boards or in other locations, without authorization.

### 3.31 Property Damage or Destruction

Intentional or reckless behavior that results in destroying or damaging University property or the property of a member of the University community.

### 3.32 Public Exposure

Deliberately and publicly exposing one's intimate body parts, public urination, defecation, and/or public sex acts.

### 3.33 Retaliation

Engaging in any adverse action, directly or indirectly, including through someone else, that is intended to coerce, harass, intimidate, threaten, harm, or improperly influence any person because they:

- A. make, or intend to make, a report, complaint, grievance, or allegation of prohibited conduct under any University policy or rule, or under any law; or
- B. participate in or cooperate with any University proceedings such as, but not limited to, a conduct or grievance proceeding; or
- C. appear as a witness.

### 3.34 Sexual Misconduct

#### *3.34.01 Sexual Harassment*

Conduct on the basis of sex that is unwelcomed and determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity.

#### *3.34.02 Sexual Assault*

An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including Rape, Fondling, Incest, and Statutory Rape as defined in this Policy.

##### **3.34.02.i Rape**

The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

##### **3.34.02.ii Fondling**

The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental Incapacity.

##### **3.34.02.iii Incest**

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

##### **3.34.02.iv Statutory Rape**

Sexual intercourse with a person who is under the statutory age of Consent.

### *3.34.03 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:
  - The length of the relationship,
  - The type of relationship,
  - The frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

### *3.34.04 Domestic Violence*

A felony or misdemeanor crimes of violence committed by:

- a current or former spouse or intimate partner of the victim,
- a person with whom the victim shares a child in common,
- a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- a person similarly situated to a spouse of the victim under the domestic or family violence laws of Michigan, or
- 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 Michigan.

### *3.34.05 Stalking*

Engaging in a Course of Conduct directed at a specific person that would cause a reasonable person to—

- fear for his or her safety or the safety of others; or
- suffer substantial emotional distress.

### *3.34.06 Non-Consensual Sexual Contact*

Any intentional or reckless sexual touching, however slight, with any object or body part, by a person upon another person, without consent and/or by force. Sexual contact is any intentional or reckless contact with the breasts, buttock, groin, mouth, or genitals or another person, or intentional or reckless touching of another person with any of these body parts, making another person touch you or themselves with or on any of these body parts, or any other intentional or reckless bodily contact in a sexual manner.



### 3.34.07 Sexual Exploitation

Taking non-consensual, unjust, or abusive advantage of another in a sexual or intimate context for the respondent's own advantage or benefit OR to benefit/advantage anyone other than the individual being exploited.

### 3.35 Smoking/Tobacco Use

Smoking, smoke-free tobacco, and/or vapor use are prohibited on all Michigan Tech-owned or leased properties. There is an on-going blanket exception allowing for the use of tobacco (*Nicotiana rustica*) in spiritual and religious ceremonies. To ensure that ceremonies held indoors do not inadvertently activate fire alarms or sprinkler systems, event organizers must coordinate with the Office of Environmental Health and Safety.

### 3.36 Solicitation of Commercial Enterprises

Unauthorized selling of any goods or services on University premises. Solicitations or commercial enterprises (including cyber-marketing and telemarketing) in University housing are strictly prohibited.

### 3.37 Stolen Property

Theft of property or services; or knowingly possessing, selling, or distributing stolen property.

### 3.38 Threats

Intentionally or recklessly threatening physical harm to any person; or intentionally or recklessly causing reasonable apprehension of such harm; or communicating to any person (including communicating by any communication device, anonymously or otherwise), with intent to threaten another person for no legitimate purpose.

### 3.39 Violating Residence Education and Housing Services Policies

The Campus Housing Policies, including the Living Guide, Terms and Conditions for Residence Halls, as well as the Apartment Contract Terms and Conditions can be found at [mtu.edu/conduct/policies-procedures/student-conduct/#campus-housing-policies](http://mtu.edu/conduct/policies-procedures/student-conduct/#campus-housing-policies).

### 3.40 Violating Student Leadership and Involvement Policies

Policies related to student activities and/or student organizations can be found at [mtu.edu/student-leadership/resources/policies](http://mtu.edu/student-leadership/resources/policies).

### 3.41 Weapons

Violating [Board of Trustee Policy 12.7](#) on weapons registration.

### 3.42 Wheeled Devices

Skateboards, roller blades, bicycles, and similar wheeled devices may not be used inside University buildings, residence halls, or on tennis courts. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities. Individuals may be liable for damage to University property caused by these activities.

## 4. Conduct Process & Pathways

The University will respond to violations of the Code through a variety of pathways, informally and/or formally, with the goal of educating all parties involved. Resolutions, as well as appeal processes, are administrative functions internal to the University. Students may also face criminal action by the University for violations of Board of Trustees regulations or ordinances, and external, criminal/civil proceedings for violations of federal/state laws and/or city ordinances. Proceedings under the Code may be carried out prior to, simultaneously with, or following criminal/civil proceedings. A [flowchart](#) for the conduct process can be reviewed under the appendix. The conduct process listed in this section does not apply to sexual misconduct cases - see [Section 5— Sexual Misconduct](#).

### 4.1 Reporting of Alleged Code Violation

University community members, law enforcement agencies, or members of the public can report possible Code violations by making a written/electronic [complaint](#) to the Office of Academic and Community Conduct. See [Section 5.3](#) for Reporting Sexual Misconduct.

### 4.2 Student Groups/Organizations

Student groups/organizations are expected to comply with the community standards set forth in the Code and may be charged with violations of those standards. Hearings for student groups or organizations follow the same general student conduct procedures. Determinations as to responsibility will be made. Sanctions will be assigned collectively and/or individually, and will be proportionate to the involvement of each individual and the organization.

### 4.3 Cause and Notice

It is within the discretion of the University to determine the extent to which the complaint will be investigated and/or resolved. If a determination is made by a university official that reasonable cause exists to believe a violation has occurred, then the student alleged to have committed the violation will be provided notice of the violation and an opportunity to respond to the violation. A university official may dismiss the complaint at any stage if they have reasonable cause to believe the complaint is baseless or otherwise unsupported by available evidence.

### 4.4 Resolutions that May Result in Suspension or Expulsion

When there is the potential for a sanction of conduct suspension or conduct expulsion to be imposed, the case will normally proceed with a formal pathway. The University Official may use their professional judgment to determine if an informal pathway is appropriate. See [Section 7— Sanctions, Educational Conditions & Remedies](#) for more information.

## 4.5 Informal Pathways

### *4.5.01 Conduct Intervention*

After receiving a report, a University official may decide to schedule a meeting with the respondent to discuss the alleged violation(s). At the meeting, the official will:

- explain the purpose of the conduct intervention meeting;
- review the incident report and any impacts/harms to individuals and/or community as a whole;
- listen to the respondent's explanation of what occurred and why;
- discuss community behavioral expectations and conflict resolution techniques;
- discuss the consequences of the student conduct process;
- assist the student in developing an action plan to: repair the impacts/harms to individuals and/or community; avoid recurring behavioral issues; make use of appropriate service referrals, as needed; reintegrate themselves back into the community; and/or
- refer the case for formal action at the request of the respondent.

No sanctions will be imposed other than a verbal warning during the conduct intervention, and there is no right to an appeal. The official has the authority to change handling the incident at the conduct intervention level to the administrative option, voluntary adaptable resolution, or formal action, based on the information revealed in the conduct intervention meeting. Such actions may also be taken if the student fails to appear for the conduct intervention meeting. If a change is made, the respondent will receive the appropriate notice and opportunity to respond.

### *4.5.02 Restorative Practices*

After receiving a report, the official may offer the option for the parties to informally resolve the conflict/incident. If the respondent accepts responsibility for violating the Code, and the reporting parties agree to be involved, restorative practices such as mediation, facilitated dialogue, restorative group conferencing, and/or circle processes may be utilized.

#### **4.5.02.i Conflict Coaching**

Conflict coaching is a one-on-one consultation to assess and develop an individual's communication skills and conflict management strategies.

#### **4.5.02.ii Shuttle Diplomacy**

Shuttle diplomacy is the crafting of an agreement using a restorative justice framework that does not require parties to participate in an in-person conference with each other. The University official will meet and work with parties individually to create an agreement to which both parties can agree.

#### **4.5.02.iii Mediation**

Mediation uses a neutral third party to coordinate a structured intervention to assist with resolving conflict between two or more parties.

#### **4.5.02.iv Facilitated Dialogue**

Facilitated dialogue is a structured conversation between two or more parties in which a facilitator guides the parties to a better understanding of their differences.

#### **4.5.02.v Restorative Group Conference**

A restorative group conference provides a structured opportunity for impacted and responsible parties to address conflict or unacceptable behavior through a facilitated discussion. Restorative Group Conference facilitators create a safe space for all parties to share openly about the incident(s). Facilitators ask a set of restorative questions to both parties and allow each party to discuss what they were thinking at the time of the incident(s) and how the parties feel about the incident now. Impacted parties then create a formal resolution with the responsible party to restore confidence and trust in the responsible party. All parties must agree upon the plan.

#### **4.5.02.vi Restorative Justice Circles**

Restorative justice circles involve all parties coming together to share stories and learn more about what harms have been created, who has been affected and how, and ways to repair the harms. In a circle process, participants are encouraged to be open and honest about their perspectives about the conflict, how they have been harmed, how they think others might have been harmed, and to come up with their own solutions on how to fix the harm created. All students sit in a circle and take turns participating and sharing their perspectives while using a talking piece. Often, support persons and community members can also be present to provide their input as well.

These voluntary processes allow all parties to be involved in and have an influence on the resolution process and outcome. The primary focus is to address the impacts, repair the harm, restore integrity, and reintegrate individuals back into the community. The outcome is a formal agreement between the parties as to specifically what will be done by the respondent. If all parties are not in agreement as to the outcome of the restorative practices, or at any time during the process the official decides it's not in the best interest of those involved, including the University, then the matter will be handled through formal action.

## 4.6 Formal Pathways

### 4.6.01 *Interim Action*

Reasonable cause needs to be present for the University to take interim action prior to proceeding with the conduct process. The purpose of an interim action is to:

- ensure the safety and well-being of all members of the University community;
- ensure the respondent's own physical or emotional safety and well-being; or
- take action if the respondent poses a threat of disruption of or interference with, the normal operations of the University.

If a respondent fails to comply with the requirements of the interim action, the University may immediately take any lawful action to obtain compliance.

#### **4.6.01.i Interim Action Review**

The parties can request an interim action review be conducted at any time after interim action is imposed. The parties must submit the request for review in writing. During the review process, the parties will be given an opportunity to demonstrate, in writing, why they feel cause no longer exists for the interim action to be in effect. This may include providing additional information not available at the time the interim action was imposed. A separate University official will conduct the review.

#### **4.6.01.ii "Interim Action" includes but is not limited to:**

- No verbal/non-verbal/third-party contact with another person(s).
- Disciplinary hold on the student account that prevents registering for academic courses and/or making any type of academic requests, e.g., transcripts (in order to have the hold removed the student will need to comply with official requests).
- A mandatory behavioral agreement that reinforces conduct expectations, with any further violations of the Code resulting in formal action.
- Restriction on student's presence in the residence halls, on University property, and/or at University events.
- A requirement of an individualized psychological assessment through Counseling Services or at another facility and/or a medical assessment—the assessment(s) may be used to determine the appropriateness of withdrawing, sustaining, or altering the interim action.
- Immediate suspension from the University pending the outcome of the conduct process.

### 4.6.02 *Administrative Option*

The official may send a written notice to the respondent's university email address of the alleged policy violation(s), findings based on a preponderance of the evidence, applicable sanctions, and educational conditions, with the option for the student to:

- A. accept the findings and the designated sanctions and educational conditions;

- B. request formal action; or
- C. reject the findings in part or entirely and request formal action.

The response must be returned via email to the official within five (5) business days of the official's emailing of the notice.

If the respondent requests formal action, an initial conference will be scheduled, and the case may proceed with further formal action. If the response is not returned within the designated time period, it shall be presumed the respondent waives their right to formal action, and the sanctions and educational conditions outlined in the email notice will be imposed. If the respondent waives their right to formal action, the complainant may appeal the outcome and request formal action.

#### *4.6.03 Formal Action*

Official notice will be sent to the respondent's university email address with the following information: alleged violation(s); the range of sanctions related to the violation(s); and the date, time, and location for an initial conference. If the respondent fails to appear at the initial conference, the official may consider all information true and accurate, if it so appears, and take appropriate administrative action.

The initial conference notice is sent when there is reasonable cause to believe that a student may be responsible for a violation of the Code. At the initial conference, the student will meet with an official. The purpose of the initial conference is to provide the respondent with additional information about the reported incident and explain the procedures that will be followed to determine if they are responsible or not responsible for a violation of the Code. At that time, the respondent will respond to the violation by electing one of the following courses of action:

- A. Accept responsibility for violating one or more University rules. The case may then be immediately reviewed by the official, who will take appropriate action. A short postponement will be granted if the respondent wishes to demonstrate mitigating circumstances by producing relevant witnesses or information. A decision notice will be sent to the respondent within five (5) business days, and will include any applicable sanction and condition(s). The official may choose to refer the respondent to a meeting with the University Conduct Board for determination of appropriate sanction and/or educational condition(s).
- B. Accept responsibility for a violation(s), and request a restorative practice in lieu of formal sanction/educational condition(s). See Section 4.5.02— Restorative Practices.
- C. Deny responsibility for the violation(s), in which case, the official shall determine the next appropriate course of action from the following:
  - a. Schedule a formal hearing within a reasonable time in order to allow the respondent to prepare a response and/or to arrange for the complainant who filed the complaint to appear.

- b. Refer for a formal hearing before the University Conduct Board. If the board cannot convene, the Office of Academic and Community Conduct will arrange a formal hearing by a designated official.
  - c. Adjourn the conference in order to obtain additional information, and then complete the conference at a later time after all additional information has been gathered and reviewed.
  - d. Dismiss the charges if it is decided after the initial conference that cause no longer exists for the charge(s).
- D. Choose not to respond to the charge. The case will then be referred for a formal hearing before the University Conduct Board.

## 5. Sexual Misconduct

### 5.1 Process for Sexual Misconduct Violations

Alleged sexual misconduct violations will be evaluated by the Sexual Misconduct Allegation Review Team (SMART) to determine whether the alleged violation will be investigated under the Student Code of Community Conduct or if the alleged violation meets the grounds for Title IX. The alleged violation will be handled under the Student Code of Community Conduct if the respondent is a student of Michigan Tech, and the alleged conduct meets one or more of the following:

- A. The alleged conduct does not fall within the definition of sexual harassment as defined in the Title IX Policy but falls within the definition of sexual misconduct in this policy,
- B. The alleged conduct, if proved, would constitute a violation of sexual harassment as defined in the Title IX Policy and did not occur in the education program or activity of Michigan Tech but would have a substantial impact on Michigan Tech,
- C. The alleged conduct if proved, would violate the definition of sexual harassment as defined in the Title IX Policy and did not occur in the U.S.,
- D. The alleged conduct, if proved, would violate the definition of sexual harassment as defined in the Title IX Policy and the complainant is not participating in or attempting to participate in Michigan Tech's education program or activity.

### 5.2 Sexual Misconduct Allegation Review Team (SMART)

The sexual misconduct allegation review team will review all cases of alleged sexual misconduct. If the complainant is willing to participate in the review and investigation process, the Office of Academic and Community Conduct will proceed as described in this section. In all cases, the University's response is designed to consider the complainant's preference regarding whether the University proceeds with an investigation and to provide deference to the complainant's wishes whenever it is determined reasonable to do so. SMART will evaluate the following to determine if the Office of Academic and Community Conduct should proceed with an investigation when the complainant is unwilling or unable to participate:

- A. to what extent Michigan Tech should further investigate an allegation of sexual misconduct for the protection of the campus community, and

- B. what other measures might be considered to address any effects of the alleged sexual misconduct within the campus community.

## 5.3 Reporting Sexual Misconduct

### *5.3.01 Reporting Sexual Misconduct to Employees*

Reports of sexual misconduct made to the offices below means that your report will be handled in a private manner to the extent possible and consistent with the principles of due process, FERPA, the Violence Against Women Act, and the Campus Security Act.

#### **The Office of Academic and Community Conduct**

310 Administration Building  
906-487-2951  
[www.mtu.edu/conduct](http://www.mtu.edu/conduct)

#### **Title IX Coordinator**

307 Administration Building  
906-487-3310  
[mtu.edu/title-ix/index.html](http://mtu.edu/title-ix/index.html)

### *5.3.02 Reporting Sexual Misconduct to Confidential Employees*

Reports made to confidential employees are considered confidential reports and will not be reported to the Title IX Coordinator without the complainant's permission and will not constitute actual notice to Michigan Tech.

#### **Counselors of the Center for Student Mental Health and Well-being**

3rd Floor Administration Building  
906-487-2538  
<https://www.mtu.edu/well-being/>

#### **Director of Student-Athlete Wellness and Clinical Counselor**

Student Development Center (SDC) Room 220  
906-487-3595  
<https://www.mtu.edu/well-being/>

#### **Michigan Tech Ombuds**

487-2391  
<https://www.mtu.edu/ombuds/>

### *5.3.03 Reporting Sexual Misconduct to Law Enforcement*

Reports to law enforcement may be shared with the Office of Academic and Community Conduct; however, the legal process and the University process are separate. Complainants may file with local law enforcement for criminal/civil proceedings for violations of federal/state and/or city ordinances. University proceedings may be carried out prior to, simultaneously with, or following criminal/civil proceedings.



**Michigan Tech Department of Public Safety and Police Services**  
206 MacInnes Drive, Houghton, MI 49931  
906-487-2216 or 911  
<https://www.mtu.edu/publicsafety/>

**Houghton City Police Department**  
616 Shelden Ave, Unit 101, Houghton, MI 49931  
906-482-2121 or 911

**Houghton County Sheriff**  
403 East Houghton Avenue, Houghton, MI 49931  
906-482-0055 or 911  
<http://www.houghtonsheriff.com/index.shtml>

#### 5.4 Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent for sexual misconduct cases. Such measures are designed to restore or preserve equal access to Michigan Tech's Education Programs or Activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Michigan Tech's educational environment, or deter sexual harassment.

Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Supportive measures may be put in place and monitored by the Title IX Coordinator in cases of sexual misconduct allegations handled under the Student Code of Community Conduct. Supportive measures may be available regardless of formal charges of the Student Code of Community Conduct.

#### 5.5 Sexual Misconduct Investigators

Alleged sexual misconduct violations will be investigated by a trained investigator. Investigators are neutral and impartial fact-finders who gather evidence regarding an allegation against students, faculty, or staff. It is the investigators responsibility to adhere to prescribed timelines. The investigators are responsible for completing an investigative report at the conclusion of the investigation that fairly summarizes all relevant evidence and information gathered during the investigation.

#### 5.6 Notice of Allegations

When there is cause to charge for alleged sexual misconduct through the Student Code of Community Conduct, the investigator will provide notice of allegations to the parties who are known. The notice of allegations will include:

- A. Notice of the party’s rights and options
- B. Notice of Michigan Tech’s student code process
- C. Notice of Michigan Tech’s informal resolution process and options
- D. Notice of the allegations of sexual misconduct including:
  - a. The identities of the parties involved in the incident, if known,
  - b. The conduct allegedly constituting sexual misconduct, and
  - c. The date and location of the incident, if known.
- E. Notice that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- F. Notice that the parties may have an advisor of their choice, who may be, but is not required to be an attorney, and that the advisor may inspect and review evidence as explained in Section 5.7.02— Opportunity to Inspect and Review Evidence of this policy.
- G. Notice of the Michigan Tech Student Code of Community Conduct provision that prohibits knowingly making false statements or knowingly submitting false information during the conduct process.

The notice of allegations will be updated and written notice provided to the parties if, at any time during the investigation, Michigan Tech decides to investigate allegations about the complainant or respondent that are not included in the initial notice of allegations.

## 5.7 Sexual Misconduct Investigations

Michigan Tech will investigate following a complaint of sexual misconduct and Notice of Allegations. During all meetings and interviews, the parties may be accompanied by an advisor of their choice, which can be, but is not required to be, an attorney. During the investigation stage, the advisor’s role is limited to assisting, advising, and/ or supporting a complainant or respondent. An advisor is not permitted to speak for or on behalf of a complainant or respondent or appear in lieu of a complainant or respondent during the investigation phase.

### *5.7.01 Opportunity to Provide Information and Present Witnesses*

Each party will be provided an equal opportunity to provide information to the investigator and present witnesses for the investigator to interview. The information provided by the parties can include inculpatory and exculpatory evidence. The witnesses can include both fact witnesses and expert witnesses.

### *5.7.02 Opportunity to Inspect and Review Evidence*

Each party will be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations, including evidence upon which Michigan Tech does not intend to rely upon in reaching a determination regarding responsibility. This review includes inculpatory and exculpatory evidence that is obtained by a party, witness, or other source. Each party and their advisor (if any) will be provided an electronic copy of the evidence for inspection and review. The parties will have ten (10) business days to review and submit a written response to the investigator. The investigator will consider the written responses prior

to completing an investigative report. All evidence provided during the inspection and review phase will be available at any hearing for the parties to use during the hearing, including for purposes of cross-examination.

#### *5.7.03 Investigative Report*

Following the opportunity to inspect and review evidence directly related to the allegations, the investigator will create an investigative report that fairly summarizes relevant evidence obtained during the investigation.

#### *5.7.04 Review of Investigative Report*

At least ten (10) business days prior to a hearing, the investigator will provide each party and the party's advisor (if any) an electronic copy of the investigative report for their review and written response.

#### *5.7.05 Investigation Timeframe*

The investigation of an allegation of sexual misconduct will be concluded within 90 business days. The parties will be provided updates on the progress of the investigation, as needed

### 5.8 Live Hearing

Upon completion of the investigation and review of the investigative report, the hearing in Section 6— Hearing Guidelines will follow.

### 5.9 Decision of Responsibility

See Section 6.9— Standard of Proof and 6.10— Decision of Responsibility regarding the rendering of a decision of responsibility and Section 7— Sanctions, Educational Conditions, and Remedies.

### 5.10 Appeal

See Section 8— Appeal Procedures for appeals.

### 5.11 Option for Informal Resolution

At any time before a determination regarding responsibility has been reached, the parties may voluntarily agree to participate in an informal resolution facilitated by Michigan Tech, which does not involve a full investigation and adjudication. Types of informal resolution include, but are not limited to, mediation, facilitated dialogue, conflict coaching, and restorative justice and resolution by agreement of the parties.

#### *5.11.01 Informal Resolution Notice*

Prior to entering the informal resolution process, Michigan Tech will provide the parties with a written notice disclosing:

- A. The allegations;
- B. The requirements of the informal resolution process, including the right of any party to withdraw from the informal resolution process and resume the

grievance process and the circumstances which preclude parties from resuming a Formal Complaint arising from the same allegations;

- C. Outcomes resulting from the informal resolution process, including notice that the records will be maintained for a period of seven (7) years, but will not be used by investigators or decision-makers if the formal grievance process resumes.

#### *5.11.02 Informal Resolution Agreement*

Prior to entering the informal resolution process, the parties must voluntarily agree in writing to the use of the informal resolution process.

#### *5.11.03 Informal Resolution Timeframe*

Informal resolutions will be concluded within forty-five (45) days of notice to Michigan Tech that both parties wish to proceed with the informal resolution process. Such notice that the parties wish to proceed with an informal resolution process will “pause” the counting of the timeframe referenced in Section 5.7.05— Investigation Timeframe. Should the informal resolution process fail, the timeline referenced in Section 5.7.05 will resume where it was paused.

#### *5.11.04 Informal Resolution Documentation*

Any final resolution pursuant to the Informal Resolution process will be documented and kept for seven (7) years. However, no recording of the informal resolution process will be made and all statements made during the informal resolution process will not be used for or against either party (and the decision-maker(s) and/or appellate decision-maker(s) may not consider any such statement made during informal resolution) should the parties resume the grievance process. Failure to comply with an informal resolution agreement may result in disciplinary action.

## 6. Hearing Guidelines

A hearing governed by the Office of Academic and Community Conduct is *not* a criminal trial. Formal rules of evidence shall not be applicable in conduct hearings. Information that is relevant, credible, and which a reasonable person would accept as having probative value can be considered in any hearing on responsibility, sanctions, and/or interventions. The standard used to determine if a student is responsible is called preponderance of evidence; this differs from normal court procedures because the procedural officer or committee may simply rule that it is more probable than not that a University regulation has been violated. The purpose of a hearing is to obtain the information necessary to make a decision of responsibility in a student's case. Relevant witnesses or documents will be considered and reviewed; however, character witnesses are not allowed.

## 6.1 Privacy

Hearings are closed to the public. Privacy will be preserved to the fullest extent possible, as allowed by law. At the discretion of the procedural officer, an additional official may be present for the purpose of assisting in managing the hearing, but the additional official shall not otherwise participate in the decision-making process.

## 6.2 Recording

Hearings will be recorded. Deliberations will not be recorded. The recording will be the property of the University and maintained according to university records policy. No unauthorized audio or video recording of any kind is permitted during the hearing.

## 6.3 Rules of Decorum

It is the parties' responsibility to share the rules of decorum with their witnesses, advisor, and support person. The procedural officer will review the rules of decorum prior to beginning a hearing.

## 6.4 Hearing Process Facilitator

Michigan Tech may designate a hearing process facilitator to coordinate the hearing, including, but not limited to, coordination and scheduling of the hearing; the logistics of physical or virtual rooms for parties and/or witnesses, including separation of the parties; ensuring all technology is working appropriately; ensuring the parties have access to electronic documents during the hearing; distributing materials; etc. The facilitator may invite the parties and their advisors to a meeting prior to the hearing to review the hearing process and rules of decorum for the purpose of ensuring a smooth hearing. This meeting is separate from the pre-hearing conference discussed below.

## 6.5 Pre-Hearing Matters

In order to streamline the hearing process, the procedural officer may request the submission of questions prior to the hearing through electronic submission and/or a pre-hearing conference.

### *6.5.01 Pre-Hearing Submission of Questions*

The procedural officer may request the parties to submit questions, in writing prior to the hearing. This submission does not preclude the parties from asking additional questions during the live hearing. The procedural officer may allow for the pre-hearing submission of questions regardless of whether a pre-hearing conference occurs.

### *6.5.02 Pre-Hearing Conference*

The procedural officer may hold a pre-hearing conference. During the pre-hearing conference, parties will be asked to submit, in writing, any questions they wish to ask during the live hearing so that the procedural officer can be prepared to respond to relevancy at the hearing. This conference does not preclude the parties from asking additional questions live during the hearing.

At the pre-hearing conference, the procedural officer may also hear arguments from the parties regarding the evidence as relevant or not relevant, and/or directly related to the allegations. The respondent may also choose to accept responsibly, deny responsibly, or choose not to answer to the allegations of violations of the Student Code of Community Conduct. If a respondent accepts responsibility in the pre-hearing conference, they waive the right to a hearing and the procedural officer will appropriately sanction or send the case to the University Conduct Board for a sanctioning hearing.

## 6.6 Information at the Hearing

During the hearing, the parties may give an opening statement, present an explanation of the facts and circumstances relating to the incident, present relevant witnesses who can speak to the same, reserve the right not to respond to questions, and give a closing statement. The parties may cross-examine each other directly, or may choose to do so indirectly through the procedural officer. The parties may cross-examine witnesses directly, or indirectly through the procedural officer. The procedural officer may determine that witnesses, information, and/or questions are relevant to the charge(s) and/or case. The procedural officer may also call on the complainant to explain events.

## 6.7 Individuals Present at Hearing

### *6.7.01 Parties*

The complainant and respondent are invited to the hearing as well as their relevant witnesses. It is the parties' responsibility to notify the procedural officer of relevant witnesses and provide their witnesses hearing information such as time, date, location, etc.

### *6.7.02 Witnesses*

The procedural officer will determine if witnesses are relevant. Witnesses must have relevant evidence and statements in order to be called upon. Witnesses are subject to cross-examination. Character witnesses are not allowed.

### *6.7.03 Support Person*

The parties may each invite one "support person" to accompany them during the conduct hearing process. A support person is any member of the University community (faculty/staff/student) chosen by the party to provide support to that party during a conduct hearing process. The support person may not be an immediate family member. Support persons, including attorneys, if allowed to be present throughout the proceedings, may not participate directly in the conduct process, but may offer advice, guidance, and/or support to the student (complainant/respondent).

### *6.7.04 Advisor*

When allegations involve sexual misconduct and/or if criminal charges have been filed against the responding student, parties are permitted to have an advisor that is not required to be a member of the University community. An advisor may be, but is not

required to be, an attorney. The complainant party may also invite an attorney present as their support person.

#### *6.7.05 Procedural Officer*

The procedural officer shall exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the hearing. Any person, including the student charged with the conduct violation, who disrupts a hearing, may be excluded by the procedural officer. The procedural officers are authorized to take reasonable measures to maintain control over the proceedings in order to elicit relevant facts; to prevent the harassment of participants; to ensure that proceedings are not disrupted; and to see that the interests of fairness are served. These measures may include regulating the timing, length, and manner of presentations, objections, declaring recesses in the proceedings, and other appropriate actions. The procedural officer should have training and experiences appropriate to the demands of the office. The procedural officer may also be a University Conduct Board member and decision-maker.

#### *6.7.06 University Conduct Board*

Conduct boards consist of a three-member panel. Panels may include professional staff, faculty, and full-time students. All conduct board members receive annual training. Members of the University Conduct Board may be currently or formerly licensed attorneys. These individuals serve on the University Conduct Board in their capacity as a student/faculty staff member of the University, not as an attorney. These individuals do not represent or advise the University on the matters before them as attorneys. The University Conduct Board members are decision-makers in hearings.

### **6.8 Challenge of University Conduct Board Member**

Either party may challenge the appointment of a University Conduct Board Member, based on conflict of interest or bias.

### **6.9 Standard of Proof**

No conduct action shall be taken unless it is established by the University Conduct Board or the procedural officer that a preponderance of the evidence indicates the student is more likely than not to be responsible for a code violation. Formal rules of evidence shall not be applicable in conduct hearings. Information which reasonable persons would accept as having probative value will be considered.

### **6.10 Decision of Responsibility**

Written notification of the conduct decision made by the University Conduct Board will be sent to the parties within five (5) business days of the hearing. In cases of sexual misconduct, notification will occur simultaneously. The procedural officer may use reasonable judgment to extend this time if necessary. Any conduct decision may be appealed and must follow the established procedures as outlined in Section 8— Appeal Procedures.

## 6.11 Sanctioning Hearing

In cases where students have accepted responsibility which may result in a sanction of suspension or expulsion or when a student has numerous prior conduct cases, the University official may choose to have the University Conduct Board render an appropriate sanction in a sanctioning hearing. During the sanctioning hearing, the University Conduct Board may contact the student for relevant questioning to aid in their decision.

## 7. Sanctions, Educational Conditions, & Remedies

### 7.1 Statement Regarding Sanctions

The purposes of sanctions include, without limitation:

- A. to educate the respondent about appropriate conduct;
- B. to promote the personal and professional development of the respondent;
- C. to discourage the respondent and other students from violating the Student Code of Community Conduct; and
- D. to protect other members of the University community.

The sanctions imposed on a respondent should be proportional to the respondent's misconduct and appropriate for the particular case based on the gravity of the offense (including, without limitation, how the violation affected or reasonably could have affected other members of the University community). Consideration may also be given to the respondent's conduct record; whether the respondent acted in self-defense, and, if so, whether the amount of force used was reasonable under the circumstances; and other aggravating or mitigating factors

### 7.2 Range of Sanctions

#### *7.2.01 Written Warning*

A written statement that further violations of University rules will result in more serious sanctions.

#### *7.2.02 Conduct Probation*

A status which generally will not exceed eighteen (18) months, unless at the discretion of the decision-maker(s), the status should exceed eighteen (18) months. Students who violate any regulation while on conduct probation are likely to receive enhanced sanctions for any subsequent violations. Conduct probation means a student is not in good social/conduct standing, and therefore may be ineligible to participate in co- and/or extra-curricular activities, student employment, scholarships, etc. Once a student has completed at least one third (1/3) of their total probationary period, they may apply to the PERC program to be reinstated to good conduct standing. Applicants will be required to successfully complete additional educational conditions prior to being released from conduct probation. Please contact the Office of Academic and Community Conduct at [studentconduct@mtu.edu](mailto:studentconduct@mtu.edu) for more information on the PERC program.



### *7.2.03 Conduct Suspension*

The termination of a person's status as a student for a definite or indefinite period of time with the possibility of reinstatement. The termination may be immediate. The student must submit a petition for reinstatement and have it approved by the Office of Academic and Community Conduct before being allowed to return. To be eligible to petition for reinstatement, students must have successfully completed all educational conditions and remedies. Students must petition for reinstatement at least six (6) weeks prior to the term they hope to re-enroll for. If allowed to return, a determination will be made whether or not the student will be placed on conduct probation for a specified period of time.

### *7.2.04 Conduct Expulsion*

The immediate termination of a person's status as a student without the possibility of reinstatement.

## 7.3 Educational Conditions

Conduct decisions, in addition to a sanction, may include, but are not limited to, educational condition(s) such as writing assignments, educational/experiential workshops, counseling, fees, community service, restorative practices, and educational projects. The University has complete discretion to require or to not require educational conditions on a case by case basis. Students with critical financial situations may submit a written petition to the Office of Academic and Community Conduct to demonstrate why they cannot pay University education condition fees. Supporting documentation as to why the student has a critical financial situation and is unable to pay is recommended. The petition and any supporting documentation will be reviewed to determine if their fiscal conditions warrant a reduction or waiver.

## 7.4 Remedies

In addition to a sanction and educational conditions when a respondent is found responsible for violations of the Student Code of Community Conduct, remedies may also be included in a decision. The goal of a remedy is to ensure the behavior(s) stops and does not reoccur. Remedies may include, but are not limited to, limited access to campus, temporary or permanent removal from the residence hall or campus property, change in on-campus living location, loss of privileges, well-being assessments, and no-contact orders.

# 8. Appeal Procedures

## 8.1 Grounds for Appeal

Parties may appeal the determination regarding responsibility in writing/electronically to the Office of Academic and Community Conduct within three (3) business days of the receipt of the determination. Students who have been sanctioned with suspension or expulsion shall, upon request, have access to all written documentation and/or recordings of the original hearing under the supervision of the Office of Academic and Community Conduct prior to submitting an appeal. If the appeal is not timely or substantively eligible, the original finding and sanction will stand and the decision is final. Parties can appeal on the following grounds:

### *8.1.01 Question of Fact*

Appeals will be considered on “questions of fact” by the introduction of new information that would significantly affect the outcome of the case. Information introduced that was not known or could not be reasonably known at the time of the hearing by the appealing student shall be considered new information. Evidence that was known but withheld by the appealing student shall not constitute a question of fact and will not be considered upon appeal.

### *8.1.02 Question of Procedure*

Appeals will be considered on the basis of “questions of procedure” by demonstrating the procedural guidelines established in this document were breached, and such departure from established procedure significantly affected the outcome of the case.

### *8.1.03 Severity of Sanction and/or Remedies*

Appeals will be considered on the “severity of sanction and/or remedies” and must include an explanation of why the sanction and/or remedies should be reconsidered. Appealing parties may state their case for a lesser or greater sanction and/or remedies.

## 8.2 Appeal Procedure

If an appeal is submitted timely, within three (3) business days, and meets the grounds to move forward, Michigan Tech will:

- A. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.
- B. Ensure that the decision-maker(s) for the appeal is not the same University Conduct Board member that reached the determination regarding responsibility or dismissal. The procedural officer for the appeal may be either the Dean of Students, Dean of the Graduate School, or designee.
- C. Provide the non-appealing party, with five (5) business days from receipt of the notification of appeal, to submit a written response to the appeal.
- D. Within ten (10) business days from the receipt of the appeal, the University Conduct Board will issue a written decision describing the result of the appeal and the rationale for the result which can be one of the following:
  - Affirm the original decision-maker’s determination regarding the respondent’s responsibility and affirm the disciplinary sanctions and remedies, if applicable;
  - Affirm the original decision-maker’s determination regarding the respondent’s responsibility and amend the disciplinary sanctions and remedies, if applicable;
  - Remand the process back to the hearing stage for the original decision-maker to remedy any procedural irregularity or consider any new evidence;
  - Reverse the original decision-maker’s determination of the respondent’s responsibility and amend the disciplinary sanctions and remedies, if applicable;or
  - Affirm or amend the sanctions and/or remedies outlined in the determination issued under this Policy.

- E. Provide the written decision to both parties. Notification will be simultaneous in cases of sexual misconduct.

The appellate decision is final and not subject to further appeal.

## 9. Record Retention, Transcript Notations, & Degree

### 9.1 Electronic Records

All cases have an electronic record in a secure and access restricted database, Maxient. Records are saved in the database under 'student conduct'.

### 9.2 Family Educational Rights and Privacy Act (FERPA)

Records of all student conduct actions by officials and boards are considered educational records under FERPA.

### 9.3 Campus Security Act

Records of incidents reportable under the Campus Security Act will be retained for seven (7) years from the date of the incident.

### 9.4 Suspension and Expulsion Cases

Student conduct records resulting in a sanction of conduct suspension or conduct expulsion will be retained indefinitely.

### 9.5 Records with Conduct Hold

Student conduct records that have had a conduct hold applied because of unaddressed conduct charges or incomplete educational conditions will be retained until conduct hold is removed.

### 9.6 Additional Conduct Records

All records that do not fit the criteria for Sections 9.3 - 9.5 will be retained for two years following the student's graduation or official withdrawal from the University.

### 9.7 University Transcript Notation

Transcript notations occur for expulsion, or for academic integrity violations that result in a special failing grade of F\*, U\*, and E\* (see Academic Integrity Policy). If a student receives a special failing grade, the student will not be able to repeat that specific course.

### 9.8 Pending Academic Integrity Cases

In the case of pending actions where an academic grade cannot be assigned, a temporary grade of "M" will be entered into the student's academic record, which represents a missing grade. Missing grades are not calculated into a student's GPA.

### 9.9 Sealed Records

Upon a student's request and University review and approval, the University may allow for the sealing of a student's conduct record prior to the established record retention timeframe as listed in Sections 9.1-9.6 for the record to be purged. Sealed records will not be disclosed to external third parties except as required by law or when permitted by written waiver by the

student. The sealing of student conduct records is not an expungement or pardon of any conduct decision(s). It does not eliminate or modify any sanction(s) or educational condition(s).

#### *9.9.01 Sealed Records Request Process*

Students must request their conduct record to be sealed by completing the Sealed Records Request Form. The Office of Academic and Community Conduct will review all requests to seal student conduct records to determine if the request meets the limited grounds listed in Section 9.9.02. All requests determined to meet the limited grounds will be forwarded to the University Conduct Board for final determination. Requests not meeting the limited grounds will be rejected.

#### *9.9.02 Limited Grounds for Sealed Records Request*

- A. Requests are submitted either during the student's last semester prior to graduation, or after successful completion of all degree requirements.
- B. Requests are submitted for meritorious reasons which justify an early granting of a sealed record.
- C. Violation did not result in sanction of conduct suspension or conduct expulsion.

#### *9.9.03 Final Determination*

The University Conduct Board will base the determination on the following:

- A. Nature and number of violations
- B. Severity and impact of violations
- C. Successful completion of sanctions, remedies, and educational conditions
- D. Additional action taken to learn from misconduct and not let the misconduct define them
- E. Reason for the request

#### *9.9.04 Request Granted*

If a student's request for their conduct record to be sealed is granted, the student's conduct record will be sealed only upon the student's completion of all degree requirements.

#### *9.9.05 Request Denied*

If a request is denied for a conduct record to be sealed, the case will follow the record retention as stated above in this section.

#### *9.9.06 Special Request*

If a special request is made for the conduct record to be sealed prior to completion of all degree requirements, and the request is granted, the sealing of the student's record will be deferred. During the deferment period, the student's conduct record will not be disclosed to external third parties except as required by law or as permitted by a written waiver signed by the student. However, if the student is found responsible for any

further violations during the deferment period then the student's request for their conduct record to be sealed will be voided, and no further requests will be considered.

#### 9.10 Revocation of Degree

The University reserves the right to revoke an awarded degree for fraud in receipt of the degree, or for serious disciplinary violations committed by a student prior to the student's graduation.

## 10. Appendix

### 10.1 Title IX Policy Statement

Michigan Technological University adheres to all federal, state, and local civil rights laws prohibiting discrimination in employment and education. Michigan Tech does not discriminate in its admissions practices (except as permitted by law), in its employment practices, or in its educational programs or activities on the basis of sex and gender. As a recipient of federal financial assistance for education activities, Michigan Tech is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex/gender. Sex includes sex, sex stereotypes, gender identity, gender expression, sexual orientation, and pregnancy or parenting status.

Michigan Tech also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process internal or external to the institution. Sexual harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination, which are prohibited under Title IX and by Michigan Tech policy.

Any member of the campus community, including students, faculty, staff, and visitors, who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities and/or benefits of any member of the Michigan Tech community on the basis of sex is in violation of the Michigan Technological University [Title IX Sexual Harassment Policy](#) and/or [Board of Trustees Policy 5.3](#).

Any person may report sex discrimination (whether or not the person reporting is the person alleged to have experienced the conduct), in person, by mail, by telephone, by video, online, or by email, using the contact information listed for the Title IX Coordinator (below). In case of emergency, always dial 911. A report to the Title IX Coordinator may be made at any time (including during non-business hours) by email or through the online reporting options available on the [Title IX](#) and [Report a Concern](#) webpages.

Questions regarding Title IX, including its application and/or concerns about noncompliance, should be directed to the Title IX Coordinator. For a complete copy of the policy or for more information, please visit [mtu.edu/title-ix/policy/](http://mtu.edu/title-ix/policy/) or contact the Title IX Coordinator.

### 10.2 Individuals with Oversight for all Non-Discrimination

Beth Lunde-Stockero, Title IX Deputy Coordinator & Executive Director, Institutional Equity Administration Building, Room 308  
906-487-3310  
[equity@mtu.edu](mailto:equity@mtu.edu)

Kirsti Arko, Ph.D., Title IX Coordinator & Assistant Director, Institutional Equity Administration Building, Room 307  
906-487-3310  
[titleix@mtu.edu](mailto:titleix@mtu.edu)

A person may also file a complaint with the appropriate federal, state, or local agency within the time frame required by law. Depending upon the nature of the complaint, the appropriate agency may be one of the following:

Michigan Department of Health and Human Services  
47420 State Hwy M26, Suite 62  
Houghton, MI 49931  
906-482-0500

U.S. Equal Employment Opportunity Commission  
Patrick V. McNamara Building  
477 Michigan Avenue, Room 865  
Detroit, Michigan 48226  
800-669-4000

Michigan Department of Civil Rights  
Capitol Tower Building  
110 West Michigan Avenue, Suite 800  
Lansing, MI 48933  
Phone: 517-335-3165  
To file a complaint call: 899-482-3604

Assistant Secretary for Civil Rights  
Office of Civil Rights, National Headquarters  
U.S. Department of Education  
Lyndon Baines Johnson Dept. of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Telephone: 800-421-3481  
Fax: 202-453-6012; TDD: 800-877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Within any resolution process related to this policy, Michigan Tech provides reasonable accommodations to persons with disabilities and religious accommodations, when that accommodation is consistent with state and federal law.

**10.3 Revisions of the Student Code of Community Conduct**  
Revised: 09/01/2020, 12/15/2020