Appendix V

MSUN Policy 601.3

MONTANA STATE UNIVERSITY NORTHERN

Subject: Student Conduct 601.3 Student Conduct

Section 600: Student Affairs

Effective: February, 2000
Revised: July 2008; August 2014
Review Date: August 2017
Responsible Party: Dean of Student Engagement

Students and the Law

As a citizen of the larger society, the university student retains those rights, protections and responsibilities held by all citizens. All students of Montana State University Northern are, therefore, subject to federal, state, and local law.

The enforcement of student responsibilities and duties to the larger society is the responsibility of those civil authorities established expressly for that purpose. Representatives of agencies enforcing these laws have the right to be on campus to investigate illegal activities without the knowledge or consent of the University administration. In addition, they have the right to make searches and arrests in campus housing, provided they have the proper warrants. When possible, an administrator in charge may be notified or will accompany the law enforcement officer.

It is the intent of the University community to resolve student conduct violations within the University. However, in the event that a serious violation involves a violation of the law (i.e. sale of drugs, arson, major vandalism, etc.) or violations by non-students, it may be necessary to involve the appropriate law enforcement agencies. Likewise, students charged or convicted of violations under general law may be subject to University sanctions for the same conduct when the act is in violation of campus rules essential to the continued protection of other members of the campus or to the safeguarding of the educational process.

Standards of Student Conduct

Judicial policies, dealing with inappropriate behavior, within an educational institution parallel the institution's academic policies in that they are concerned with promoting an effective academic community, the freedom to learn, and personal responsibility. It is every student's responsibility to help ensure that the University is an orderly and responsible community, one in which each member is assured of personal safety and well-being and has the opportunity to obtain the desired educational experience. For this reason, any member of the University who observes a violation of accepted guidelines or behavior has the responsibility to ensure corrective action is taken. Therefore, any member of the community; student, faculty, or staff may bring a complaint and has a responsibility to do so. Help with preparing a complaint may be obtained from the campus judicial officer or other Student Affairs professionals if the violation concerns general campus policy, or from a Residence Life Staff member if the violation pertains to housing behavior.

Responsibility and authority for the regulation of student behavior is vested in the Chancellor of the University by the Board of Regents. In all disciplinary matters, the Chancellor of the University shall be the final campus authority. The Chancellor has delegated decision-making authority concerning campus discipline with the campus judicial officer. Currently, the Dean of Student Engagement serves as the campus judicial officer. Residence Life Staff members have the authority and responsibility for alleged violations pertaining to housing rules and regulations. Serious violations and/or sanctions may be referred to the campus judicial officer. Residence hall disciplinary policies and procedures are detailed in the Residence Hall Handbook. The University reserves the right to determine what constitutes inappropriate behavior and appropriate sanctions.

Sanctions

The list of sanctions includes but is not limited to the following: verbal warnings; disciplinary warning status; social probation; suspension; expulsion; fines; restitution for damages; exclusion from extra-curricular activities. In the case of suspension, a student may be separated from the University for not less than one term and not more than one academic year. In the case of expulsion, a student's relationship with the University is permanently severed. In addition, a student who is suspended will be given a grade of "W" in cases in which the work or the course has not been completed before the suspension.

Violations and Offenses

The following list is intended to provide examples of inappropriate behavior for which sanctions may be levied and is not intended to be exhaustive:

- violence, or threat of violence against self or any member or guest of the University community; this includes physical or emotional assault or threat of such, nuisance or threatening phone calls, and any individual or group effort designed to harass or to ridicule any other member of the University community;

- theft or damage to University property or property of any student, faculty, or staff member, or any visitor to the campus;
- obstruction or disruption of teaching, research, administration, or other University activities, including its public service functions and other authorized activities; dishonesty, such a knowingly furnishing false information to the University;
- unauthorized entry to or use of University facilities;
- forgery, alteration, or misuse of University records, or identification;
- failure to comply with directions of University officials acting in the performance of their duties;
- the possession or use of illegal drugs on campus;
- violation of the University's alcohol policy;
- serious disruption of good order in the University's living facilities;
- the possession of dangerous weapons or fireworks on campus except as otherwise provided for by the University regulations, students must check weapons to be used for hunting with the Residence Life Staff. Under no conditions may weapons be kept in Residence Hall rooms or Family Housing apartments;
- operating motorized vehicles on campus property not designed as a roadway or parking lot, such as lawns, sidewalks, and the like;
- creating, maintaining, or participating in a situation detrimental to the health, safety, or welfare of the University community. This includes tampering with fire equipment, setting off fireworks, bomb threats, and similar behavior;
- failure to show a university identification card or other valid identification when requested by a University official;
- violation of any university policy;
- repetition of violations.

Procedures

A member of the university community; student, faculty, or staff may bring about a complaint by filing an Incident Report with the campus judicial officer.

- Students may be charged with an offense both by the university and law officials.
- The accused student is to receive written notice of the alleged violation(s).
- The accused student will be informed of the disciplinary hearing date, time and location, at least two days in advance.
- Cases shall be resolved by the campus judicial officer at the disciplinary hearing. A disciplinary hearing will be conducted to review the alleged violations.
- The hearing will be closed to the public, except for immediate members of the accused student's family and the accused student's advisor.
- Any person who disrupts the hearing or fails to adhere to the rulings of the campus judicial officer may be excluded from the proceeding, including the accused student.
- Witnesses other than the complainant and the accused student, may be excluded from the hearing, except during their testimony.
- The burden of proof shall be upon the complainant, who must establish the guilt of the accused student by a "preponderance of the evidence".
- Affidavits shall not be admitted into evidence unless signed by the affiant and witnessed by the campus judicial officer.
- Allegations of violation of the university Discrimination, Harassment, Sexual Misconduct, Dating Violence, Domestic Violence, Stalking and Retaliation Policy [../1000/1001-7.aspx] and Procedure (Discrimination Policy and Procedure [../1000/1001-7-1.aspx]) shall be considered in accordance with those Procedures. Such allegations shall not be subject to the procedures herein, including the hearing and appeals procedures described below. In the event a student is determined to have violated the Discrimination Policy in accordance with the Discrimination Procedures, the student will be subject to sanctions as described above. Such sanctions shall be determined by the Dean of Student Engagement and shall be the final university decision on sanctions.

At the hearing,

- the accused will have the right to have an advisor present. This advisor may only advise the accused student, not to question witnesses or others
- the accused may: a) respond to the Incident Report; b) ask questions of the complainant, and; c) provide possible evidence or witnesses.

- the complainant may: a) respond to the Incident Report; b. ask questions of the accused, and; c. provide possible evidence or witnesses.
- the campus judicial officer, shall separately meet with the complainant, and ask them what they suggest for the solution and/or punishment.
- At the conclusion of the hearing, the campus judicial officer will meet with the accused student. The campus judicial officer will give the decision on what was determined for the punishment and/or sanctions. The campus judicial officer will ask the accused if they were treated fairly. The campus judicial officer will explain the appeal process. The campus judicial officer will provide the accused in writing the outcomes of the disciplinary hearing and a copy of the appeal process.
- The accused student will receive a letter of what had transpired at the disciplinary hearing.
- Either the complainant or the accused student has the opportunity to appeal the decision to the Student Disciplinary Hearing and Appeals Committee (SDHAC). This appeal must come no later than 10 days after the written decision is rendered by the campus judicial officer.

Appellate Procedures

Jurisdiction

- The Student Disciplinary Hearing and Appeals Committee (SDHAC), consisting of five members (three faculty and two student members), is to have the power to hear appeals of decisions, whether resulting in sanctions or not, made by the campus judicial officer in disciplinary matters.
- The Student Senate of the ASN shall make any and all permanent appointment of students to the SDHAC. All appointments will be for two-year terms and a replacement will be made on alternating years;
- The Academic Senate shall make any and all permanent appointment of faculty to the SDHAC. All appointments will be for three year terms. Thus each year, one new member will replace an out-going member;
- Each year the SDHAC will elect a faculty member of the committee to serve as the Chair.

Grounds for Appellate Review

SDHAC may accept written application of appellant if said appellant is able to assert one or more of the following:

- That the campus judicial officer did not have jurisdiction over the matter
- That the campus judicial officer made a clearly erroneous finding of fact contrary to the substantial weight of evidence, and the error materially affected the decision
- That the campus judicial officer incorrectly interpreted a university rule or regulation, and the error materially affected the decision
- That the campus judicial officer deprived the student of a right granted to the student by the rules or regulation of the university governing disciplinary hearings
- That the campus judicial officer has displayed demonstrable bias in the decision-making process
- That the sanction is clearly erroneous, reflecting an abuse of discretionary power granted the campus judicial officer by the university

Procedure

- Appellant must file written application of appeal with the Chair of the SDHAC, outlining grounds for appeal, no later than 10 days after a written decision has been rendered by the campus judicial officer. Said application must be signed and dated by the appellant, and submitted by 5 p.m. of the final day allowable for said filing. Any sanction unaccompanied by written notice to the student suspends the above mentioned application filing period.
- The Chair shall call a timely meeting of the SDHAC to discuss the merits of the appeal. A vote of two SDHAC members assures an appeals hearing with appellate at the future date.
- The Chair shall notify the appellant, in writing within five days, of the date of the appeals hearing. An evidence and witness list shall accompany said notice. A copy of said notice is to be forwarded to the campus judicial officer and the Chancellor of Montana State University Northern.
- The appellant, if unable to attend the appeals hearings, must inform the Chair within two hours of the scheduled hearing. If appellant fails to notify the Chair within the required time period, the appeal may be summarily dismissed by the Chair. Alternatively, the SDHAC may decide the matter in the appellant's absence, reschedule the hearing, or dismiss the appeal.
- The SDHAC hearings shall take place with a quorum of at least three members present. The SDHAC Chair shall have the option to appoint, on a temporary basis, replacements to serve on the committee at the time of the hearing. Such appointments shall preserve the 3:2 faculty-student ratio of the committee. Any student appointments shall be made from a list supplied to the Chair by the Student Senate of the ASN.

- The hearing will be closed to the public except for the appellant, immediate members of the appellant's family, the appellant's advisor, and the campus judicial officer.
- The advisor or family members may only advise the appellant and are not to question witnesses or others.
- Any person who disrupts the hearing or fails to adhere to the rulings of the SDHAC may be excluded from the proceeding, including the appellant.
- Witnesses other than the campus judicial officer and the appellant may be excluded from the hearing, except during their testimony.
- All matters decided by the SDHAC are implemented by a majority vote of members present, and all voting by the SDHAC is to be conducted by the Chair with SDHAC members only. In the event of a tie vote, the appellant's case is to be referred to the Chancellor of Montana State University Northern within a reasonable time.
- The Chair shall notify the parties, in writing, of the decision of the SDHAC, with a summary of the committee's reasoning accompanying the decision. The appellant shall also be notified of further appeal options by the Chair. Said decision is to be signed and dated by the Chair on behalf of the committee.
- A SDHAC member may voluntarily excuse himself from any hearing if he/she believes that his/her judgment may be impaired due to bias, prejudice, or any other detrimental factor. Upon acceptance of an appeal the SDHAC may, at its discretion, hear any relevant evidence that may assist the SDHAC in its ability to render a decision. When appropriate, the burden of proof expected of the institution is one of clear and convincing evidence.

The SDHAC shall keep a record of all actions taken by said committee, and said file shall be placed in the office of the Chancellor of Montana State University Northern.

Appealing SDHAC Decisions

The decision of the SDHAC may be further appealed in writing to the Chancellor of the University. In all disciplinary matters, the Chancellor of the University shall be the final campus authority. Further appeals must be made to the President of Montana State University Bozeman.

Montana State University - Northern · P.O. Box 7751 · 300 13th St West · Havre, MT 59501 · 800.662.6132
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