

Student Code of Conduct

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Scope

The Student Code of Conduct is not intended to replace existing procedures related to:

1. discrimination
2. grade appeals
3. requests for exceptions to academic policies
4. appeals for tuition and fee reduction
5. disputes relative to financial aid awards
6. in-state tuition classification
7. student complaint policy

For any other matters that are not included above, contact the Dean of Students Office. It is a resource for accurate information for students at the University. Dean of Students Office personnel or the Conflict Resolution Coordinator can advise and assist students with unusual circumstances, or with problems not addressed in the [University Catalog](#). Students may also review information available on the [Dean of Students Office](#) web site.

Definitions

Article I: Definitions

1. The term "University" means Metropolitan State University of Denver.
2. The term "student" includes persons admitted to, enrolled at, or taking courses at/or sponsored by the University, and those who may not be currently enrolled but have a continuing relationship with the University. All students will adhere to the Student Code of Conduct as included in the University Catalog.
3. The term "faculty member" means any person hired by the University to conduct classroom or teaching activities or who is otherwise considered by the University to be a member of its faculty.
4. The term "University official" includes any person employed by the University performing assigned administrative or professional responsibilities.
5. The term "member of the University" includes any person that is a student, faculty member, University official, or any other person employed by the University.

6. The term "University or campus premises" includes all land, buildings, facilities, online or electronic communication and other property in the possession of or owned, used, or controlled by the Auraria Higher Education Center and/or MSU Denver, including the adjacent streets and sidewalks, and also includes Extended Campus locations.
7. The term "complainant" means the student, employee or third party who presents as the impacted party of any Prohibited Conduct under this policy, regardless of whether that person makes a report or seeks action under this policy.
8. The term "respondent" refers to the party alleged to have violated the Student Code of Conduct
9. The term "organization" means any number of persons that have complied with the formal requirements for University recognition. Student organization requirements can be found in the Student Organization Handbook.
10. The title of "Conduct Officer" refers to those persons designated by the University President to be responsible for the administration of the Student Code of Conduct.
11. The term "preponderance of evidence" is the standard of proof used in all conduct proceedings under this Student Code of Conduct. A preponderance-of-evidence standard means that it is more likely than not that a violation occurred.
12. The term "shall" is used in the imperative sense.
13. The term "may" is used in the permissive sense.
14. The term "policy" is defined as the written regulations of the University as found in, but not limited to, the Student Code of Conduct and Metropolitan State University of Denver Catalog.
15. The term "academic dishonesty" is defined as utilizing unauthorized resources in violation of expectations for honesty and integrity on an assignment or assessment. This includes plagiarism, cheating, fabrication, submitting the same work for different classes or other violations of academic expectations.
16. The term "cheating" includes, but is not limited to:
 - use of any unauthorized assistance in taking quizzes, tests or examinations;
 - misrepresenting class attendance;
 - dependence upon the aid of sources beyond those authorized by the faculty member in writing papers, preparing reports, solving problems, or carrying out other assignments; or
 - the acquisition, without permission, of tests or other academic materials belonging to a member of the University faculty, staff, or other students.
17. The term "plagiarism" includes, but is not limited to, the use by paraphrase or direct quotations of the published or unpublished work of another person without full and clear acknowledgement, according to the standards of the discipline, department, and/or faculty member. It also includes the unacknowledged use of materials prepared by another person or agency that may or may not be engaged in the selling of term papers or other academic materials.
18. The phrase "submitting the same work for different classes" means submitting substantive portions of the same work in more than one class without disclosure to and approval from faculty members involved.
19. The term "hazing" is defined as an act that endangers the mental or physical health or safety of a student, or that destroys or removes public or private property for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Hazing can be defined further as any action that produces physical discomfort, embarrassment, harassment, or ridicule.
20. The term "retaliation" is defined as any form of intimidation, threats, or harassment by an individual accused of misconduct, or by persons acting in support of or on behalf of the individual against whom a grievance has been filed. Acts of retaliation alleged to have been committed by a student are considered to be a separate violation of the Student Code of Conduct, in addition to any other alleged misconduct contained in a complaint against a student.
21. The term "working days" refers to the number of days specified for each step of the procedure and does not include Saturdays, Sundays, holidays, or days when the University is not open for business.
22. The term "University-sponsored activity" includes but is not limited to: Athletic events, music and theater events, student activities, study-abroad programs, internships, field experiences and student trips funded by the University.
23. The term "Conduct Officer" refers to the staff person responsible for managing the student conduct process.
24. The term "conduct file" refers to the creation of a record with the university when a student is referred to the Student Conduct process. The contents of this file include the outcome of a conduct hearing, referrals to a restorative process, findings of responsibility for a code violation and/or any institutional sanctions assigned in the Conduct process (see Sanctions, Article IV:

C). A conduct file is a part of a student's educational record. Please refer to the Student Code of Conduct Article IV: F: Release of Conduct Information for information on the release of a conduct file. Conduct files typically do not become part of a student's academic transcript.

25. The term "sexual misconduct" refers to any nonconsensual behavior of a sexual nature that is committed by force or intimidation, or that is otherwise unwelcome, and includes, but is not limited to: sexual assault, sexual exploitation, sexual harassment, stalking, domestic violence, and dating violence. For more definitions relating to sexual misconduct, see **Article V: Sexual Misconduct Policy and Procedures**.
26. The term "restorative processes" refers to processes that emphasize repairing the harm caused by a respondent to impacted parties, victims and the community. Participation in restorative processes is voluntary for all parties involved. Restorative processes are utilized when a respondent (student or organization) accepts responsibility for their actions.

Policy

Article II: Judicial Authority

1. The Dean of Students is appointed by the University to determine the individual(s) responsible for adjudicating any potential violations of the Student Code of Conduct, referred to as the Conduct Officer(s).
2. The Conduct Officer shall determine the composition of conduct bodies and determine which conduct body or Conduct Officer shall be authorized to hear each case.
3. The Conduct Officer may develop policies for the administration of the conduct program and procedural rules for the conduct of hearings that are consistent with provisions of the Student Code of Conduct.
4. Decisions made by the Conduct Officer shall be final, pending the normal appeal process.
5. The Conduct Officer may extend time limits for good cause demonstrated in writing.
6. The individual(s) responsible for hearing appeals of the Student Code of Conduct decisions are designated by the University President, and are referred to as the Appeals Officer(s).

Article III: Proscribed Conduct

A. Jurisdiction of the University

Metropolitan State University of Denver expects its students to be accountable for their conduct and to represent the University in a positive, responsible manner. The Student Code of Conduct exists to provide parameters for students and their behavior as they represent the University during the entirety of their enrollment. University jurisdiction applies to student conduct that occurs on- or off-campus, including while a student or organization is participating in University-sponsored activities such as study-abroad and student-travel programs. The University may adjudicate off-campus conduct when the continued presence of the student is likely to interfere with the educational process or the orderly operation of the campus; is likely to endanger the health, safety or welfare of the University community; or the offense committed by the student is of such a serious nature as to adversely affect the student's suitability as a member of the University community. The Student Code of Conduct shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending. In relevant cases, the student's use of electronic media in violating a standard of conduct may be considered in the adjudication process regardless of where the electronic media originated.

B. Conduct - Rules and Regulations

By a preponderance of evidence, any student found to have committed the following misconduct is subject to the disciplinary sanctions outlined in Article IV. Definitions are outlined in Article 1.

1. Acts of dishonesty including, but not limited to, the following:
 - a. Cheating, plagiarism, or other forms of academic dishonesty;
 - b. Submitting the same work for different classes unless disclosed to and approved by the faculty member;
 - c. Furnishing false information to any University or campus official, faculty member, or office;
 - d. Forgery, alteration, or misuse of University document, record, or instrument of identification;

- e. Failure to follow regulations, requirements or determinations of the Institutional Review Board (IRB) and/or faculty advisement when engaging in human subjects research activities;
 - f. Tampering with the election of any University-recognized student organization; or
 - g. Assisting anyone in the commission of any acts stated above.
2. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other University activities including public service functions on- and off-campus, or other authorized non-University activities when the act occurs on University premises.
 3. Assault, physical abuse, brawling or any conduct that threatens or endangers the health or safety of any person.
 - a. Verbal abuse, threats, intimidation, coercion or any unwelcome conduct by an individual(s) that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive.
 - b. Abuse of an animal, or any conduct that threatens or endangers the health or safety an animal.
 4. Attempted or actual theft of and/or damage to property of the University, the Auraria Higher Education Center, property of a member of the University community, or other personal or public property.
 - a. Identity theft via the use, or attempted use, of another person's identifying information without their knowledge or permission.
 5. Hazing by an individual or organization. Organizations engaging in such activities may be subject to the withdrawal of University recognition, and thus the loss of privileges and services provided by the Office of Student Activities.
 6. Failure to comply with a reasonable request from University officials or sworn law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.
 7. Unauthorized possession, duplication, or use of keys/access cards to any campus premises or unauthorized entry to, or use of, campus premises.
 8. Violation of University policies, rules, or regulations that are published in hard copy or available electronically on the University website or Auraria Higher Education Center (AHEC) website.
 9. Violation of federal, state, or local law.
 10. Possessing, using, providing, manufacturing, distributing, or selling of narcotics or other controlled substances, including marijuana, or related drug paraphernalia, or prescription drugs in violation of law or University policies. Attending classes or University functions while under the influence of drugs/illegal substances, including marijuana, shall also be considered a violation of this Code.

Note: Although, in accordance with the requirements of the Colorado Constitution, possession and use of marijuana for certain medical conditions, and the possession and use of less than 1 ounce of marijuana by persons 21 years of age or older is legal, the possession and use of marijuana remains prohibited on the Metropolitan State University of Denver South and Auraria campuses and at all University-sponsored activities. In addition, federal law, including the Controlled Substances Act and the Drug Free Schools and Communities Act, prohibits the use and/or possession of marijuana while a student is on campus.

11. Public intoxication, and/or the use, possession, or distribution of alcoholic beverages, except as expressly permitted by the law and University regulation.
12. Illegal or unauthorized possession or use of firearms, explosives, other weapons or dangerous chemicals. MSU Denver students will be held to the standards of the Weapons Policy for the Auraria Campus.
13. Participation in campus demonstrations that disrupt the normal operations of the University (or other parts of the campus) or that infringes on the rights of other members of the campus community; leading or inciting others or disrupting scheduled and/or normal activities within any campus building or area; or intentional obstruction that unreasonably interferes with freedom of movement on campus, either pedestrian or vehicular.
14. Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University-sponsored activities.
15. Breach of peace by aiding, abetting or procuring another person to breach the peace on University premises or at functions sponsored by or participated in by the University.
16. Any activity involving University technology resources that knowingly interferes with someone else's academic freedom or the institution's goals or policies.

- a. Any unauthorized use of electronic or other devices to make an audio or video record of any person while on University premises without his/her prior knowledge or without his/her effective consent when such a recording is likely to cause injury or distress. The storing, sharing, and/or distribution of such records by any means are also prohibited.
17. Abuse of the conduct process/system including, but not limited to:
 - a. Failure to obey the summons of a University official;
 - b. Falsification, distortion, or misrepresentation of information before a conduct body or University official;
 - c. Disruption or interference with the orderly conduct of a conduct proceeding;
 - d. Initiating a conduct proceeding knowingly without cause;
 - e. Attempting to discourage an individual's proper participation in, or use of, the conduct system, including retaliatory activities;
 - f. Attempting to influence the impartiality of a member of a conduct body prior to, and/or during the course of, the conduct proceeding;
 - g. Harassment - verbal or physical - and/or intimidation of a member of a conduct body prior to, during, and/or after a conduct proceeding;
 - h. Failure to comply with the sanction(s) imposed under the Student Code of Conduct, including violating prohibited conduct as defined in Article III of the Student Code of Conduct while on university probation or suspension; or
 - i. Influencing or attempting to influence another person to commit an abuse of the conduct system.
18. Intentionally obstructing or delaying a police officer, firefighter, security officer, or University official in performance of his/her duty.
19. Turning in a false bomb alarm or fire alarm, or misusing fire safety equipment.
20. Leaving children under the age of 16 unattended or unsupervised on campus grounds.
21. Influencing or attempting to influence the academic process through explicit or implied sexual behavior, bribery, or threats.
22. Failing to comply with contractual obligations with the University.
23. Furnishing false information or academic credentials with the intent to deceive or mislead when applying for admission to the University or for any of its programs and services.
24. Conduct that is disorderly, lewd or indecent.
25. Knowingly pursuing malicious, frivolous or fraudulent charges against a faculty, student or staff member without cause.
26. Stalking, or engaging in a pattern of behavior directed at a specific person that would cause a reasonable person to feel fear. Stalking behaviors include but are not limited to: Non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, written letters, gifts, or any other communications that are undesired and place another person in fear.
27. Sexual Harassment/Sexual Misconduct - any violation of the University's sexual harassment policies, including sexual misconduct. These policies are outlined in Article V.
28. Aiding, abetting and/or assisting anyone in the commission of any acts stated above.

C. Academic Dishonesty or Misconduct Procedures

Academic dishonesty may result in institutional sanctions in addition to any academic ramifications determined by the faculty member. Institutional sanctions do not limit the individual faculty member's academic freedom and the right to maintain academic integrity in the learning environment. The faculty member may assign a grade or grade notation for an assignment, exercise, test, and/or for the course based on his/her determination that an incident of academic misconduct has occurred.

In all cases of academic misconduct, the faculty member shall make an academic judgment about the student's grade on that work in that course and shall report such incidents within 20 working days to the student and to the Conduct Officer. The Conduct Officer may extend time limits for good cause. The Conduct Officer has the discretion to consult with the faculty member and the Office of Academic and Student Affairs to determine whether institutional sanctions should be invoked. The Conduct Officer does NOT have the discretion to change a grade or overturn a finding of academic misconduct. An appeal of a

finding of academic misconduct should be referred to the academic chain of command (Instructor, Chair, Dean, Grade Appeal Committee, Provost, etc.).

University conduct policies pertaining to academic dishonesty are part of the Student Code of Conduct. However, the appeal process for a finding of academic misconduct is under the purview of Academic and Student Affairs. When a faculty member reports an acts of academic dishonesty to the Conduct Officer, he/she may ask that institutional sanctions (refer to Section IV. B.) be applied. At his/her discretion, the Conduct Officer may recommend and impose sanctions in any reported case of academic misconduct against a student.

Should institutional sanctions be recommended in cases of academic dishonesty, the Conduct Officer shall check the conduct file to determine if the student has any record of prior offenses. The student will be invited to meet with the Conduct Officer if institutional sanctions are being considered. Any institutional sanctions are subject to the [Conduct appeals process](#).

Plagiarism Software

The University has access to plagiarism software that assists faculty in determining whether plagiarism has occurred. The specific version of the software will be indicated in the class syllabus. While the University uses plagiarism detection software, the software itself is only one tool in the determination of whether or not plagiarism has occurred. Faculty members must exercise their independent professional judgment in, and assume responsibility for, determining whether a text has been plagiarized.

D. Violation of Law and Student Code of Conduct

Students or organizations exhibiting unacceptable forms of behavior on campus premises may be requested to leave by Auraria Campus Police. A faculty member may also remove a student from the classroom and shall immediately contact the Conduct Officer to file an incident report. Permanent removal from a class is handled through the conduct process of the University. The Associate Vice President for Student Engagement and Wellness/Dean of Students, Conduct Officer or designee may impose restrictions on students exhibiting severe behavioral problems. University disciplinary proceedings may be instituted against a student or organization charged with violation of a law that is also a violation of this Student Code of Conduct. For example, if both violations result from the same factual situation without regard to the pendency of civil litigation in court or criminal arrest and prosecution, proceedings under this Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

Article IV: Conduct Processes

Note: Because email is an official method of communication for the University, students will be notified over email of potential violations of the Student Code of Conduct and the outcome of any conduct process. Students may also be contacted at the mailing address on file with the University.

A. Standard of Proof

The University views the conduct process as a learning experience that can result in growth and personal understanding of one's responsibilities and privileges within the University community. It is not intended to be a substitute for civil or criminal legal proceedings, and is designed to provide a fair evaluation of whether or not a student has violated University policies. Formal rules of evidence do not apply in the University's conduct process. The University uses a preponderance-of-evidence standard when determining responsibility for alleged violations of the Student Code of Conduct. A preponderance of evidence means that what is alleged to have happened is, more likely than not, what actually happened. This shall be the standard of proof used in all conduct proceedings under this Code.

B. Processes

Filing a Report

Any person may file a complaint against any student or organization for misconduct. Complaints shall be prepared in writing in the form of an incident report and directed to the Conduct Officer responsible for the administration of the University

conduct system. Any complaint shall be submitted by the reporting party within 20 working days after learning that the misconduct has occurred. The Conduct Officer may extend time limits for good cause.

Notification

The Conduct Officer may notify the student or organization of the complaint. Once the student is notified of the complaint, he/she has the opportunity to schedule a conduct hearing with the Conduct Officer or designee to discuss the situation. If the student fails to make contact with the Conduct Officer/designee within the time frame specified in the notification, the Conduct Officer/designee may make a decision in the student's absence on the next steps in the process or place a registration hold on the student's account

CONDUCT HEARING

Charge

Prior to the conduct hearing, the Conduct Officer shall present to the respondent or responding organization, in writing, a statement of the allegations, the charges they would support and the potential consequences in the event that student is found responsible. The student will be responsible for scheduling the conduct hearing with the Conduct Officer. In the event of extenuating circumstances, the Conduct Officer may determine that the hearing shall take place via telephone or through a written process. The Conduct Officer will notify the respondent in writing of this determination.

Advisor

The complainant and the respondent have the right to have any advisor they choose, at their own expense, to be present during any meeting or conduct hearing. The advisor may be an attorney, with notification of this information to the Conduct Officer. The complainant and/or the respondent is responsible for presenting his/her own case and, therefore, advisors are not permitted to participate in any meeting or hearing within the conduct process unless the University legal counsel specifically advises otherwise. The respondent and/or the complainant will notify the Conduct Officer at least 5 business days before the meeting or hearing of the name, address and telephone number of the advisor. In certain cases, University Legal Counsel may be present. If the advisor selected by the complainant or respondent is also a witness to the complaint, the student must identify an alternate advisor, as a witness may not also be an advisor.

Investigation

The Conduct Officer, or designee, is responsible for investigating all allegations of violations of the Student Code of Conduct. The investigation process may vary by case depending upon circumstances involved. Investigations may include, but are not limited to, interviewing all parties involved, interviewing any witnesses deemed relevant, and gathering and reviewing evidence provided by any parties or witnesses.

Hearings

- Hearings shall be conducted in private.
- Admission of any person to the hearing shall be at the discretion of the Conduct Officer within outlined policies.
- In hearings involving more than one respondent, the Conduct Officer at his/her discretion may permit the hearings concerning each student to be conducted concurrently.
- Both the respondent and the complainant may present witnesses pertaining to the alleged incident. The Conduct Officer will meet with any witnesses prior to the conduct hearing to review the evidence they have to share pertaining to the case.
- Pertinent records, exhibits and written statements may be accepted as evidence for consideration by the Conduct Officer at his/her discretion.
- After the hearing, the Conduct Officer shall determine whether the student has violated the Student Code of Conduct.
- The Conduct Officer's determination shall be made on the basis of whether it is more likely than not that the respondent or organization violated the Student Code of Conduct.
- If a student is found responsible for a violation of the Student Code of Conduct, the Conduct Officer may assign a range of sanctions (Article IV. C.)
- Except in the case of a student charged with failing to obey the summons of a Conduct Officer or University official, no student may be found to have violated the Student Code of Conduct solely because the student failed to appear before a

Conduct Officer. In all cases, the evidence in support of the charges shall be considered.

- University legal counsel shall serve as legal advisor to the Conduct Officer.

RESTORATIVE PROCESS

The Student Conduct Officer has the authority to determine whether to initiate a restorative process from the conduct hearing. This decision is primarily based on, but not limited to, the following factors:

- If the respondent admits or otherwise takes responsibility for the alleged prohibited conduct;
- The respondent's prior conduct record;
- The nature and severity of the alleged prohibited conduct;
- The alleged impact and/or harm caused to another person or community;
- Whether the alleged conduct would violate the Student Code of Conduct; and
- Any other factors that the Conduct Officer finds relevant to the specific allegations.

The restorative process is voluntary. Since the respondent takes responsibility for their actions in the restorative process, it is not a process of determining responsibility but rather one determining how to repair the harm caused from the incident. The restorative process will result in a written agreement among all parties involved to be completed by the respondent.

This process generally may include, but is not limited to, a meeting with a Conduct Officer, a meeting with the Coordinator for Student Conflict Resolution Services, completion of the agreement, and/or participation in a restorative process.

During the conduct hearing, if the Conduct Officer determines that the restorative process may be appropriate, the Conduct Officer will offer it as an option to the respondent and address any questions the respondent may have about the process. If the respondent accepts responsibility for the alleged prohibited conduct and agrees to and completes the agreement developed during the restorative process, the matter will be considered resolved and no further action will be taken.

The Coordinator for Student Conflict Resolution Services reserves the right to stop the restorative process and refer the matter back to the conduct hearing process at any time prior to the student's fulfillment of the agreement requirements, including but not limited to, if the student fails to schedule or attend a meeting with the Coordinator for Student Conflict Resolution Services, denies responsibility for the alleged prohibited conduct, does not want to participate in the restorative process, or the Conduct Officer and/or Coordinator for Student Conflict Resolution Services determines that the matter is more appropriately resolved under the conduct hearing process.

C. Sanctions

1. The following sanctions may be imposed upon any student found to have violated the Student Code of Conduct through a conduct hearing:

Status Sanctions

- a. Warning: A notice in writing to the student that the student is violating or has violated the Student Code of Conduct.
- b. Probation: A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be violating any institutional regulation(s) and/or the Student Code of Conduct during the probationary period.
- c. University Suspension: Separation of the student from the University for a definite period of time, after which the student is eligible to return. Conditions for re-enrollment may be specified. A temporary ban from any MSU Denver Campus may be put into effect as a part of the conditions of suspension. If a student has not yet enrolled in classes, admission may be rescinded.
- d. University Expulsion: Permanent separation of the student from the University. This may include a permanent ban from any MSU Denver Campus, enforceable by the Police.
- e. Auraria Campus Suspension or Expulsion: In cases where a student's behavior could threaten the safety or well-being of the Auraria campus community, a student could be suspended or expelled from all three Auraria Institutions: MSU Denver, Community College of Denver, and University of Colorado Denver.

Administrative and Educational Sanctions

- f. Loss of Privileges: Denial of specified privileges for a designated period of time.
 - g. Fines: Previously established and published fines may be imposed.
 - h. Restitution: Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
 - i. Discretionary Sanctions: Work assignments, service to the University, or other related discretionary assignments that have the prior approval of the Conduct Officer.
 - j. Restorative sanctions: Mediation, restorative conference, dialogue, conflict coaching, and other activities to address any harm caused by a violation.
2. More than one of the sanctions listed above may be imposed for any single violation.
 3. Sanctions shall not be made part of the student's academic transcript, but shall become part of the student's conduct file.
 4. The following sanctions may be imposed upon groups or organizations:
 - Those sanctions listed above in Section C1, a through j.
 - Deactivation: Loss of all privileges, including official University recognition or suspension for a specified period of time.
 5. The Conduct Officer shall notify the respondent, in writing, of the outcome of the hearing and any sanctions assigned. The complainant may be notified of the outcome as required and/or permitted by University policy or relevant law.

D. Permanent F

A professor may issue a permanent grade F as a result of academic dishonesty that results in a failing grade in the class or is so flagrant as to warrant it. The permanent F is a grade not a sanction for purposes of this Student Code of Conduct. When a faculty member gives a permanent F, they are required to file a report with the Dean of Students Office, which will determine if a sanction is to be imposed for the incident. Students who wish to appeal a permanent grade of F must do so by following the Grade Appeal Policy outlined in the University Catalog.

E. Interim Suspension

In certain circumstances, the Associate Vice President of Student Engagement and Wellness/Dean of Students or designee, may impose a University interim suspension prior to a conduct hearing.

1. Interim suspension may be imposed only:
 - To uphold the safety and well-being of members of the campus community or preservation of campus property;
 - To support the student's own physical or emotional safety and well-being; or
 - If the student poses a definite threat of disruption of, or interference with, the normal operation of the University.
2. During the interim suspension, students shall be denied access to the campus, including classes and/or all other University activities or privileges for which the student might otherwise be eligible, as the Associate Vice President of Student Engagement and Wellness/ Dean of Students or designee may determine to be appropriate.

F. Appeals

1. The respondent may appeal a decision reached by the Conduct Officer or a sanction imposed by the Conduct Officer within five (5) working days of the decision. In sexual misconduct cases, the complainant is also permitted the opportunity to appeal a decision reached by the Conduct Officer or a sanction imposed by the Conduct Officer within five (5) working days of the decision. Such appeals shall be in writing and shall be delivered to the Appeals Officer. If a student chooses to appeal, he/she must complete a [Conduct Appeal Form](#), which must be submitted with the appeal. Please refer to the [Dean of Students](#) website for more information. The student will be informed of the outcome in writing when the appeal process has been completed, generally within 15 working days.
2. Except as required to explain the basis of new evidence, an appeal shall be limited to a review of all case-related materials previously available to the Conduct Officer and the Conduct Appeal Form for one or more of the following purposes:

- To determine whether the original hearing was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures, giving the appealing party a reasonable opportunity to prepare and to respond to those allegations.
- To determine whether the decision reached regarding the respondent or organization was based on a preponderance of evidence; that is, whether the facts in the case were sufficient to establish that, more likely than not, a violation of the Student Code of Conduct occurred.
- To determine whether the sanction(s) imposed were appropriate for the violation of the Student Code of Conduct that the student or organization was found to have committed.
- To consider new evidence sufficient to alter a decision or other relevant facts not brought out in the original hearing because the person or organization appealing did not know such evidence and/or facts at the time of the original hearing.

3. Outcomes from an appeal request will fall within one of the following categories:

- a. If an appeal is granted, the matter shall be remanded to a Conduct Officer for reopening of the hearing to allow reconsideration of the original determination and/or sanction(s). These reconsidered determinations and/or sanction(s) shall be considered final and no further opportunity to appeal will be granted.
- b. If an appeal is denied, the matter shall be considered resolved, the Appeals Officer's decision is considered final, and the student is responsible for any sanctions of the original decision.
- c. In cases involving appeals by students or organizations accused of violating the Student Code of Conduct, review of the sanction(s) by the Appeals Officer may not result in a more severe sanction(s) for the respondent or organization. Instead, following an appeal the Conduct Officer may, upon review of the case, reduce, but not increase, the original sanction(s) imposed.
- d. When asked to reconsider the original finding of responsibility and/or the original sanction(s), a Conduct Officer will consider all case-related materials previously available to the Conduct Officer. If the appeal was granted on the grounds of new evidence sufficient to alter a decision, the Conduct Officer will also take the new evidence under consideration.

G. Release of Conduct Records

Educational records are the comprehensive records kept for all students and are subject to federal laws, including the Family Educational Rights and Privacy Act (FERPA). A student's conduct file, created when any alleged violation of the Student Code of Conduct is reported to the Dean of Students Office, is a part of a student's education record. As a result, these records are kept confidential in accordance with this law. Access to any student's disciplinary file shall be governed by provisions of FERPA, and the Campus Security Act (or "Clery Act") as amended. A written waiver signed by the student is required for release of disciplinary records to third parties not otherwise mandated by relevant law.

Article V: Sexual Misconduct Policy and Procedures

Metropolitan State University of Denver prohibits sexual misconduct in any form, including sexual assault or sexual abuse, sexual harassment, and other forms of nonconsensual sexual conduct, including stalking and electronic harassment. Forms of intimate partner violence, such as domestic and dating violence, are also prohibited under this policy. Retaliation in any form for reporting such sexual misconduct or for cooperating in a sexual misconduct investigation is strictly prohibited and will be addressed as a separate violation of the Student Code of Conduct. Students, faculty, staff, and visitors should be able to live, study, and work in an environment free from sexual misconduct. It is the policy of MSU Denver that sexual misconduct in any form will not be excused or tolerated. This policy is promulgated under Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106; Title IV of the Civil Rights Act of 1964 (42 U.S.C. § 2000c).

Sexual misconduct is a broad term encompassing any nonconsensual behavior of a sexual nature that is committed by force or intimidation, or that is otherwise unwelcome. The term includes sexual assault, sexual exploitation, and sexual harassment as those behaviors are described later in this section. Sexual intimacy requires that all participants consent to the activity.

Procedures promulgated pursuant to this Policy provide for prompt, thorough, and impartial resolution of complaints by students at MSU Denver who are victims/survivors of sexual misconduct.

Because this policy is part of the MSU Denver Student Code of Conduct, all policies, procedures and definitions in the Student Code of Conduct apply to this policy.

In this policy you will find the following:

- Definitions
- How to report sexual misconduct
- Adjudication of complaints in the student conduct process
- Options for Victims/Survivors
- Community Resources

Definitions

Consent

Consent between two or more people is defined as an affirmative agreement – through clear actions and words – to engage in sexual activity. Consent is informed, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.

Consent to one form of sexual activity cannot imply consent to other forms of sexual activity. Previous relationships or consent cannot imply consent to future sexual acts. Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction by their actions, words or attitude, continued pressure beyond that point may be coercive.

In order to give effective consent, one must be of legal age. Consent may be withdrawn at any time.

In Colorado, consent is defined in state statute 18-3-401 and means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship shall not be sufficient to constitute consent under the provisions of this part 4. Submission under the influence of fear shall not constitute consent. Nothing in this definition shall be construed to affect the admissibility of evidence or the burden of proof in regard to the issue of consent under this part 4.

Incapacitation

Sexual activity with someone known to be, or should be known to be mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), is in violation of this policy. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand the who, what, when, where, why or how of their sexual interaction.

This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of any drug, including but not limited to ethyl alcohol, which would facilitate unwanted sexual activity or incapacitate the person's ability to make a rational consensual choice.

Use of alcohol or other drugs will never function to excuse behavior that violates this policy.

Sexual Harassment

Sexual Harassment is gender-based verbal or physical conduct that unreasonably interferes with or deprives someone of educational access, benefits or opportunities. Please see the University's complete Sexual Harassment policy.

1. Quid pro quo sexual harassment occurs when submission to, or rejection of, unwelcome sexual conduct is used as a basis for academic, educational, or employment decisions affecting an individual.

Quid pro quo sexual harassment is perpetrated by someone who is in a position of authority over the victim. Such harassment can occur between members of the opposite or same sexes. The law does not require the victim of sexual harassment to expressly notify the perpetrator that the conduct is unwelcome. Nor does the law require that the perpetrator explicitly or deliberately base a decision on submission to or rejection of the conduct. Circumstantial evidence linking sexual conduct with an adverse or favorable employment or educational decision may justify a finding of quid pro quo sexual harassment by a jury, court, or administrative tribunal.

Examples of quid pro quo sexual harassment include, but are not limited to:

- Direct propositions of a sexual nature that expressly or by implication link employment, work status, promotion, wage increases, course or program status, grades, letters of recommendation, or other tangible employment or educational actions to submission to sexual advances;
- Direct or implied promises or threats linking employment, work status, promotion, wage increases, course or program status, grades, letters of recommendation, or other tangible employment or educational actions to submission to sexual advances.

2. Hostile environment sexual harassment is unwelcome conduct, generally, although not necessarily, of a sexual nature, that insults, demeans, ridicules or evinces hostility toward a person because of his or her gender, and that is sufficiently severe or pervasive that it alters the conditions of education and creates an environment that a reasonable person would find hostile, intimidating, or offensive.

In determining whether conduct has created an impermissibly hostile environment, all of the relevant circumstances must be considered. These circumstances include, but are not limited to, the severity and frequency of the conduct, its context, and whether it is physically threatening or humiliating. Hostile environment sexual harassment can be perpetrated by students, faculty, staff, or administrators, and by some third parties authorized to use the college facilities, such as contract employees, and service and repair personnel.

Hostile environment sexual harassment can occur between peers (co-workers and fellow students) and between members of the opposite or same sexes. The conduct must offend the victim, but it does not have to be offensive to everyone. Conduct that offends the victim but would not offend a reasonable person in his or her position does not constitute hostile environment sexual harassment. The test is whether, considering all of the circumstances, the conduct would offend a reasonable person in the victim's position. As with quid pro quo sexual harassment, a finding of hostile environment sexual harassment may be justified even if the perpetrator did not intend to offend the victim.

The following subparagraphs describe some, but not all, kinds of conduct that may constitute sexual harassment if they are sufficiently severe or pervasive to alter the conditions of employment or education and create an environment that a reasonable person would find hostile, intimidating, or offensive:

- Direct propositions of a sexual nature;
- Conduct that is offensive or humiliating in nature that includes, but is not limited to:
 - Sexually explicit comments, statements, questions, jokes or anecdotes; comments, statements, questions, jokes anecdotes, or innuendoes with sexual connotations;
 - Display of sexually explicit materials in the workplace or classroom or their use in the classroom without a defensible academic purpose;
 - Unnecessary touching, patting, hugging, or brushing against a person's body;
 - Remarks about sexual activity or speculation about sexual experiences;
 - "Wolf whistling," obscene sounds, or obscene gestures;
 - Nonsexual physical or verbal conduct that insults, demeans, ridicules or otherwise evinces hostility toward a person because of gender. Examples include, but are not limited to, hazing, pranks, horseplay, and ridicule.

Sexual Misconduct Expanded Definition

Sexual misconduct is a form of sexual discrimination and is prohibited by Title IX.

Sexual misconduct includes, but is not limited to, the following examples of prohibited conduct:

Sexual Assault

- Definition of Sexual Assault: Sexual assault is any type of sexual contact or behavior that occurs without the explicit consent of the recipient.
- Examples of sexual assault under this policy include, but are not limited to, the following behaviors when consent is not present:
- Sexual intercourse (vaginal, anal, oral)
- Penetration of an orifice (anal, vaginal, oral) with the penis, finger, or other object
- Unwanted touching of the genitals, buttocks, breast, or other body part inside or outside of the clothing
- Coercion or force to make someone else touch one's genitals, buttocks, breast, or other body part
- Inducing sexual activity through drugs or alcohol
- Engaging in sexual activity with a person that is unable to provide consent due to the influence of drugs, alcohol, or other condition
- In Colorado, sexual assault is defined in state statute 18-3-402 as:

(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if: (a) The actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will; or (b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or (c) The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or (d) At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or (e) At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim; or (f) The victim is in custody of law or detained in a hospital or other institution, and the actor has supervisory or disciplinary authority over the victim and uses this position of authority to coerce the victim to submit, unless the act is incident to a lawful search; or (g) The actor, while purporting to offer a medical service, engages in treatment or examination of a victim for other than a bona fide medical purpose or in a manner substantially inconsistent with reasonable medical practices; or (h) The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.

Sexual Exploitation

- Sexual exploitation is defined as taking nonconsensual, unjust or abusive sexual advantage of another. Examples include, but are not limited to:
- Prostituting another person
- Nonconsensual video or audio-taping of sexual activity
- Going beyond the boundaries of consent (such as knowingly allowing another to surreptitiously watch otherwise consensual sexual activity)
- Engaging in non-consensual voyeurism
- Knowingly transmitting or exposing an STD or HIV to another student without the knowledge of the student

Indecent Exposure

Indecent exposure is defined as the exposure of the private or intimate parts of the body, in a lewd manner, in public or in private premises, when the accused may be readily observed. This could include masturbation in public.

Gender/Sex-Based Stalking

Stalking is a pattern of behavior directed at a specific person based on sex or gender that would cause a reasonable person to feel fear or emotional distress. Stalking behaviors include but are not limited to: Non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, written letters, gifts, or any other communications that are undesired and place another person in fear.

The State of Colorado definition of stalking, found in state statute 18-3-602, is: A person commits stalking if directly, or indirectly through another person, the person knowingly:

- a. Makes a credible threat to another person and, in connection with the threat, repeatedly follows, approaches, contacts, or places under surveillance that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship; or
- b. Makes a credible threat to another person and, in connection with the threat, repeatedly makes any form of communication with that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship, regardless of whether a conversation ensues; or
- c. Repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress. For purposes of this section (c), a victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress.

Physical Assault

Physical Assault is threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person. Physical Assault will be addressed under this policy if it involves Sexual or Gender-Based Harassment, Intimate Partner Violence, or is part of a course of conduct under the Stalking definition.

Intimate Partner Violence

Intimate Partner Violence includes any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Intimate Partner Violence includes "dating violence" and "domestic violence," as defined by VAWA. Consistent with VAWA, the University will evaluate the existence of an intimate relationship based upon the Complainant's statement and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Intimate Partner Violence may include any form of Prohibited Conduct under this policy, including Sexual Assault, Stalking, and Physical Assault (as defined above).

State of Colorado Domestic Violence definition:

In the State of Colorado, domestic violence, defined in state statute 18-6-800.3, is: An act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. "Domestic violence" also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship. An "intimate relationship" means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

Rights and Options for Victims/Survivors through the University

There are a number of options and rights that victims/survivors have available to them should they choose to report sexual misconduct to their school. These include:

- Inform victim/survivor of available grievance procedures, how to file a formal complaint within the institution, provide a clear and complete explanation of the complaint process, provide information on the protocol for reporting to campus police, provide the police protocol once information is received, and provide information on reporting the incident to the Office of Civil Rights.
- Provide appropriate referral (with victim/survivor's permission) to the Campus office responsible for investigation of employee sexual misconduct, if the perpetrator is a faculty or staff member.
- Ensure victim/survivor knows that their identity will remain confidential unless they are willing to reveal identity through a formal complaint. Discuss the institution's confidentiality policy, reporting requirements, and opportunity for anonymous reporting.
- Provide an anonymous report of the incident, date and location for Clery Act reporting (the Clery Act is a federal law that requires anonymous statistical reporting of a number of crimes, including sexual misconduct. The numbers appear in an annual crime report).

- Discussing potential educational support interim actions for students who may have experienced sexual misconduct. Support and interim actions may include, but are not limited to, changes in course enrollment, support with on-campus transportation, or financial aid. Students may contact the Dean of Students Office with questions regarding support and interim actions.

Reporting

To Report Confidentially

MSU Denver encourages students impacted by sexual misconduct to talk to somebody about what happened so that support may be provided and the University can respond appropriately. This section is intended to make students aware of the various reporting and confidential disclosure options available to them so they can make informed decisions about where to turn should they become a victim of sexual misconduct.

An individual who speaks to one of the confidential resources noted in this section must understand that, if the individual wants to maintain confidentiality, the University may be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. An individual may speak to a confidential resource and then later decide to file a report with the University to have the incident fully investigated.

If you desire that details of the incident be kept confidential you may speak to on-campus counselors in the MSU Denver Counseling Center, Auraria Health Center licensed medical practitioners, The Phoenix Center, or off-campus rape crisis resources, which will maintain confidentiality to the extent possible by law.

The Auraria Health Center may be reached by calling 303-615-9999 or by visiting Plaza 150. The Health Center's Victim Assistance Services may be reached by calling 303-615-9911.

The MSU Denver Counseling Center may be reached by calling 303-615-9988 or by visiting Tivoli 651 during the hours of 8 a.m.-5 p.m. Campus counselors are available to help you free of charge and may be seen on an emergency basis. If you need assistance between 5 p.m.-8 a.m., or on the weekends, you may contact the After Hours Mental Health and Victim Assistance Crisis Line by calling 303-615-9911.

As a MSU Denver student, you also may contact the Phoenix Center at Auraria for confidential victim's assistance to the extent possible by law. You may call its 24/7 helpline at 303-556-CALL. It can assist in reporting and connect you to both on-campus and local resources. The Phoenix Center at Auraria provides advocacy services for victims, including accompanying them to the hospital to receive an examination and evidence collection, court advocacy for orders of protection or through criminal proceedings and advocacy through the reporting process.

Reporting Sexual Misconduct, Including Sexual Assault and Sexual Harassment, to the University

MSU Denver strongly encourages prompt reporting of complaints and information rather than risking any student's well-being. Although there is no time limit on the reporting of formal charges with the campus, the institution ultimately may be limited in its investigation if too much time has passed or if the accused student has graduated.

Amnesty for students reporting sexual misconduct:

MSU Denver recognizes that an individual who has been drinking or using drugs at the time of an incident may be hesitant to make a report because of potential Student Code of Conduct consequences for his/her own conduct. An individual that reports sexual misconduct will not be subject to disciplinary action by MSU Denver for his/her own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health and safety of any other person at risk. MSU Denver may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

Students have multiple reporting options:

1) Dean of Students Office - This office is responsible for investigating any allegation of sexual misconduct where the respondent (accused) is a student. You can expect to have incidents of sexual misconduct taken seriously and responded to quickly. Incidents will be investigated and properly resolved through administrative procedures as described in the conduct process. If you request confidentiality, MSU Denver may be limited in its ability to take disciplinary action against the alleged harasser. Moreover, if you

request confidentiality, MSU Denver must evaluate your request in the context of its commitment to provide a reasonably safe and nondiscriminatory environment for the campus community. Thus, MSU Denver cannot ensure confidentiality of a complaint. Information will be shared to the extent necessary for MSU Denver to pursue other steps to limit the effects of the alleged harassment and prevent its recurrence. To discuss questions or concerns related to confidentiality prior to reporting an incident to the University, you may contact the Dean of Students Office and ask to speak with Title IX staff. To report to the Dean of Students Office, a student may visit the Office of Student Engagement and Wellness in Tivoli 311 or call 303-615-0220 to speak with the Title IX Investigator. Students may also file a [report online](https://msudenver.edu/deanofstudents/studentconduct/) at <https://msudenver.edu/deanofstudents/studentconduct/>.

2) Auraria Police - The Dean of Students Office can assist you in reporting any incident of sexual misconduct to the Police. An incident may be reported to MSU Denver or the Auraria Police Department even if the victim/survivor has not decided to take legal action. If the assault took place off campus, Auraria Police or the Dean of Students Office can assist you in contacting the police that have jurisdiction over that area. Auraria Police may be reached by calling 911 from any campus phone or by calling 303-556-5000 from any non-campus phone.

3) Title IX Coordinator/Equal Opportunity - If your complaint involves a faculty or staff member, you would file a report with the Office of Equal Opportunity to be investigated and properly resolved. You may contact the Office of Equal Opportunity in the Student Success Building, room 306 or by calling 303-615-0036.

4) MSU Denver community members also may contact the Department of Education Office of Civil Rights (OCR). The Denver OCR may be reached by calling 303-844-5695 or emailing OCR.Denver@ed.gov. The OCR national office may be reached by calling 800-421-3481 or emailing OCR@ed.gov

Actions and investigations initiated under this policy are separate from civil or criminal proceedings that may relate to the same incident. Investigations or conduct proceedings by the institution are not postponed while criminal or civil proceedings are pending unless otherwise determined by the Title IX investigation.

An individual reporting sexual misconduct may report to the University and to law enforcement at the same time. The individual may also decide to report to one entity and not the other. The decision to pursue legal action through the law enforcement/criminal justice system does not impact an individual's ability to proceed with filing a report with the University.

If an administrator, staff, or faculty member, other than those identified in the "To Report Confidentially" section, becomes aware of a complaint or other violation of this policy, the administrator, staff, or faculty member is required to bring the information to the Title IX Coordinator/ Equal Opportunity Office or the Dean of Students Office so that concerns are heard and services can be offered to the affected students.

Medical Assistance and Preservation of Evidence

Individuals who experience sexual misconduct are strongly encouraged to seek immediate medical attention in order to treat injuries, test for and treat sexually transmitted infections, and access emergency contraception (if requested), as applicable. In addition, a hospital can perform a sexual assault evidence collection procedure. If possible, an individual that has been sexually assaulted is advised to not shower, bathe, douche, or change clothes or bedding before going to the hospital or seeking medical attention. If the individual decides to change clothes, the individual is advised to not wash the clothes worn during the assault and should bring them to the hospital or medical facility. Do not delete emails, texts, voicemails, or social media messages, as evidence may exist in those formats.

These steps are important to help preserve evidence for possible use in legal actions or requests for a civil restraining order or order of protection. Because evidence dissipates quickly, individuals that wish to preserve evidence are encouraged to seek medical attention within 48 hours of the incident.

MSU Denver community members (students, faculty, staff) may contact the Auraria Health Center by calling 303-615-9999 or 303-615-9911 (after hours) in order to seek treatment or support in accessing other medical or community resources. The Auraria Health Center can provide transportation support to a local hospital for sex assault examinations or other medical services.

Federal Timely Warning & Reporting Obligations

Victims/survivors of sexual misconduct also should be aware that institutional administrators, including the Auraria Police Department, must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The institution will make every effort to ensure that a victim/survivor's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

Immediate Actions by the Institution

MSU Denver may take immediate interim actions to protect the safety of the Auraria community, to enable students with complaints and witnesses to continue studies, and to ensure the integrity of an investigation. The Dean of Students, or their designee, after considering the needs of the individual student and the community, will determine which action needs to be taken. These actions may include:

- Interim suspension of the accused student
- No-contact notices
- Modifying class or work schedules
- Addressing other academic concerns (e.g., absences, assignments, grades, leaves of absence, withdrawal, financial aid, visa or immigration status)
- Referral to health, mental health, victim advocacy, legal assistance, or other on- and off-campus resources
- Safety planning

Conduct Process and Sanctions

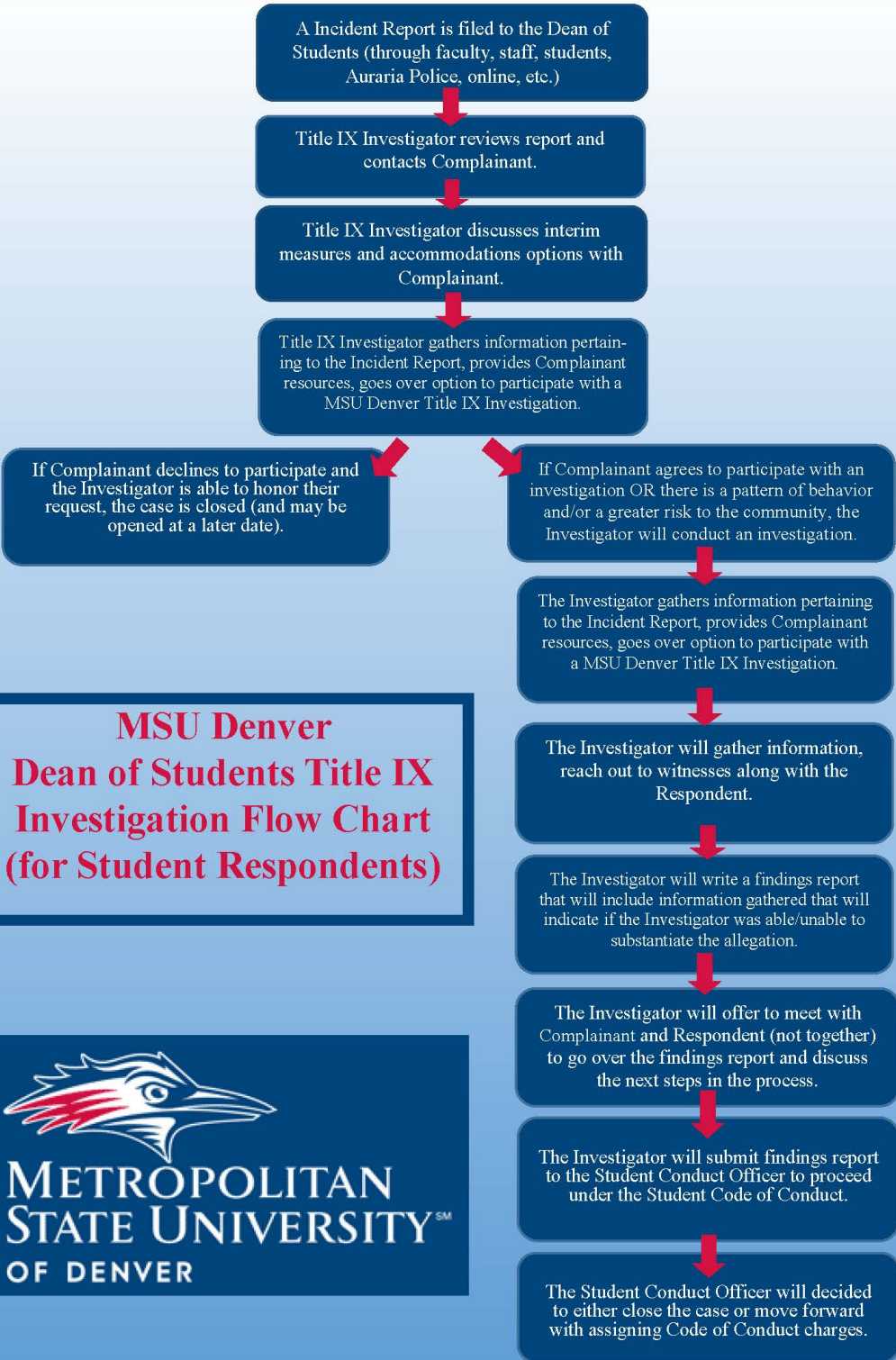
The Title IX Investigator and Conduct Officer shall coordinate the investigation of all formal charges of Sexual Misconduct brought forward. Investigations shall be conducted and completed in 60 calendar days (should the investigation take longer than 60 calendar days, all parties to the dispute will be notified) and shall use a preponderance-of-information standard (more likely than not). In cases where the respondent (accused) is a student, the Title IX Investigator will conduct a thorough investigation of the case, which may include gathering relevant information, and interviewing the complainant, respondent and witnesses. Conflict Resolution, including mediation, will not be used to resolve sexual assault complaints. If a party to a complaint declines to participate in the investigation and/or student conduct process, the process may move forward without them. Upon completion of an investigation, the reporting and responding parties will have an opportunity to review the report, provide additional information to include in the report, and discuss potential corrections to the report. The Title IX Investigator's report will be forwarded to the Conduct Officer to be determined if it will be referred to the conduct process. Parties to the dispute will receive a written notice of the final disposition of the complaint upon completion of the investigation. Students found responsible could receive sanctions ranging from a warning through suspension or expulsion. This is separate from any potential criminal and civil proceedings in this case.

Appeal

As this process is part of the student conduct policy, it is eligible for appeal under Article IV F of the Student Code of Conduct. Both parties are eligible to appeal. If one party chooses to appeal, the other party will be notified so that the appeals may be submitted simultaneously. The decision by the appellate officer is final.

The criteria for the appeal are limited to the following:

1. To determine whether the original hearing was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures, giving the appealing party a reasonable opportunity to prepare and to present a rebuttal of those allegations.
2. To determine whether the decision reached regarding the accused student or organization was based on substantial evidence; that is, whether the facts in the case were sufficient to establish that a violation of the Student Code of Conduct did occur.
3. To determine whether the sanction(s) imposed was appropriate for the violation of the Student Code of Conduct that the student or organization was found to have committed.
4. To consider new evidence sufficient to alter a decision or other relevant facts not brought out in the original hearing because the person or organization appealing did not know such evidence and/or facts at the time of the original hearing.



In most cases, the process takes between 30-60 days. If the process takes longer than 60 days, both parties will receive notification.

Notification of Outcomes

The outcome of a campus conduct process is part of the educational record of the accused student, and is protected from release under a federal law, the Family Educational Rights and Privacy Act (FERPA). However, MSU Denver will observe the legal exceptions as follows:

- Complainants in nonconsensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and relationship violence incidents have an absolute right to be informed, in writing, of the outcome and sanctions of the campus conduct process as it relates to sexual misconduct without condition or limitation.

- Students that bring any sort of sexual misconduct complaint against faculty or staff may be informed of the outcome and sanction, because FERPA does not apply.
- The institution may release publicly the name, nature of the violation and the sanction for any student that is found in violation of a campus policy that is a “crime of violence,” including: aggravated assault, arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property, intimidation, and kidnapping/abduction. The campus will release this information to the complainant in any of these offenses regardless of the outcome.

Retaliation

MSU Denver prohibits retaliation against an individual for making a complaint of sexual misconduct, for resisting such behavior, or for otherwise using or participating in the grievance process. Prohibited behavior includes any form of intimidation, threats, or harassment by the individual accused of misconduct or persons acting in support of or on behalf of that individual. Acts of retaliation are a separate violation of the Student Code of Conduct

An individual experiencing retaliation may contact the Dean of Students Office by calling 303-615-0220.

False Complaints

MSU Denver also prohibits an individual from knowingly filing a false complaint or making misrepresentations of sexual misconduct. However, a complaint made in good faith is not considered false merely because the evidence does not ultimately support the allegation of sexual misconduct or sexual harassment. Knowingly filing a false complaint is a violation of the Student Code of Conduct.

Past Sexual History/Character

The past sexual history or sexual character of a party will not be admissible by the other party in the conduct process unless the Conduct Officer determines such information to be highly relevant. The Conduct Officer may consider previous complaint information only if:

- The accused individual was previously found to be responsible;
- The previous incident was substantially similar to the present allegation;
- Information indicates a pattern of behavior and substantial conformity with that pattern by the accused student.

Resources available to assist anyone that has been the victim of sexual misconduct

[Auraria Student Health Center](#)

[Phoenix Center at Auraria](#)

[List of Community Resources](#)

Policy Review

Article VI: Interpretation and Revision

- A. Any question of interpretation regarding the Student Code of Conduct shall be referred to the Associate Vice President of Student Engagement and Wellness, the Assistant Dean/Student Conduct Officer or designee for final determination.
- B. The Student Code of Conduct shall be reviewed periodically (and as needed) under the direction of the Associate Vice President of Student Engagement and Wellness or designee joined by Provost or Designee, Faculty Senate President or Designee and the Student Government Assembly President or Designee.

Policy Website Address: <http://www.msudenver.edu/deanofstudents/studentconduct/>

Contact:

Dean of Students Office

(303) 615-0220

[Conduct Officer](#)

Procedures/Forms/Tools

To report an incident: [Incident Report](#)
