

# Mountain State University Student Code of Conduct

This student conduct code is designed to promote the educational aims of Mountain State University and to outline the regulations and procedures of the University community regarding students' rights and responsibilities. This Mountain State University Student Code of Conduct supersedes previous campus regulations in these areas.

## OVERVIEW

As an academic community, Mountain State University is committed to providing an environment that encourages scholarship and personal growth. Students are expected to meet academic challenges. They are also expected to develop maturity, self-sufficiency, responsibility, self-understanding, and an understanding of and respect for the rights of others.

Academic communities differ from other communities in several ways. For the purpose of this code, two differences are particularly worthy of emphasis. First, the primary mission of educational institutions is the pursuit of knowledge. The educational environment must be conducive to teaching, learning, thought, and research. Second, campus living environments are unique; students residing on campus live in close proximity to one another and interact continuously in their day-to-day living. The potential for noise, disruptions, group activities, or other infringements upon the rights of community members is always present.

These differences make it imperative that members of this academic community be particularly sensitive to their individual responsibilities for respecting the rights of others, especially the right to quiet, thoughtful study. Preservation of the facilities and character of the institution for future generations is also essential. To this end, rules and regulations are necessary for the orderly conduct of the educational process and the institution. Such rules are incorporated in the Mountain State University Student Code of Conduct. Mountain State University students are expected to abide by this code and by all local, state, and federal laws.

As an educational institution, Mountain State University is committed to the education of the whole person. This includes social, emotional, and physical, as well as intellectual development. The basic philosophy of the Mountain State University judicial system and this code is educational in nature. Inappropriate behavior should be confronted and addressed in a positive, straightforward manner.

The goals of the judicial system are to establish and enforce reasonable and clear limits designed to protect the community and the rights of its members, to develop and support a positive living and learning environment, to educate students regarding responsibility and accountability for actions, to encourage and foster self-insight and self-initiated change of behavior, and to protect the rights of individuals accused of violating the University's rules and regulations.

## ARTICLE I: DEFINITIONS

1. The term University means Mountain State University
2. The term "student" includes all persons taking courses at Mountain State University, either full-time or part-time, distance or in-seat, pursuing undergraduate or graduate studies. Persons who withdraw after allegedly violating the Student Code, those who are not officially enrolled for a particular term but who have a continuing relationship with the University, or who have been notified of their acceptance for admission are considered "students" as are

persons who have completed all requirements for but have not been awarded a degree, or are living in University residence halls, although not enrolled in this institution. This Student Code applies at all locations of the University and to students who are not physically located on any University campus.

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 community" includes any person who is a student, faculty member, University official or any other person employed by the University. A person's status in a particular situation shall be determined by the Registrar and/or Director of Human Resources
6. The term "University premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University including adjacent streets and sidewalks.
7. The term "organization" means any number of persons who have complied with the formal requirements for University recognition.
8. The term "Student Conduct Board" means any person or persons authorized by the Dean of Students to determine whether a student has violated the Student Code and to recommend sanctions that may be imposed when a rules violation has been committed.
9. The term "Student Conduct Administrator" means a University official authorized on a case-by-case basis by the Dean of Students to impose sanctions upon any student(s) found to have violated the Student Code. The Dean of Students may authorize a Student Conduct Administrator to serve simultaneously as a Student Conduct Administrator and the sole member or one of the members of the Student Conduct Board. The Dean of Students may authorize the same Student Conduct Administrator to impose sanctions in all cases.
10. The term "Appellate Board" means any person or persons authorized by the Dean of Students to consider an appeal from a Student Conduct Board's determination as to whether a student has violated the Student Code or from the sanctions imposed by the Student Conduct Administrator.
11. The term "shall" is used in the imperative sense.
12. The term "may" is used in the permissive sense.
13. The Dean of Students is that person designated by the President to be responsible for the administration of the Student Code.
14. The term "policy" means the written regulations of the University as found in, but not limited to, the Student Code of Conduct, departmental program handbooks, Hogan Hall Guide to Campus Living Mountain State University Student Handbook, the University web page, Graduate/Undergraduate Catalogs and the Computer Lab Policy & Procedures.
15. The term "cheating" includes, but is not limited to: (1) use of any unauthorized assistance in taking quizzes, tests, or examinations; (2) use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments; (3) the acquisition, without permission, of tests or other academic material belonging to a member of the University faculty or staff (4) engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion. Unauthorized assistance may include notes, use of electronic devices or the assistance of another individual.
16. The term "plagiarism" includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.
17. The term "Complainant" means any person who submits a charge alleging that a student violated this Student Code. When a student believes that s/he has been a victim of another student's misconduct, the student who believes s/he has been a victim will have the same rights under this Student Code as are provided to the Complainant, even if another member of the University community submitted the charge itself.
18. The term "Accused Student" means any student accused of violating this Student Code.

## ARTICLE II: STUDENT CODE AUTHORITY

1. Dean of Students shall determine the composition of Student Conduct Boards and Appellate Boards and determine which Student Conduct Board, Student Conduct Administrator and Appellate Board shall be authorized to hear each matter.
2. The Dean of Students shall develop policies for the administration of the student conduct system and procedural rules for the conduct of Student Conduct Board Hearings that are not inconsistent with provisions of the Student Code.
3. Decisions made by a Student Conduct Board and/or Student Conduct Administrator shall be final, pending the normal appeal process.

## ARTICLE III: PROSCRIBED CONDUCT

### A. Jurisdiction of the University Student Code

The University Student Code shall apply to conduct that occurs on University premises, at University sponsored activities, and to off-campus conduct that adversely affects the University Community and/or the pursuit of its objectives. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is not discovered until after a degree is awarded). The Student Code shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending. The Dean of Students shall decide whether the Student Code shall be applied to conduct occurring off campus, on a case by case basis, in his/her sole discretion.

### B. Conduct—Rules and Regulations

Any student found to have committed or to have attempted to commit the following misconduct is subject to the disciplinary sanctions outlined in Article IV:

1. Acts of dishonesty, including but not limited to the following:
  - a. Cheating or attempting to cheat, plagiarism, or other forms of academic dishonesty.
  - b. Furnishing false information to any University official, faculty member, or office.
  - c. Forgery, alteration, or misuse of any University document, record, or instrument of identification.
2. Recording without consent or authorization
  - a. Recording of any conversation, whether in person or on the telephone, without the consent of all parties involved.
  - b. Recording lectures and/or other material presented during class sessions without the permission of the instructor and any other presenter.
3. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, other University activities, including its public service functions on or off campus, or of other authorized non-University activities when the conduct occurs on University premises.
4. Physical abuse, verbal abuse, threats, intimidation, harassment, coercion, and/or other conduct which threatens or endangers the health or safety of any person.
5. Attempted or actual theft of and/or damage to property of the University or property of a member of the University community or other personal or public property, on or off campus.
6. Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which 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. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule.
7. Failure to comply with directions of University officials or law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.

8. Unauthorized possession, duplication or use of keys to any University premises or unauthorized entry to or use of University premises.
9. Violation of any University policy, rule, or regulation published in hard copy or available electronically on the University website.
10. Violation of any federal, state or local law.
11. Use, possession, manufacturing, or distribution of marijuana, heroin, narcotics, or other controlled substances except as expressly permitted by law.
12. Use, possession, manufacturing, or distribution of alcoholic beverages (except as expressly permitted by University regulations), or public intoxication. Alcoholic beverages may not, in any circumstance, be used by, possessed by or distributed to any person under twenty-one (21) years of age.
13. Illegal or unauthorized possession of firearms, explosives, other weapons, or dangerous chemicals on University premises or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others.
14. Participating in an on-campus or off-campus demonstration, riot or activity that disrupts the normal operations of the University and/or infringes on the rights of other members of the University community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.
15. Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University sponsored or supervised functions.
16. Conduct that is disorderly, lewd, or indecent; breach of peace; or aiding, abetting, or procuring another person to breach the peace on University premises or at functions sponsored by, or participated in by, the University or members of the academic community. Disorderly Conduct includes but is not limited to: 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. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.
17. Theft or other abuse of computer facilities and resources, including but not limited to:
  - a. Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
  - b. Unauthorized transfer of a file.
  - c. Use of another individual's identification and/or password.
  - d. Use of computing facilities and resources to interfere with the work of another student, faculty member or University Official.
  - e. Use of computing facilities and resources to send obscene or abusive messages.
  - f. Use of computing facilities and resources to interfere with normal operation of the University computing system.
  - g. Use of computing facilities and resources in violation of copyright laws.
18. Abuse of the Student Conduct System, including but not limited to:
  - a. Failure to obey the notice from a Student Conduct Board or University official to appear for a meeting or hearing as part of the Student Conduct System.
  - b. Falsification, distortion, or misrepresentation of information before a Student Conduct Board.
  - c. Disruption or interference with the orderly conduct of a Student Conduct Board proceeding.
  - d. Institution of a student conduct code proceeding in bad faith.
  - e. Attempting to discourage an individual's proper participating in, or use of, the student conduct system.
  - f. Attempting to influence the impartiality of a member of a Student Conduct Board prior to, and/or during the course of, the Student Conduct Board proceeding.
  - g. Harassment (verbal or physical) and/or intimidation of a member of a Student Conduct Board prior to, during, and/or after a student conduct code proceeding.
  - h. Failure to comply with the sanction(s) imposed under the Student Code.
  - i. Influencing or attempting to influence another person to commit an abuse of the student conduct code system.

19. Students are required to engage in responsible social conduct that reflects credit upon the University community and to model good citizenship in any community.

#### C. Violation of Law and University Discipline

1. University disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Student Code (that is, if both possible violations result from the same factual situation) without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this Student Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of Dean of Students. Determinations made or sanctions imposed under this Student Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.
2. When a student is charged by federal, state, or local authorities with a violation of law, the University will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also being processed under the Student Code, the University may advise off-campus authorities of the existence of the Student Code and of how such matters are typically handled within the University community. The University will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with campus rules or sanctions). Individual students and other members of the University community, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

### ARTICLE IV: STUDENT CONDUCT CODE PROCEDURES

#### A. Charges and Student Conduct Board Hearings

1. Any member of the University community may file charges against a student for violations of the Student Code. A charge shall be prepared in writing and directed to the Dean of Students. Any charge should be submitted as soon as possible after the event takes place, preferably within five (5) school days of the event.
2. The Student Conduct Administrator appointed by the Dean of Students for this matter may conduct an investigation to determine if the charges have merit and/or if they can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to the Student Conduct Administrator. Such disposition shall be final and there shall be no subsequent proceedings. If the charges are not admitted and/or cannot be disposed of by mutual consent, the Student Conduct Administrator may later serve in the same matter as the Student Conduct Board or a member thereof. If the student admits violating institutional rules, but sanctions are not agreed to, subsequent process, including a hearing if necessary, shall be limited to determining the appropriate sanction(s).
3. All charges shall be presented to the Accused Student in written form. A time shall be set for a Student Conduct Board Hearing, not less than five nor more than fifteen calendar days after the student has been notified that a hearing will be held. Maximum time limits for scheduling of Student Conduct Board Hearings may be extended at the discretion of the Student Conduct Administrator.
4. Student Conduct Board Hearings shall be conducted by a Student Conduct Board according to the following guidelines except as provided by article IV(A)(7) below:
  - a. Student Conduct Board Hearings normally shall be conducted in private.
  - b. The Complainant, Accused Student and their advisors, if any, shall be allowed to attend the entire portion of the Student Conduct Board Hearing at which information is received (excluding deliberations). Admission of any other person to the Student Conduct Board Hearing shall be at the discretion of the Student Conduct Board and/or its Student Conduct Administrator.

- c. In Student Conduct Board Hearings involving more than one Accused Student, the Student Conduct Administrator, in his or her discretion, may permit the Student Conduct Board Hearings concerning each student to be conducted either separately or jointly.
  - d. The Complainant and the Accused Student have the right to be assisted by an advisor they choose, at their own expense. The advisor must be a member of the University community and may not be an attorney. The Complainant and/or the Accused Student is responsible for presenting his or her own information, and therefore, advisors are not permitted to speak or to participate directly in any Student Conduct Board Hearing before a Student Conduct Board. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the Student Conduct Board Hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor.
  - e. The Complainant, the Accused Student and the Student Conduct Board may arrange for witnesses to present pertinent information to the Student Conduct Board. The University will try to arrange the attendance of possible witnesses who are members of the University community, if reasonably possible, and who are identified by the Complainant and/or Accused Student at least two weekdays prior to the Student Conduct Board Hearing. Witnesses will provide information to and answer questions from the Student Conduct Board. Questions may be suggested by the Accused Student and/or Complainant to be answered by each other or by other witnesses. This will be conducted by the Student Conduct Board with such questions directed to the chairperson, rather than to the witness directly. This method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. Questions of whether potential information will be received shall be resolved in the discretion of the chairperson of the Student Conduct Board.
  - f. Pertinent records, exhibits, and written statements (including Report of Accident/Incident/Safety Conditions) may be accepted as information for consideration by a Student Conduct Board at the discretion of the chairperson.
  - g. All procedural questions are subject to the final decision of the chairperson of the Student Conduct Board.
  - h. After the portion of the Student Conduct Board Hearing concludes in which all pertinent information has been received, the Student Conduct Board shall determine (by majority vote if the Student Conduct Board consists of more than one person) whether the Accused Student has violated each section of the Student Code which the student is charged with violating. The Accused Student will be notified of the Board's decision within 10 school days.
  - i. The Student Conduct Board's determination shall be made on the basis of whether it is more likely than not that the Accused Student violated the Student Code.
  - j. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in Student Code proceedings.
5. There shall be a single verbatim record, such as a tape recording, of all Student Conduct Board Hearings before a Student Conduct Board (not including deliberations). Deliberations shall not be recorded. The record shall be the property of the University.
  6. If an Accused Student, with notice, does not appear before a Student Conduct Board Hearing, the information in support of the charges shall be presented and considered even if the Accused Student is not present.
  7. The Student Conduct Board may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Complainant, Accused Student, and/or other witness during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, where and as determined in the sole judgment of the Dean of Students to be appropriate.

## B. Sanctions

1. The following sanctions may be imposed upon any student found to have violated the Student Code:

- a. Warning—A notice in writing to the student that the student is violating or has violated institutional regulations.
  - 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 violate any institutional regulation(s) during the probationary period.
  - c. Loss of Privileges—Denial of specified privileges for a designated period of time.
  - d. Restitution—Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
  - e. Discretionary Sanctions—Work assignments, essays, service to the University, or other related discretionary assignments.
  - f. Residence Hall Suspension—Separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
  - g. Residence Hall Expulsion—Permanent separation of the student from the residence halls.
  - h. 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 readmission may be specified.
  - i. University Expulsion—Permanent separation of the student from the University.
  - j. Revocation of Admission and/or Degree—Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
  - k. Withholding Degree—The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Conduct Code, including the completion of all sanctions imposed, if any.
2. More than one of the sanctions listed above may be imposed for any single violation.
  3. Other than University expulsion or revocation or withholding of a degree, disciplinary sanctions shall not be made part of the student's permanent academic record, but shall become part of the student's disciplinary record. Upon graduation, the student's disciplinary record may be expunged of disciplinary actions other than residence hall expulsion, University suspension, University expulsion, or revocation or withholding of a degree, upon application to the Dean of Students.

In situations involving both an Accused Student(s) (or group or organization) and a student(s) claiming to be the victim of another student's conduct, the records of the process and of the sanctions imposed, if any, shall be considered to be the education records of both the Accused Student(s) and the student(s) claiming to be the victim because the educational career and chances of success in the academic community of each may be impacted.

4. The following sanctions may be imposed upon groups or organizations:
  - a. Those sanctions listed above in article IV(B)(1)(a)–(d).
  - b. Loss of selected rights and privileges for a specified period of time.
  - c. Deactivation—Loss of all privileges, including University recognition, for a specified period of time.
5. In each case in which a Student Conduct Board determines that a student and/or group or organization has violated the Student Code, the sanction(s) shall be determined and imposed by the Student Conduct Administrator. In cases in which persons other than, or in addition to, the Student Conduct Administrator have been authorized to serve as the Student Conduct Board, the recommendation of the Student Conduct Board shall be considered by the Student Conduct Administrator in determining and imposing sanctions. The Student Conduct Administrator is not limited to sanctions recommended by members of the Student Conduct Board. Following the Student Conduct Board Hearing, the Student Conduct Board and the Student Conduct Administrator shall advise the Accused Student, group and/or organization in writing of its determination and of the sanction(s) imposed, if any.

### C. Interim Suspension

In certain circumstances, the Dean of Students, or a designee, may impose a University or residence hall suspension prior to the Student Conduct Board Hearing before a Student Conduct Board.

1. Interim suspension may be imposed only: a) to ensure the safety and well-being of members of University community or preservation of University property; b) to ensure the student's own physical or emotional safety and well-being; or c) if the student poses an ongoing threat of disruption of, or interference with, the normal operations of the University.
2. During the interim suspension, a student shall be denied access to the residence halls and/or to the campus (including classes) and/or all other University activities or privileges for which the student might otherwise be eligible, as the Dean of Students or the Student Conduct Administrator may determine to be appropriate.
3. The interim suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a Student Conduct Board Hearing, if required.

### D. Appeals

1. A decision reached by the Student Conduct Board or a sanction imposed by the Student Conduct Administrator may be appealed by the Accused Student(s) or Complainant(s) to an Appellate Board within five (5) school days of the decision. Such appeals shall be in writing and shall be delivered to the Student Conduct Administrator or his or her designee.
2. Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the Student Conduct Board Hearing and supporting documents for one or more of the following purposes:
  - a. To determine whether the Student Conduct Board Hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and to present information that the Student Code was violated, and giving the Accused Student a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.
  - b. To determine whether the decision reached regarding the Accused Student was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the Student Code occurred.
  - c. To determine whether the sanction(s) imposed were appropriate for the violation of the Student Code which the student was found to have committed.
  - d. To consider new information, sufficient to alter a decision or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original Student Conduct Board Hearing.
3. If an appeal is upheld by the Appellate Board, the matter shall be returned to the original Student Conduct Board and Student Conduct Administrator for re-opening of Student Conduct Board Hearing to allow reconsideration of the original determination and/or sanction(s). If an appeal is not upheld, the matter shall be considered final and binding upon all involved.

## ARTICLE V: INTERPRETATION AND REVISION

- A. Any question of interpretation or application of the Student Code shall be referred to the Dean of Students or his or her designee for final determination.
- B. The Student Code shall be reviewed every five (5) years, or sooner if deemed necessary, under the direction of the Dean of Students.