

PROCEDURES MEMORANDUM

TO MCC Staff and Students

FROM: Office of the President

SUBJECT: Student Conduct and Discipline

DATE: December 21, 2011

PURPOSE: To help ensure that every student enrolled at Metropolitan Community College is free to pursue educational objectives in a way that does not adversely affect other members of the College community. The purposes of the Student Conduct Code are to: (1) specify the minimum standards of conduct expected of every Metropolitan Community College student while on College property, at cooperative agencies, and while in attendance at College-affiliated activities; and (2) specify the sanctions which may be imposed and the procedures for the imposition of sanctions when the College's standards of student conduct are violated.

SCOPE: The Student Conduct Code applies to behavior of full-time and part-time students at Metropolitan Community College that occurs on College premises, at College-sponsored activities, and to off-campus conduct that adversely affects the College community and/or the pursuit of its objectives.

GENERAL PRINCIPLES

Metropolitan Community College is committed to the philosophy that people should be given an opportunity to develop their skills and knowledge, as well as an awareness of their roles and responsibilities in society. The College is devoted to serving the educational and occupational needs of the four-county area and the State of Nebraska.

Registration at the College means a commitment to seriousness of purpose, academic integrity and high standards of personal and social behavior. Students are expected to be cooperative and responsible members of the College community, to comply willingly with College regulations and to abide by local, state and federal laws. It is to the above philosophy and ends that these student conduct and discipline procedures have been developed.

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SECTION I

Academic Misconduct

Academic Violations of the Conduct Code

1. During examinations: Referring to information not specifically condoned by the instructor, including receiving information from a student or other unauthorized source.
2. Regarding academic assignments: Representing another's work, or any part thereof, be it published or unpublished, as one's own. It shall also include presenting or submitting any academic work in a manner that impairs the instructor's ability to assess the student's academic performance. For example, plagiarism includes failure to use quotations marks (or other conventional markings around material quoted from any source) and/or failure to correctly cite the author of that source.
3. Obtaining, distributing, or referring to a copy of an examination which the instructor has not authorized to be made available for such purpose.
4. Any act which impedes the ability of other students to have fair access to materials assigned or suggested by the instructor. For example, removal or destruction of library or other source materials is a violation of this Code.
5. Academic dishonesty shall include tampering with another student's work or impairing in any way the instructor's ability to assess the academic performance of another student.

6. Alteration of grades or any other records related to the academic performance of students. This shall also include submitting false records in order to gain admission to the College.
7. Assisting, attempting to assist, or conspiring to assist another student in committing the offenses as outlined above.
8. Attempting to commit any offense as outlined above.

### Academic Penalties

Penalties for Academic Misconduct include one or a combination of the following:

1. A lower or failing grade in the course,
2. A lower or failing grade or score on the assignment or examination
3. Additional work to provide evidence of the student's academic performance and/or evidence that the student knows and understands the course material.
4. Other sanction(s) determined appropriate by the Vice President for Academic Affairs as outlined below.

### Importance of Syllabus

The syllabus is a document of record in which instructors clearly state student expectations for the class, including a statement regarding Academic Misconduct. The MCC Syllabus Template will be regularly updated to contain accurate reference to College policy on Academic Misconduct. Instructors may include in their syllabi further specifications of the acts which shall constitute an Academic Violation of the Conduct Code and the Academic Penalties which follow from such violations, as long as those specifications are consistent with the provisions of this Conduct Code. Any changes from the approved MCC syllabus template regarding MCC policies must be approved by the faculty's academic area dean. The absence of specific reference to the College's Student Conduct Code in a syllabus shall not relieve the student of the duty to adhere to the standards set forth in this Procedures Memorandum or specific programmatic requirements.

## Procedure

1. When an instructor has evidence that a student has violated the Conduct Code, the instructor will discuss the evidence of misconduct and the penalties with the student. In determining Academic Misconduct or Academic Penalties, the instructor may consult with his/her Academic Dean. Instructors will complete the Academic Misconduct Report form and forward to the appropriate Academic Dean. Deans will sign and forward the Report form to the Vice President for Academic Affairs.
2. The Vice President for Academic Affairs will review and retain Academic Misconduct Reports, imposing additional penalties for recurring violations of Academic Misconduct.

## Appeals

If the student disagrees with the determination or the sanctions imposed by the instructor, he or she may appeal to the Academic Dean for the area. The appeal should be in writing and submitted to the Academic Dean within five (5) College business days. The Academic Dean shall review all of the evidence and the decision of the instructor and may either affirm the action taken by the instructor, modify the sanctions as he or she deems appropriate under the circumstances, or find for the student. The Dean will then forward the decision within five (5) College business days to the Vice President for Academic Affairs for review.

## Review by the Vice President for Academic Affairs

The Vice President for Academic Affairs shall review the Academic Misconduct Report and may, based on the severity of the violation(s) or should the student have a record of previous Academic violations, impose one or more of the following penalties:

1. Dismissal: An indefinite separation from the College.
2. Suspension: A separation from the College for a specified period of time, not to exceed two years. At the conclusion of the period of suspension, the student will be permitted to return to the College on a probationary basis.
3. Probation: A conditional retention of student status until the student graduates from the College.
4. Reprimand: A written statement from the Vice President for Academic Affairs expressing disapproval of conduct.
5. Cancellation of graduation with honors.

6. Cancellation of scholarships.
7. Other reasonable sanctions or combinations of sanctions within the authority and discretion of the Vice President for Academic Affairs.

## SECTION II

### Non-Academic Misconduct

#### Violations

Any student found to have committed the following misconduct has violated the Student Conduct Code and is subject to disciplinary process:

- 1) All forms of dishonesty; knowingly furnishing false information to the College; forgery or alteration of College documents or records or instruments of identification; use of College documents or instruments of identification with intent to mislead or defraud.
- 2) Theft of property or services; or knowingly having possession of stolen property.
- 3) Failure to comply with the directives of College officials or Campus Police officers acting in the performance of their duties and/or failure to identify oneself to these persons when requested to do so.
- 4) Disrupting or obstructing teaching or administrative activities, disciplinary proceedings or other College-affiliated activities.
- 5) Unauthorized entry into any College office or area or unauthorized accessing of College records.
- 6) Physically and/or psychologically harassing or abusing any person on College premises or at or in the course of College activities, or engaging or threatening to engage in harassment or abuse which creates a hostile, abusive, coercive or intimidating College or College-related educational, learning or working environment.
- 7) Stalking, defined as: to follow or otherwise contact another person repeatedly, so as to put that person in fear for his or her life or personal safety.
- 8) Participating in or inciting a riot or disturbance, or a disorderly assembly, which disrupts or obstructs any College activity or function.
- 9) Seizing, holding, taking, commandeering or damaging any property or facilities of the College, or threatening to do so; or refusing to depart from any property or facilities of the College upon direction to do so by any faculty or staff member, Campus Police officer, administrator, or other representative of the College.

- 10) Using or being under the influence of alcoholic beverages on College property, other than at an event where consumption of alcoholic beverages has been approved by the College Board of Governors in advance.
- 11) Gambling or holding a raffle or lottery on campus or at any College or College-affiliated function or premises without the approval of the College President or Vice President for Campuses and Student Affairs.
- 12) Intentionally initiating or causing to be initiated any false report, warning or threat of fire, explosion or other emergency.
- 13) Any action or conduct which improperly or unlawfully interferes with any person's lawful and permitted personal, academic or employment pursuits. An example would be causing a classroom disruption that interferes with learning or the delivery of classroom instruction in any way.
- 14) Unauthorized possession, use or duplication of keys, key cards or passwords to College vehicles, buildings, computer system(s), or other property.
- 15) Possessing, using, selling or distributing, or attempting to sell or distribute, any type of controlled substance, such as drugs, on College property or at any College or College-affiliated function or activity (not including possession or use of medications pursuant to a physician's prescription).
- 16) Possessing on College property, or at any College or College-affiliated function or activity, any dangerous chemical or explosive element or any component parts, or any rifle, shotgun, pistol, revolver, or other firearm or weapon, not required for lawful College studies, without the authorization of the President of the College. (Pocket knives are permitted as long as the blade is no longer than three inches in length)
- 17) Physically detaining or restraining, however briefly, any other person against his or her will; removing any person against such person's will from any place where the person is authorized to remain; or in any way purposely obstructing the free movement of persons or vehicles on College premises or at College or College-affiliated functions or activities.
- 18) Obscene or indecent behavior, which includes, but is not limited to, exposure of one's sexual organs or the display of sexual behavior that would reasonably be offensive to others, as well as the viewing of pornography on College computers or on personal devices in a manner or location that would be openly visible to others.
- 19) Littering, or willfully or recklessly defacing, destroying or damaging property of the College (or property under its jurisdiction or control), or property of another person or entity, or removing or using such property without proper authorization.

- 20) Violating any local, state or federal law, ordinance or regulation (a) while on College property, or (b) while in the course of any College or College-affiliated function or activity, or (c) which violation adversely affects or adversely reflects upon the College's pursuit of its educational activities or the pursuit of educational, employment or other lawful activities of any student, or visitor, or employee of the College, or any other person.
- 21) Violating any rule or regulation not contained or referred to within the official College catalog, after notice of such rule or regulation, or after publication on College bulletin boards and online (or otherwise) of such rule or regulation.
- 22) Violating campus or College parking regulations.
- 23) Physical violence towards another person or group. Causing or attempting to cause or threatening to cause physical injury to a College employee, official, student, visitor, or guest. This will include all forms of sexual violence. This shall not include injury caused by accident occurring despite the use of reasonable care, or self-defense or action undertaken under a reasonable belief that it was reasonably necessary to prevent injury or harm to some other person.
- 24) Violating any policy or rule governing the conduct of students which has been adopted by the College Area Board of Governors or the College President or other authorized College official.
- 25) Intentionally disrupting access of other students, faculty, or staff members to College computers and other technical resources by using these resources in an inappropriate manner; knowingly obtaining without authorization access to a computer account assigned to another person or using an account assigned to another student, faculty or staff member, or other person, or department or organization, for other than its intended purpose or without permission from the account assignee; intentionally using any unauthorized account; using college computer equipment to interfere with the lawful rights of others; falsifying or altering records; creating fraudulent documents; damaging programs belonging to the College or to another; sending harassing or threatening material or communication; duplicating software unlawfully; or using College facilities and/or resources for non-academic or personal purposes.
- 26) Using force or assisting others in any way in the use of force or counseling, recommending or urging the use of force or the threat of force or the seizure of property under the control of the College, or commission of any act or action not sanctioned by law to prevent the faculty, administrative officers, employees or students of the College from engaging in their duties in connection with the operation of the College or pursuing their studies at the College.
- 27) Knowingly encouraging, aiding, assisting or abetting any other person(s) to commit any act of misconduct prohibited above.

- 28) Smoking or using tobacco products in violation of Procedures Memorandum IX-5.
- 29) Any violation of the Code by a student's non-College guest. "Guest" is defined as any non-student present on College premises at the invitation and/or hosting of the student.
- 30) Violations related to fire safety, including but not limited to:
- a. Failure to properly evacuate during a fire alarm.
  - b. Intentional sounding of a fire alarm without cause.
  - c. Illegal possession of, or removal of, damage to, or tampering with fire safety or other emergency warning equipment.
  - d. Arson, or unauthorized setting of fires on College property.
- 31) Refusal to leave College premises when directed to do so when exhibiting symptoms of a contagious illness.

In addition to the foregoing general standards of conduct which apply to all students, individual educational programs within the College may have standards of conduct which students within those programs must observe. In addition to the Sanctions, which appear in this PM, individual educational programs may specify sanctions of their own. Individual educational program standards of conduct and sanctions appear in specific program manuals, handbooks, other program publications, or on-line, and are generally discussed at program orientation.

The procedures which follow in this PM apply to any violation of standards of conduct, whether general standards of conduct set forth in this PM or specific program standards of conduct

### Sanctions

The following sanctions may be imposed for violations of the Student Conduct Code. In each case, the sanction(s) to be imposed will be determined by examining the nature and severity of the violation. In each case, the cumulative effect of a student's prior violations of the Student Conduct Code and the student's prior disciplinary records may also be considered in determining the appropriate sanction.

#### 1. Warning

A verbal or written statement to the student that the student has violated College rules, and may be subject to more severe disciplinary action if such behavior continues or is repeated.

#### 2. Disciplinary Probation

Exclusion from the privilege of using specified facilities of the College or from participating in extracurricular activities of the College, including the holding of any student or student

organization office, for a specified period of time, or other terms of disciplinary probation deemed appropriate under the circumstances. The terms of any such disciplinary probation imposed will be specified in writing, and may include the withdrawal of any privileges or services otherwise provided by the College.

### 3. Restitution

Required reimbursement for damage to or misappropriation of College or any other public or private property. Where this sanction is imposed, the decision shall direct that restitution be made by a certain date. The consequences of failure to make such restitution shall be stated. Restitution may take the form of appropriate services or other compensation.

### 4. Educational Activity

Work assignments, essays, service to the College, or other related discretionary assignments.

### 5. Interim Suspension

Immediate exclusion from attending the College or designated courses, curriculum offerings or class sections pending a hearing.

### 6. Suspension

Exclusion from attending the College or designated courses or curriculum offerings or class

### 7. Dismissal

Termination of student status and resulting exclusion from attending the College or from attending or enrolling in designated courses, curriculum offerings, class sections or programs for an indefinite period of time. If any conditions of readmission are established, they may be stated in the order of dismissal. The President or Board of Governors may also establish, at any time, conditions upon which a dismissed student may be readmitted to the College.

### 8. Expulsion

Permanent termination of student status

9. Special Notice Under the Drug-Free Schools and Communities Act Amendment of 1989 (20 U.S.C. Section 1145g): see Procedures Memorandum X-5, Drug Prevention/Drug Free Schools Act.

## Procedures

Any person may file a complaint or report against a student for an alleged violation of the Student Conduct Code. A complaint or report must be in writing and signed by the complaining person(s). Complaints may be in the form of email if they contain the complainant's name at the bottom in place of a formal signature. Complaints should be filed with, delivered or mailed to, a Campus Student Services Director (CSSD) or Campus Dean (CD). A CSSD or CD may also initiate disciplinary procedures as a result of behavior detailed in a Campus Police Report. Once in receipt of a complaint, the CSSD or CD becomes the Disciplinary Officer (DO).

The DO may conduct an investigation to determine if the charges have merit and/or they can be disposed of administratively, such as by mutual consent of the parties involved on a basis acceptable to the DO. The determination should be made within thirty (30) calendar days after the filing of the complaint. This disposition shall be final and there shall be no subsequent proceedings. The student will receive written confirmation of the administrative disposition and the correspondence will become part of the student's disciplinary file. If the student admits violating the Code, but does not agree to the sanctions proposed, a hearing will take place solely to determine the appropriate sanction(s).

If administrative disposition of the case is not possible, the DO will refer the case to a Hearing Panel. The DO will then hand deliver or will send by certified mail to the residence address shown for the student in the College's records a written notice of the complaint made against the student, which shall:

Describe the conduct with which the student is charged;

State the Student Conduct Code rule or rules the student is alleged to have violated;

List the names of any witnesses who may appear at the hearing;

Provide a brief summary of the evidence against the student, as then known to the DO;

Inform the student that a hearing will be scheduled, and that the student may bring witnesses to the hearing, or may bring written statements signed by the witnesses;

Inform the student that he/she may review in advance any documentary information which will be presented at the hearing, and when and where such information may be reviewed;

Inform the student that he/she may have an attorney or other advisor attend the hearing to advise to advise the student, but not to speak for the student.

Inform the student that should he/she fail to appear at the hearing, the hearing will proceed in the student's absence.

Provide the student a copy of this PM.

The hearing Panel shall consist of the DO, a Director of Student Services, one Academic Dean, and one counselor. The DO shall chair the Panel, but will have no vote in the decision. No person who is to be a witness at the hearing may be appointed to the Hearing Panel.

The DO will give the student at least five (5) College business days notice of the time and place at which the hearing will be held. No postponements will be permitted. However, once commenced, the hearing may be continued from day to day, or until another time, at the discretion of the chair.

**Note: If the conduct charged against the student is conduct for which expulsion or dismissal may be authorized under Section 85-601 of the Nebraska Revised Statutes C as set forth in # 26 in the list of Violations in this PM, the DO will give the student notice of the time and place of the hearing and a formal written statement of the charges against the student by certified mail, sent to the student's current address as shown in the records of the College, at least twenty (20) days before the date set for the hearing. The notice shall inform the student that he or she is entitled to file a written response to the charges, to be present in person and by counsel at the hearing, and to testify and produce other witnesses on his or her behalf.**

At the outset of the hearing, or at any time during the hearing, the DO may fix a time limit within which the hearing shall be completed and inform all those present.

The student may have an attorney or other advisor attend the hearing. This individual may advise the student but may not speak for the student or examine or cross-examine witnesses, except in cases charging a violation #26 under Violations in this PM, in which case the accused student may be represented by counsel at the hearing, at the student's own expense. In cases in which the student is accused of an alleged sexual assault, both the accuser and the accused will be entitled to the same opportunities to have others present during the hearing.

The student may call witnesses in his/her behalf. The student may personally question all witnesses, but not through legal counsel or others, except as provided in the preceding subparagraph. Technical rules of evidence will not apply. However, the DO may exclude evidence or limit testimony which is not relevant to the matter in question, or which is merely repetitive. Written statements of witnesses may be used as evidence, but copies must be provided to, or made available for inspection by, the accused student before the conclusion of the hearing.

The Hearing Panel's determination shall be made on the basis of whether it is more likely than not that the accused student violated the Student Code.

The hearing will be recorded. A copy of the recording will be made available to the student on the student's request.

A written decision will be sent by certified mail to the student and, if the original complaint involved a sexual assault or crime of violence, a copy will be sent by certified mail to the victim or alleged victim of the offense, within ten (10) College business days of the conclusion of the hearing. The decision shall state the findings and the sanction(s) imposed (if any). The notice shall also inform the student of the process for appeal of the decision or sanction(s).

Note: If the conduct charged against the student is conduct for which expulsion or dismissal may be authorized under Section 85-601 of the Nebraska Revised Statutes as set forth in Section I.2.W. of this PM, and the sanction is dismissal/expulsion, the decision of dismissal/expulsion shall be by written order, containing findings of fact upon which the dismissal/expulsion is based, and which shall be signed by the DO or the chair of the adjudicating body. The order in such a case shall be entered within thirty days after the hearing, shall state its effective date, and shall be served on the student by certified mail to his or her current address as shown in the records of the College.

#### Appeal to the Vice President for Campuses & Student Affairs

If the student is dissatisfied with the decision, the student may appeal to the Vice President for Campuses & Student Affairs. The appeal must be in writing, and must be filed with the Vice President for Campuses & Student Affairs not later than ten (10) College business days after the date the decision is mailed to the student.

The following are the only permitted grounds for appeal:

The decision was contrary to the facts;

That there is newly discovered evidence which is material but which could not have been discovered before the original hearing;

That the proper procedures were not followed; No procedural error shall invalidate the decision unless, in the judgment of the Vice President, the error caused substantial prejudice to the student.

That the sanction imposed was inappropriate.

Postponement of any sanctions pending review by the Vice President is at the discretion of the Vice President.

Review by the Vice President will be limited to a review of the documents submitted as evidence at the hearing and a review of the tape recording of the hearing. Opportunity for the student to personally discuss the matter with the Vice President shall be at the discretion of the Vice President.

The Vice President shall send the decision on the appeal to the student by certified mail, but may in addition communicate with the student by phone or email.

The decision of the Vice President shall be final.

#### Interim Suspension

If, after an initial investigation, the DO deems that the presence of the student would pose a serious and immediate threat to the operation of the College or any of its programs or activities, or to the safety or well-being of any person or property, the DO may recommend to the Vice President for Campuses and Student Affairs that the student be placed under interim suspension until a hearing can

be arranged. If the interim suspension is approved, the DO shall inform the student in person or by phone and in writing of the interim suspension and the expected length of this interim suspension. In such a situation, a hearing will be held by the Vice President for Campuses and Student Affairs or a designee at the earliest reasonable time, and in each case within three (3) College business days after the interim suspension is imposed. The student shall be informed in writing of the time and place of the hearing. The hearing shall be for the purpose of determining whether to continue or rescind the interim suspension and, if the interim suspension is continued, to determine the terms and conditions of the continued suspension. The student shall be notified of the decision of the Vice President or designee within 24 hours following the conclusion of the hearing. If a student is suspended on an interim basis, the Vice President or DO will inform the Chief of Campus Police and Director of Emergency Management of such action.

### Miscellaneous

Nothing in these procedures shall preclude an officer of the College from engaging with a student in a mutually-agreeable, negotiated settlement of a conduct issue. Such an agreement shall be in writing and placed in the student's College file.

The Vice President for Campuses and Student affairs reserves the right to appoint a hearing officer to conduct a hearing for administrative or case-related reasons.

Withdrawal of the student from the College shall not suspend, terminate or otherwise affect the prerogative of the College to at any time initiate, resume or continue any disciplinary action or proceedings against a student for actions or events which occurred prior to the withdrawal.

Should a student be suspended, dismissed or expelled during a term in which they are registered, there will be no refund of tuition.

Any final decision in a disciplinary matter shall be included in the student's College file. A Campus Student Services Director, Campus Dean, Hearing Panel, or the Vice President for Campuses & Student Affairs shall be authorized to review the student's College file to determine the student's prior disciplinary history and may consider that history in determining appropriate sanction(s) for violations of the Student Conduct Code.

Adopted 6/27/97; Revised 11/7/01; 12/19/05; 7/20/06 (title changes only); 5/29/08; 12/13/11; 12/21/11