

# Student Conduct

## Representing the College

As stated in the College catalog, students may not represent the College unless they are enrolled in 12 or more credit hours. Also, representing MSU-Bottineau in intercollegiate athletics or other extracurricular activities is a privilege awarded to students in good academic and social standing. Although exceptions may be granted by the Campus Dean in demonstrably unusual cases, good academic standing includes meeting performance and attendance standards set by instructors for their courses and successful performance in a majority of classes as demonstrated by mid-term progress reports. Organization advisors will establish guidelines in regard to what standards of academic progress they will require for participation.

Good social standing involves more than merely being free from disciplinary probation. It includes a record of good conduct, both on and off the campus. Students who are involved in frequent or serious misconduct, whose actions off-campus affect the interests of the college community and/or lead to arrest or detention by civil authorities, or whose overall demeanor and attitude are not complimentary to the College should not assume they are in good social standing. Organization advisors will establish codes of conduct required for participation in their activity.

## Conduct Guidelines

The primary responsibility of the academic community is to provide for the enrichment of intellectual experience through its stated missions and functions. A code of student conduct is prescribed to protect students, insure their rights and property, the property of the College and foster the academic mission of the College. Students are responsible for knowing, understanding, and complying with all published rules, regulations and policies, which include but are not limited to, the College catalog, student handbook, residence hall manual, and the residence hall contract.

Each student has a responsibility to observe and to help maintain a code of personal behavior and social relationships which contribute to the educational responsibility of the College. The conduct of a student at the College is expected to reflect a responsible attitude toward campus regulations as well as the laws of the community, the state, and the nation. These standards apply to all students as long as they are a part of the academic community and the College assumes that students have courteous habits that do not impinge on other members of the community. Students surrender the privileges of membership in the academic community only through abuse of stated standards of scholarship or behavior.

Attendance at MSU-Bottineau is optional and voluntary. By enrolling at the College, each student acknowledges the authority of the school to set standards and impose disciplinary sanctions. These standards may be higher than the behavioral expectations of society at large, and the College expects from its students a higher standard of conduct than the minimum required to avoid disciplinary action. Conduct guidelines are applicable whenever students are representing the College, including when being transported to or from extracurricular events. Also, MSU-Bottineau's conduct guidelines apply to campus visitors.

Students who are able to discipline themselves know and will abide by the College's conduct guidelines. Therefore, in the administration of student conduct, an effort is made to assist students toward self-discipline.

Violations, or aiding and abetting individuals in a violation, of any of the following proscriptions may prompt disciplinary action by the College and attempted violations will be treated in the same manner as actual violations.

***(This list is not meant to be inclusive and disciplinary action will be taken whenever required.)***

1. **Disorderly Conduct:** MSU-Bottineau uses the definition for disorderly conduct that is defined in the North Dakota Century Code, section 12.1-31-01. The proscription against disorderly conduct is applicable to conduct on the college campus and to approved events or sponsored activities on or off campus:  
An individual is guilty of a class B misdemeanor if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual's behavior, the individual:
  - a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
  - b. Makes unreasonable noise;
  - c. In a public place, uses abusive or obscene language, or makes an obscene gesture;
  - d. Obstructs vehicular or pedestrian traffic, or the use of a public facility;
  - e. Persistently follows a person in or about a public place or places;
  - f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits the contact;
  - g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose; or

h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person.

This section does not apply to constitutionally protected activity. If an individual claims to have been engaged in a constitutionally protected activity, the Student Services Office or Student Conduct Committee shall exclude evidence of the activity.

2. **Hazing:** MSU-Bottineau uses the definition for hazing that is defined in the North Dakota Century Code, section 12.1-17-10 as follows: A person is guilty of an offense when, in the course of another person's initiation into or affiliation with any organization, the person willfully engages in conduct that creates a substantial risk of physical injury to that other person or a third person. As used in this section, "conduct" means any treatment or forced physical activity that is likely to adversely affect the physical health or safety of that other person or a third person, or which subjects that other person or a third person to extreme mental stress, and may include extended deprivation of sleep or rest or extended isolation, whipping, beating, branding, forced calisthenic, overexposure to the weather, and forced consumption of any food, liquor, beverage, drug, or other substance. The offense is a class A misdemeanor if the actor's conduct causes physical injury, otherwise the offense is a class B misdemeanor.
3. **Theft and Damage to Property:** Inflicting damage to or misuse of College equipment, facilities, or services, and attempted or actual theft of property owned by another person or agency.
4. **Firearms/Weapons/Fireworks:** Devices and/or dangerous weapons include but are not limited to fireworks, slingshots, wrist rockets, ammunition, bows and arrows, knives, martial arts equipment, dangerous chemicals, explosives, war souvenirs, flammable liquids, or other substances, articles or instrumentalities that may be used to injure are not allowed on campus or in campus facilities. Firearms, other than those used in conjunction with a class or worn by law enforcement officials, are prohibited on campus except in locked storage provided by the College's residence halls. The residence halls will only allow firearms or weapons that can be legitimately used for game hunting purposes. Handguns are not permitted.
5. **Fire Equipment:** Tampering with fire alarms, setting false alarms, and tampering with fire protection equipment, or creating a fire hazard.
6. **Academic Dishonesty/Dishonesty:** Cheating; submission of false records or information; altering, misusing, or forging College documents, records or identification; theft of tests; plagiarism.
7. **Alcohol/Drug Abuse:** The following are prohibited:
  - A. The manufacture, sale, purchase, transportation, possession or consumption of an alcoholic beverage anywhere on MSU-Bottineau property (including college vehicles, regardless of location), or in association with any MSU-Bottineau sponsored student activities or organizations.
  - B. Public drunkenness on College owned and controlled property or at MSU-Bottineau supervised functions is prohibited. Persons who endanger directly the safety of themselves or another person or property, or are acting in a manner that causes a public disturbance under the influence of alcohol, are considered to be drunk.
  - C. Driving while under the influence of alcohol or illicit drugs on the MSU-Bottineau campus or in association with any other MSU-Bottineau sponsored or supervised organizations or vehicles.
  - D. Possession or display of empty alcohol beverage containers, including but not limited to cans, bottles, and kegs, on the MSU-Bottineau campus, including those held by individuals for the purpose of recycling.
  - E. Being under the influence of, possessing, manufacturing, exchanging, distributing, using, or selling illegal drugs or any other controlled substance or agent, except pursuant to a physician's or dentist's prescription, or possessing paraphernalia for drug use on MSU-Bottineau owned or controlled property, or at MSU-Bottineau sponsored or supervised events.
8. **Keys and College Facilities:** Duplication, use, distribution or possession of a key which opens locks on the College campus without authorization from appropriate College officials. Unauthorized use, occupancy in, entry into any college facility or building or use of college equipment.
9. **Probation/Repeated Misconduct:** Violation of conditions of disciplinary probation and persistent violations of College rules and regulations.
10. **Interference with College Operations:** Obstruction or attempting to prevent students, College staff, or campus visitors from performance of their duties and tasks or refusal to comply with any administrative order to leave campus or a college facility or representing ones self improperly or falsely. This policy also covers failure to evacuate a college building during a fire, fire drill, bomb threat, and other real or perceived emergency. Failure to comply with

directions of college officials or law enforcement acting in performance of their duties.

11. **Residence Halls:** Residence hall rules and regulations.
12. **Conduct Detrimental to the College's Interests:** Violation of local, state, and federal laws while on or off campus. Students may be sanctioned for conduct that constitutes a hazard to the health, safety, or well being of members of the College community or which is detrimental to the College's interests whether such conduct occurs on campus, off-campus, or at college sponsored events.
13. **Compliance with the Student Conduct Code:** Failure to observe the rules and regulations of the College, instructions of college officials, or to comply with requests to appear before appropriate college officials at a specific time for disciplinary hearings or actions or to provide personal identification upon request including but not limited to, hall directors and resident assistants; giving false information regarding campus disciplinary investigations; failure to comply with sanctions imposed by the College's judicial system.  
  
Disciplinary action taken against students will be varied and a specific sanction is not prescribed for each violation of college policy that might occur. Also consideration will be given to individual mitigating circumstances. Factors to be considered will be any record of past misconduct, the nature of the violation that prompted disciplinary action, the severity of the violation, and the attitude of the student.

## Disciplinary Procedures

- A) Any member of the College community may file a report of an alleged violation(s) of the College's conduct code. The complaint should be specific in regard to the name of the accused student, the nature of the alleged violation, and the time and place of the alleged violation. The source of the complaint will sign the report.  
  
Any charge should be submitted as soon as possible after the event takes place or is discovered – but no longer than 30 school days later. The Associate Dean for Student Affairs may extend this time limit at his/her discretion.  
  
A complaint can be submitted to the Housing Director or to the Student Services Office. It must be in writing. Residence hall violations can be filed using the hall write-up forms.
- B) The Associate Dean for Student Affairs or his/her designee shall determine the composition of judicial bodies and appellate boards and determine which judicial body, hearing officer, administrative office,

or appellate board shall hear a case. Final authority in disciplinary matters rests in the university administration.

- C) Those charged with violating the college's conduct code will be informed of the nature of the charges and be given a fair opportunity to refute them.  
  
However, the just and rapid resolution of cases of misconduct will not be impeded by excessive proceduralism. Disciplinary proceedings are internal college activities and are distinguishable from a court of law. As an internal process, rules of evidence and procedures are not intended to be the same as those found in a court of law.
- D) Reports of misconduct are investigated by the Student Services Office. If the results of this investigation yield cause for further action, action can be taken by one of two administrative factions: The Student Services Office or the All College Student Conduct Committee. The Associate Dean for Student Affairs will determine which body will be used.  
  
However, In most instances, the Student Services Office adjudicates a violation of college policy through the use of a hearing officer. The Associate Dean for Student Affairs, or his/her designee will conduct this informal administrative hearing and will include as many other individuals as are necessary to adjudicate the matter. Typically the hearing officer's decision and sanction will be final and there will be no subsequent proceedings.  
  
In some cases because of the nature of an alleged violation, the All College Student Conduct Committee will convene an informal hearing. The accused student or the complainant will generally have recourse to appeal these decisions.  
  
Within a reasonable number of school days, usually not less than three nor more than ten, after a student has been apprised either verbally or in written form that he or she is accused of a violation of the conduct code, a hearing will be scheduled. The time frame for the scheduling of hearings may be altered by the Associate Dean for Student Affairs.  
  
The previously mentioned avenues of adjudication do not preclude the Associate Dean or his/her designee from taking administrative action in response to a complaint to counsel, advise or admonish a student.
- E) **HEARING PROCEDURES:**  
**ALL COLLEGE STUDENT CONDUCT COMMITTEE**
  1. The burden of proof will rest upon the party attempting to prove a violation of the conduct policy has occurred.
  2. In hearings involving more than one accused student, the chair of the committee, at his/her discretion, may permit the hearings to be conducted

separately.

3. Reasonable opportunity shall be given to the parties involved to present evidence and argument regarding the complaint. All evidence to be presented must be introduced at the hearings and the chair will determine what records, exhibits, testimony or witnesses will be allowed as part of the proceedings. Members of the committee may question witnesses and the right to cross-examine witnesses lies with the committee. Notarized affidavits are acceptable at the discretion of the committee chair.
4. All hearings will be closed to the public and conducted in private. Admission of any person to the hearing shall be at the discretion of the committee chair. Typically, only those persons who are deemed participants in the hearing shall be allowed to be present.
5. A party may bring to a hearing an advisor of his/her choice at his/her own expense. The advisor cannot address the committee or ask questions or participate directly in the proceedings except at the discretion of the chair. The complainant and the accused are responsible for presenting their own case.
6. All procedural questions are subject to a decision by the chair of the committee. The chair also has authority to take whatever action is required to see that the process is conducted in an orderly fashion and that resolution of a complaint is not impeded by excessive proceduralism. Any person who disrupts a hearing or fails to adhere to the rulings of the chair may be excluded from the proceedings. Also, the deviation from prescribed procedure during a hearing, or at any other juncture in the judicial process, will not obviate the outcome, unless in the judgement of the chair, significant prejudice has been caused to any party.
7. The standard of proof is that it is more likely than not that a violation has occurred.
8. A record of the hearing may be transcribed or recorded at the discretion of the chair. The record will not include the deliberations of the committee in which the determination is made that a student is more likely than not to have violated college policy. The record is the property of the College.
9. Except in the case of a student charged with failing to obey the summons of a judicial body or college official, no student may be found to have violated the conduct code solely because he or she failed to appear before the Committee. Also, those accused of violating the conduct code, and witnesses at a hearing, should not be compelled to incriminate themselves by being forced to testify.
10. The Committee will consider the case in private and deliver a written decision to the accused. Their decision will be made within seven school days of

the hearing. The Committee shall decide by majority consensus if a student has violated a section(s) of the conduct code. The Committee will also decide which sanction will be imposed upon a student.

#### F) MISCELLANEOUS

1. The Conduct Committee or other disciplinary committee or hearing boards/officers will be comprised of impartial decision makers who have no conflict of interest in a case. However, it is recognized that on a small campus such as MSU-Bottineau, it will be difficult to assemble a group of people who have not heard hearsay conversations about the case or know the individuals involved.
2. Disciplinary proceedings may be instituted against a student charged with violation of a law which is also a violation of the student code. Proceedings under this code may be carried out prior to, simultaneously with, or following court or criminal proceedings off-campus.
3. MSU-Bottineau will cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campus.

#### Appeals

- A) A decision reached by the All College Student Conduct Committee or a hearing officer may be appealed to the Conduct Appeals Committee within five school days of the decision. The appeal must be in writing, stating the reason for the appeal, and delivered to the Student Services Office.
- B) Except as required to explain the basis of new evidence, an appeal is limited to a review of the record of the initial hearing and of any documents or evidence, for one or more of the following purposes:
  - 1) to determine if the original hearing was conducted fairly,
  - 2) to determine if the decision reached regarding the accused student was based on substantial evidence,
  - 3) to determine if sanction(s) imposed were appropriate,
  - 4) to consider new evidence sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such evidence or facts were not known to the person appealing at the time of the original hearing.
- C) After reviewing the matter, the Conduct Appeals Committee may:
  - 1) deny the appeal and uphold the decision,
  - 2) resolve the matter by discussing the case with as many individuals as they deem necessary,
  - 3) remand to the Conduct Committee or hearing officer for reopening of the hearing to allow reconsideration

of the original determination and/or sanction(s).  
The decision of this group on remand is final.

- D) A review of sanctions by the Appeals Committee may not result in more severe sanctions for the accused student. Following an appeal, the Appeals Committee may reduce or uphold the decision.
- E) A decision on an appeal will be made within ten school days of the receipt of the appeal.
- F) The imposition of sanctions will normally be deferred during the pendency of appellate proceedings. However, in the interests of the safety of the College community, this stay is at the discretion of the Associate Dean for Student Affairs.

## Default Proceedings

A student or organization who fails to appear before a hearing board or administrator on the date set to answer or contest the charges of a violation of college regulations will be treated as being in default. The result will be that the case will be decided on the information available in the absence of the student's own statement and the default judgement may be re-examined only upon a showing by the student or organization that the absence was for a good cause.

In the case of the student who has left the College rather than appearing before the hearing board, the effect of the default judgement will be:

1. The College informs the student in writing of the complaint insofar as it is known without benefit of hearing and the disciplinary action that has resulted.
2. The same information is furnished to anyone designated by the student in connection with application for transfer or employment.

## Forms of Disciplinary Action

One or more of the following sanctions may be used to adjudicate a violation of the College's discipline code:

**WARNING PROBATION** – This type of probation consists of a discussion of a student's misbehavior with the student and a warning of further disciplinary action should there be further misconduct. A written warning is given to the student and a copy is filed in the Student Services Office until the end of the academic year.

**DISCIPLINARY PROBATION** – This type of probation is a warning to the student that his or her continued enrollment is dependent upon his or her good behavior for a specified

period of time. Disciplinary probation may also include removal from a residence hall, suspension from any office in any student organization, prohibition from representing the College in any manner, or the restriction of activity in some other specific area.

**DISCIPLINARY SUSPENSION** – Disciplinary suspension is the temporary withdrawal of the privilege of attending the College. Refunds will be made on the same basis as voluntary student withdrawals. Suspension may be deferred to allow completion of an academic term, after which it is automatically invoked. During a period of deferment, the suspension will be enacted immediately if additional misconduct occurs. An application for reinstatement following suspension must be made through the Student Services Office.

**EXPULSION** – Expulsion is the withdrawal of enrollment privileges with no promise of reinstatement at any time and no opportunity for review for at least one year. Refunds will be determined on the same basis as voluntary withdrawals.

**FINES** – Fines may be levied against students for violations of college policy. A fine may be the only form of disciplinary action taken against a student or it may be used in conjunction with any other sanction listed here.

**RESTITUTION** – Students will be required to reimburse the College or any other parties for damages incurred. This compensation can take the form of appropriate service and/or monetary or material replacement. In some instances, fines, and other forms of disciplinary action in addition to restitution will be imposed.

**VOLUNTARY WITHDRAWAL** – In some cases, the circumstances surrounding a student's infraction of college rules will result in a mutually agreeable, voluntary withdrawal from the College by the student.

**LOSS OF PRIVILEGES** – A denial of specified privileges for a designated period of time.

**DISCRETIONARY SANCTIONS** – In an attempt to make disciplinary action fit the offense, other forms of action not listed here may be taken. They might include work assignments, written reprimands, required counseling, loss of employment, disqualifications, or residence hall suspension, expulsion, or probation.

An individual may be summarily removed from campus when College officials have reasonable cause to believe that his or her continued presence represents an immediate and definite danger to himself or herself or the College community, and its ability to function without undue interruption.

### **All College Student Conduct Committee**

The All College Student Conduct Committee shall consist of the following members: two students appointed by the President of the Student Senate, two faculty members appointed by the President of the Academic Senate, and one staff member appointed by the Dean of the College. The Associate Dean for Student Affairs, or his/her designee, will be a member of the Committee and will Chair the Committee.

### **Conduct Appeals Committee**

The Conduct Appeals Committee will consist of one student appointed by the President of the Student Senate, one faculty member appointed by the President of the Academic Senate, and one member of the College administration appointed by the Dean of the College. The Associate Dean for Student Affairs, or his/her designee may be on the Committee in a nonvoting, advisory role.

### **Disciplinary Records**

All student disciplinary records are considered educational records and are therefore protected under FERPA, except as allowed by the 1998 Higher Education amendments.