

Student Code of Conduct

Introduction

Students as citizens of local, state, and national governments, and members of an academic community, are expected to conduct themselves in a law-abiding manner at all times. Admission to Helena College carries with it special privileges and imposes special responsibilities apart from those rights and duties enjoyed by non-students. Accordingly, the college has developed regulations and policies pertaining to students and to student organizations outlined in this Student Code of Conduct. These regulations are necessary to provide an environment that is conducive to the intellectual and personal development of all members of the campus community. Students or organizations accused of violating the Code have certain substantive and procedural rights that are cited in this document. Any student or organization found to be in violation of an established policy or regulation of the college is subject to misconduct action according to the provisions outlined in the Code.

In recognition of the special relationship that exists between Helena College and the academic community which it seeks to serve, the Montana Board of Regents has delegated the authority to take such action as may be necessary to preserve the integrity of the institution and its educational environment to the Dean/CEO of the college. The Dean/CEO has drawn a distinction between academic and general conduct. The Assistant Dean of Student Affairs is responsible for the procedural administration of the Student Code of Conduct for all general conduct. The Associate Dean of Academic Affairs is responsible for the procedural administration of the Student Code of Conduct for all academic conduct.

Administrative vs. Legal Proceeding

The procedures described in this Code are administrative procedures designed to create opportunities for members of the campus community to evaluate alleged violations and determine appropriate sanctions if necessary. They are not legal proceedings. Although many elements of the law (such as due process) influence and inform our campus disciplinary proceedings, our procedures do not follow all the rules and procedures of a formal legal proceeding, nor are they intended to.

Relationship of Helena College Conduct Process to the Legal/ Criminal Justice Process

All members of the Helena College University of Montana community are also accountable to relevant state and federal laws applicable to our larger community and society. Alleged violations of Helena College Student Conduct Code that are also violations of state or federal laws can be prosecuted separately through the legal system and, if the student is found guilty, can result in civil or criminal penalties such as probation, fines, jail, and/or prison.

The Helena College conduct process, however, operates separately and independently from the criminal justice process. This means that the College does not need to wait for a student to be charged and/or convicted in a court of law before pursuing its own investigation through the Conduct Code and imposing relevant College sanctions when applicable. Helena College makes no attempt to shield members of the campus community from the law, nor does it automatically intervene in legal proceedings against members of the College community. Because Helena College's proceedings are administrative and not legal proceedings, the College may use information from third party sources, such as law enforcement agencies, the courts, and other witnesses to help determine whether the Conduct Code has been violated.

When a complaint is filed with an appropriate Helena College official alleging a violation of the Student Conduct Code, the College is responsible for conducting an investigation, initiating charges, determining whether violations occurred, and imposing appropriate sanctions if necessary. In cases where one student (the "complainant") files a complaint against another student (the "respondent"), the College may proceed with the case on the basis of other evidence and testimony, even if the complainant does not wish to participate or continue in the process.

Jurisdiction of Helena College and Application of the Code of Conduct to Off-Campus Offenses

The jurisdiction of Helena College is generally limited to conduct that occurs on College premises or at College-sponsored activities. In some circumstances, proceedings under the Student Conduct Code may be initiated when a student is alleged to have engaged in behavior off-campus that directly or seriously threatens the health or safety of members of the campus community, and/or constitutes a criminal offense under Montana or federal criminal laws.

The Assistant Dean of Student Affairs or designee, with the advice and counsel of other appropriate administrative officials, submits a recommendation to the Campus Dean/CEO who decides whether an off-campus case will be pursued.

Definitions

"College" shall mean Helena College.

"Student" shall mean any person who is enrolled at the college for any academic term, whether full or part-time, pursuing undergraduate studies or a person accepted for admission or readmission to the college. A person who has completed an academic term and who can be reasonably expected to enroll for the following term or a person under suspension from the college shall also be considered a student.

"College community" shall include the faculty, staff, and students of Helena College and all property and equipment of the college.

Student Rights

Helena College recognizes that its students retain the rights provided by the United State and Montana Constitutions, federal and state statutes, and other applicable college policy, while attending the college. The provisions of the Student Code of Conduct are intended to be consistent with these rights and to limit or restrict only conduct that exceeds the responsible exercise of rights recognized by law. The following rights are specifically recognized and implemented in the Code:

Right to Confidentiality

Helena College complies with the principles of privacy found in the Montana Constitution, Montana Code Annotated, and the Family Educational Rights and Privacy Act (FERPA). A student's name and other identifying information including address, telephone number, date and place of birth, enrollment status, major field of study, participation in officially recognized activities, dates of attendance, degrees awarded, and honors received may be considered public information unless the student requests in writing for the college to hold the information in confidence.

A student's rights in a proceeding involving the Student Code of Conduct include the following:

1. All disciplinary proceedings are closed to the public.
2. The college, including individuals involved in a disciplinary proceeding, will not disclose information to anyone not connected with the proceeding. The fact that there is a disciplinary proceeding concerning the incident may be disclosed; however, the identity of individual students will not be disclosed.
3. The college, including individuals involved in a disciplinary proceeding, will disclose the results of the proceedings, including sanctions imposed, only to those who need to know the results for the purposes of record keeping, enforcement of the sanctions, further proceedings, or compliance with federal or state law. The fact that a disciplinary proceeding has been concluded and appropriate action taken may be disclosed. The Campus Security Act of 1990 allows, but does not require, the college to disclose the results to an alleged victim of a violent crime.

Right to Due Process The Accused

A student accused of violating the Student Code of Conduct has certain rights:

1. The right to be advised that an alleged violation is being investigated and a right to be advised of the potential charges.
2. The right to review the evidence.
3. The right to decline to make statements.
4. The right to submit a written account relating to the alleged charges.
5. The right to know the identity of individuals who will be present at an administrative conference or hearing.
6. The right to have a person of choice, including legal counsel, present throughout any and all proceedings provided for in this Code.
7. The right to a period of time to prepare for a hearing and the right to request a delay of the hearing for exigent circumstances.
8. The right to hear and question witnesses and the accuser.
9. The right to present relevant evidence and witnesses.
10. The right to a timely adjudication of the charges as provided in this Code.

The Alleged Victim

Some violations of the Student Code of Conduct involve a person who is an alleged victim of the violent crime. Violent crime may include acts such as robbery, vandalism, aggravated assault, sexual assault, harassment, and acts which endanger

another person's safety. When a member of the campus community files a complaint and is identified as an alleged victim of a violent crime, that individual is entitled to certain rights in the disciplinary process. An alleged victim of a violent crime is entitled to the following:

1. The right to meet with the designated administrative officer to discuss the various aspects of the disciplinary process.
2. The right to submit a written account of the incident and a statement discussing the effect of the alleged misconduct.
3. The right to have a person of choice, including legal counsel, present throughout any and all of the proceedings provided for in the Code.
4. The right to be informed of the date, time and location of the administrative conference or hearing, and the right to be present at all stages of the proceedings except the private deliberations of the designated administrative officer. If not present, the alleged victim has the right to be informed immediately of the outcome of the disciplinary proceedings.
5. The right to have past conduct that is irrelevant to the case not discussed during the proceedings. In the case of rape and sexual assault, this is specifically provided for in Montana Law.

Student Code of Conduct and Disciplinary Sanctions

Students have the responsibility to conduct themselves in a manner that does not impair the welfare or educational opportunities of others in the college community. Students must act as responsible members of the academic community; respect the rights, privileges, and dignity of others; and refrain from activities which interfere with normal college functions. Helena College has developed the following regulations which are intended to govern student conduct on the campuses under its jurisdiction:

General Misconduct

Generally, through appropriate due process procedures, institutional disciplinary measures shall be imposed for conduct, excluding academic misconduct, which adversely affects the institution's pursuit of its educational objectives, which violates or shows a disregard for the rights of other members of the academic community, or which endangers property or persons on institution or institution-controlled property. Individual or organizational misconduct, which is subject to disciplinary sanction, includes:

1. Forgery, falsification, or fraudulent misuse of college documents, records or identification cards.
2. Furnishing false information to the college or members of the college community who are performing their official duties.
3. Causing false information to be presented before any judicial proceeding of the college or intentionally destroying evidence important to such a proceeding.
4. Theft of property or services on college premises or at college sponsored activities, or knowingly possessing stolen property on college premises or at college-sponsored activities.
5. Unauthorized use, destruction, or damage of college property or the property of others on college premises or at college-sponsored activities. "Unauthorized" means entry, use, or occupancy of property of which the student is not authorized by virtue of his or her enrollment, class schedule, and/or legal or Student Code of Conduct action.
6. Unauthorized or fraudulent use of the college's facilities, telephone system, mail system, or computers, or use of any of the above for any illegal act.
7. Unauthorized entry, use or occupancy of college facilities.
8. Failure to comply with the directions of college officials acting in the performance of their duties within the scope of their authority.
9. Violation of published college regulations or policies.
10. Participation in any act described as academic misconduct.
11. Intentional obstruction or disruption of normal college or college sponsored activities, including but not limited to studying, teaching, research, administration and disciplinary procedures, or fire, police or emergency services.
12. Use, possession, or distribution of alcoholic beverages on college premises or at college sponsored activities except as permitted under college policies (Helena College Policy 600.6 Alcohol Sale, Possession, and/or Consumption on College Property).
13. Disorderly or indecent conduct on college-owned or controlled property or at college sponsored events.
14. Interfering with freedom of expression of others on college premises or at college sponsored events.
15. 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.
16. Malicious intimidation or harassment of another which occurs when a student, with intent to terrify, intimidate, threaten, harass, annoy, or offend, (1) causes bodily injury to another, (2) causes reasonable apprehension of bodily

injury in another, (3) damages, destroys, or defaces any property of another or any public property, or (4) makes repeated communications anonymously or at extremely inconvenient hours or in offensively coarse language.

17. Any form of illegal gambling or wagering.
18. Misuse of electronic devices. Cellular phones, pagers, and other electronic devices shall not be used in a manner that causes disruption to instruction, the library, or other services and facilities owned or operated by the college. Use of cellular devices with photographic capabilities for activities that violate the Academic or General Code of Student Conduct 34 is prohibited. Photographing individuals in secured areas such as bathrooms or where there is a reasonable expectation of privacy, and/or taking photographs of individuals without express permission is prohibited.
19. Misuse or abuse of computer equipment, programs or data.
20. Financial irresponsibility. Failure to meet financial responsibilities to the institution promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the institution or to a member of the institution community acting in an official capacity.
21. Illegal use, possession, or distribution of any controlled substance on College premises or at college-sponsored activities.
22. Use of tobacco products on all campus properties owned, operated, or leased by Helena College. (Helena College Policy 600.1 Non Tobacco Use, Smoke-Free Workplace and Facilities).
23. Illegal or unauthorized possession or use of firearms, explosives, other weapons, dangerous chemicals, or other noxious substances on college premises.
24. Sexual intercourse without consent (rape) or sexual contact without consent (sexual assault). See Section on Sexual Abuse/Harassment for more information.
25. Homicide, assault, aggravated or felony assault, or threat of the same, to any person on college-owned or controlled property or at college sponsored activities, or conduct which threatens or endangers the health or safety of any such person.
26. Retaliation against a person for filing a complaint or acts of intimidation directed towards a person to drop a complaint.
27. Attempts and complicity. Any attempt to commit acts prohibited by the General Student Code of Conduct, or the aiding and abetting of the commission of any prohibited act.
28. Violation of state or federal laws. Any violation of state or federal laws or regulations prescribing conduct or establishing offenses, which laws and regulations are incorporated herein by reference.
29. Violation of the terms of any disciplinary sanction imposed in accordance with this Code.

Academic and Classroom Conduct

Helena College expects its students to adhere to a high standard of academic integrity. It is a violation of academic integrity to present the ideas, designs, or works of another person as one's own efforts or to permit another person to do so. Academic misconduct is subject to an academic penalty by the course instructor and/or a disciplinary sanction by the College. The instructor has the primary responsibility for control of classroom behavior and maintenance of academic integrity and can order the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct or conduct in violation of the general rules and regulations of the institution. The following guidelines are intended to clarify these issues for students, faculty, and administration.

Academic misconduct is defined as all forms of academic dishonesty, including but not limited to:

1. Plagiarism - A student will be considered in violation of academic integrity if he or she submits an assignment, whether written, oral, graphic, or computer-generated, which consists wholly or partially of the words, work, or ideas of another individual without giving the original author proper credit.
2. Copying - A student will be considered in violation of academic integrity if he or she uses crib notes, cheat sheets, books, or any other material or electronic device as aids in an examination or any other graded exercise, unless the instructor of the class has given permission to use such materials. Collaboration with another student on an examination or other graded exercise, unless the instructor has given permission.
3. Contributing to Academic Dishonesty - A student will be considered in violation of academic integrity if he or she willfully assists another student in an act of academic dishonesty.
4. Misconduct during an examination or academic exercise - Copying from another student's paper, consulting unauthorized material, giving information to another student or collaborating with one or more students without authorization, or otherwise failing to abide by the College or instructor's rules governing the examination or academic exercise without the instructor's permission.
5. Unauthorized possession of examination or other course materials:

- Acquiring or possessing an examination or other course materials without authorization by the instructor.
6. Tampering with course materials - Destroying, hiding, or otherwise tampering with source materials, library materials, laboratory materials, computer system equipment or programs, or other course materials.
 7. Submitting false information - Knowingly submitting false, altered, or invented information, data, quotations, citations, or documentation in connection with an academic exercise.
 8. Submitting work previously presented in another course - Knowingly making such submission in violation of stated course requirements.
 9. Improperly influencing conduct - Acting calculatedly to influence an instructor to assign a grade other than that actually earned.

Penalties for Academic Misconduct

Depending on the severity of the academic misconduct, a student may incur one or more of the following penalties:

Academic Penalty(ies) by the Course Instructor: The student may receive a failing or reduced grade in an academic exercise, or examination, or course, and/or be assigned additional work which may include re-examination. When a faculty member assigns a failing course grade on the basis of academic dishonesty, he or she shall assign a grade of "FX." The student may petition the Registrar's Office by letter to remove only the "X" portion of the grade after successfully completing an Ethics course with a grade of "B" or better from any accredited college within three academic years of the original failure. Retaking the failed course does not remove the "F" or "FX" designation from the transcript. A student may not represent the College in any official manner nor hold a student government office with an "FX" grade.

Faculty must report all violations of academic integrity to the student involved, the appropriate Department Chair(s), and to the Associate Dean of Academic; in cases of repeated offenses, the Associate Dean of Academics will recommend disciplinary sanctions. Students retain their right to due process and may refer to the Student Handbook or the Assistant Dean of Student Services regarding any academic or disciplinary sanctions.

If a student has reason to believe he or she has been wrongly accused of academic misconduct, and if a final grade has been lowered as a result, he or she may appeal the grade through the office of the Associate Dean of Academic Affairs following the establish grade appeal process.

Student Appeal of Academic Penalties and/or College Sanctions

If the student denies the charge(s) and/or does not accept the academic penalty imposed by the course instructor and/or the College sanction, the student may appeal to the Campus Dean/CEO. A request for appeal with supporting evidence must be presented in writing to the Campus Dean/CEO within ten (10) working days after the student is informed by the instructor of the imposed academic penalty or within ten (10) working days after receiving the notice of a College sanction, whichever occurs later.

Disciplinary Sanctions

Upon a determination that a student or organization has violated the Student Code of General Misconduct, the following disciplinary sanctions may be imposed, either singularly or in combination:

Sanctions

If the accused is found responsible for the charge(s) against him/her, one or more of the following sanctions may be imposed upon the accused:

1. Verbal Reprimand – Such action shall be a reprimand for failure to maintain standards of conduct expected of an Helena College student. Documentation of the verbal reprimand will be maintained in the student's disciplinary file.
2. Referral – Referral to a licensed counselor or medical professional with a recommendation of counseling, assessment, and/or specified behavior modifications.
3. Written Reprimand/Disciplinary Warning – Such action shall constitute a determination that the misconduct was of a moderate nature and the student is placed in a status of warning for a specified period of time. Occurrence of any further misconduct during the stated period may constitute grounds for probation, suspension or expulsion. The

duration of the probation period will be in proportion to the degree of seriousness attached to the misconduct, as determined by the Judicial Officer.

4. Written Reprimand/Disciplinary Probation – Such action shall constitute a determination that the misconduct was of a serious nature and the student is placed in a status of probation for a specified period of time. Occurrence of any further misconduct during the stated period may constitute grounds for probation, suspension or expulsion. The duration of the probation period will be in proportion to the degree of seriousness attached to the misconduct, as determined by the Judicial Officer.
5. Disqualification – This action may be utilized to direct the loss or limitation of privileges, rights, or services which students normally enjoy on the campus or other instructional sites with regard to the use of facilities or participation in College activities. The disqualification shall be for a stated period of time in proportion to the seriousness of the offense. Failure to comply with disqualification may constitute grounds for suspension or expulsion.
6. Restitution – Such action is appropriate in any case in which the conduct has caused loss or damage to property or injury to a person or in which reparation for a particular act of misconduct may reasonably be made by payment of money or the performance of services. Restitution as a sanction may not be made a part of a disciplinary action unless the offender agrees to accept the sanction OR damage to or theft of College property is involved.
7. Interim Action - The temporary suspension or termination of a Respondent's privileges on an interim basis before a final determination. Such actions include Interim Suspensions, separation of parties, and changing of class schedules. If imposed, the student is denied access to campus, classes, and College activities and privileges until the charges are resolved. These conditions may warrant interim suspension:
 - a. To ensure the safety and well-being of College members
 - b. To ensure the student's own safety and well-being
 - c. To preserve College property
 - d. To prevent disruption or interference with normal College operations
8. Suspension – A suspension terminates the individual's status as a student for a stated period of time in proportion to the seriousness of the offense. A suspension for misconduct may not be affected until so ordered by the College Judicial Officer. Suspension shall be system-wide. A student who is suspended may not enroll at the College for the duration of the suspension.
9. Readmission - Following suspension for general misconduct, readmission to the College is dependent upon the student's compliance with the conditions designated at the time of suspension and the student's fitness to return to the campus community. These decisions are made by the Dean/CEO upon consultation with appropriate professional staff on campus and/or in the community. Appropriate documentation, depending upon the nature of the original violation and the conditions of suspension, is required. Upon readmission, the student is placed on disciplinary probation for a designated period of time with required conditions and expectations of behavior monitored by a designated campus professional(s).
10. Expulsion – Expulsion constitutes a final termination of all opportunity for the offender to continue as a student at the College. Expulsion for misconduct may not be affected until so ordered by the Dean/CEO as recommended by the Assistant Dean of Student Affairs or the Judicial Board. A student who is expelled may not enroll at the Helena College in the future.

Repeated or aggravated violation of this Code may result in more severe disciplinary sanctions than any individual action may warrant, and notification of any sanction imposed is provided to appropriate College officials. The Dean/CEO is authorized, at his or her discretion, to subsequently convert any sanction imposed to a lesser sanction, or to rescind any previous sanction, in appropriate cases. Notification of any sanction imposed is sent to appropriate college officials.

Following suspension for general misconduct, readmission to the college is dependent upon the student's compliance with the conditions designated at the time of suspension and the student's fitness to return to the college community. Those decisions are made by the Assistant Dean of Student Affairs upon consultation with the appropriate professional staff on campus and/or in the community. Appropriate documentation, depending upon the nature of the original violation and the

conditions of suspension, may be required. Upon readmission the student is placed upon disciplinary probation for a designated period of time with required conditions and expectations of behavior to be monitored by a designated college official.

Interim Action

The college reserves the right to take necessary and appropriate action to protect the safety and well-being of the college community.

1. A student may be temporarily suspended from the college by the Assistant Dean of Student Affairs pending disciplinary or criminal proceedings, upon evidence that the continued presence of the student on campus constitutes an immediate threat to the physical safety and well-being of the accused, or to any other member of the college community or its guests, destruction of property or substantial disruption of classroom or other college activities. When such a determination is made, the temporary suspension is effective immediately without prior notice. The student shall be given an opportunity to contest the suspension with the Assistant Dean of Student Affairs within five (5) instructional days from the effective date of the temporary suspension if there are disputed issues of fact or cause and effect.
2. Faculty members have the authority to exclude a student from any class session in which the student displays disruptive behavior that threatens the learning environment or safety and well-being of others in the classroom. Students are eligible to return to the next class session. Faculty members maintain the authority to remove students from each class session during which a student is disruptive. A student may be suspended permanently from a class upon recommendation of the Assistant Dean of Student Affairs following the disciplinary procedure outlined in this Code.

Disciplinary Records – If disciplinary action is taken against a student under the procedures outlined above and a sanction imposed, a record of the action will be kept by the Assistant Dean for Student Affairs for a period of 5 years. Record of nonacademic disciplinary sanctions will not, however, appear on the charged student's transcript, but a copy will be maintained in the student's disciplinary file. Only expulsion will be recorded on a student's college transcript.

Disciplinary actions are not part of the education records of the student and, consequently, are not available for public disclosure or discussion. The College will not disclose information outside the College relating to the student's nonacademic disciplinary record, except as required by law or prior written permission from the student has been received.

Sanctions of suspension and expulsion affect a student's academic status and area entered as notations in the student's permanent academic record maintained by the Registrar during such time as the imposed sanctions are in effect.

Disciplinary Procedures

The purpose of a disciplinary proceeding is to determine if a violation of the Student Code of Conduct, General Misconduct has occurred, and if so, to determine appropriate sanctions. The principle of due process in student discipline is assured at Helena College. Administrative proceedings are informal and do not follow formal rules of evidence applicable in judicial proceedings; however, the college has the burden of proof to establish a violation by clear and convincing evidence. The following procedures apply in adjudicating charges of general misconduct:

1. Whenever an allegation occurs that a student may have violated the Student Code of Conduct, General Misconduct, the Assistant Dean of Student Affairs will conduct an investigation of the incident. The student will be advised in writing of the alleged violation(s), the investigation, and General Student Code of Conduct procedures. The investigation shall determine the facts of the incident through interviews, reports, and other forms of evidence. As part of the investigation, the student will be afforded the opportunity to respond to the allegation and evidence gathered. The Assistant Dean of Student Affairs will review the evidence to determine if any violation of the Code of Conduct occurred and propose the appropriate disciplinary sanction(s). The student shall be notified in writing of the charges and sanctions and be provided the opportunity to respond through a meeting with the Assistant Dean of Student Affairs within five (5) instructional days. If the student accepts the charges by signing the notice of charges and sanctions, a copy will be provided to the student, the proceedings are concluded and the sanctions are implemented. If the student does not accept the charges and/or the sanctions, the student will be informed of the right to an administrative conference. If a student fails to respond to a notice of charges and sanctions within five (5) instructional days, the college will accept the charge(s) and impose the specified disciplinary sanction(s).
2. If a student denies charges and/or does not accept sanctions imposed as a result of the investigation conducted by the Assistant Dean of Student Affairs, the investigation, charges, and sanctions are reported in writing to the Associate Dean of Academic Affairs within five (5) days of meeting with the student. The Associate Dean shall designate a committee to review

the report to include an impartial student and faculty member. If the administrative committee determines that no violation has occurred or that the evidence is insufficient to support further action, a recommendation is sent to the Assistant Dean of Student Affairs with a copy to the student. If the committee concludes that a probable violation has occurred and that evidence supports the sanctions, the Associate Dean will convene a conference to include the student, the Assistant Dean of Student Affairs, and the review committee to inform the student of the committee's findings and provide the student with a final opportunity to respond. Written notice of the meeting will be provided informing the student of the right to be accompanied by a parent, guardian, appropriate witness, or legal counsel. The role of legal counsel at the conference is limited to consultation with the student only, and the student must notify the Associate Dean of the intent to bring legal counsel at least three (3) instructional days before the time of the conference. If the student accepts the charges by signing the notice of the conference to review charges and sanctions, a copy will be provided to the student and the Assistant Dean of Student Affairs, the proceedings are concluded and the sanctions are implemented. If the student does not accept the charges and/or the sanctions, the student will be informed of the right to appeal the decision with the Dean/CEO of the College. If a student fails to appear at the conference, the College will accept the charge(s) and impose the specified disciplinary sanction(s).

3. In the event a student denies the charges and/or does not accept the disciplinary sanctions as determined through the administrative conference, the investigation, charges and sanctions are reported in writing to the Dean/CEO within five (5) instructional days of the conference. The Dean/CEO will review the report within ten (10) instructional days and make a final determination as to the charges and sanctions. The Dean/CEO may call a meeting with the student and may amend, modify, reverse, or accept the charges and/or sanctions. Notice of the final determination will be provided by the Dean/CEO to the student with copies to the Associate Dean of Academic Affairs and the Assistant Dean of Student Affairs.
4. A student may seek further administrative review through the Office of the President, University of Montana, 32 Campus Drive, Missoula, MT 59812; the Commissioner of Higher Education, 2500 Broadway Street, PO Box 203201, Helena, MT 59620-3201; and the Board of Regents in accordance with Montana Board of Regents of Higher Education Policy 203.5.2.

Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation

The purpose of these procedures is to provide a prompt and equitable resolution for complaints or reports of discrimination based upon race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation. Any person believing that she or he have been subjected to discrimination or harassment on any of these bases may file a complaint or report with Helena College University of Montana. These procedures address all complaints or reports of alleged discrimination or harassment, including conduct that violates the Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation Policy (hereinafter referred to as "Policy Violations"). The procedures also address complaints or reports of retaliation against those who have opposed practices forbidden under the policy, those who have filed complaints or reports under the policy, and those who have testified or otherwise participated in enforcement of the policy.

State and federal laws and regulations prohibit certain kinds of discrimination in employment and in educational services. This policy is intended to comply with the following laws and regulations: Titles IV, VI, and VII of the Civil Rights Act of 1964; 34 C.F.R. pt. 100; Title IX; 28 C.F.R. pt. 54 and 34 C.F.R. pt. 106; Section 504 of the Rehabilitation Act; 34 C.F.R. pt. 104; Age Discrimination Act of 1975; 34 C.F.R. pt. 110; and Titles I and II of the Americans with Disabilities Act; 28 C.F.R. pt. 35; Montana Human Rights Act and Governmental Code of Fair Practices, Title 49, Montana Code Annotated.

In addition, this Policy is intended to comply with Title IX of the Education Amendments of 1972 and its implementing regulation, at 34 C.F.R. § 106.31 (a), which provide that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by the university.

Definitions

Discrimination is conduct that is based on an individual's' color, religion, national origin, creed, service in the federally and state defined uniform services, veteran status, sex, age, political ideas, martial or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation which excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, or participation in a Helena College program or activity. This includes failing to provide a reasonable accommodation, consistent with state and federal law, to person with disabilities.

Harassment. Behaviors or actions which may be considered harassment take many forms and may include name-calling, graphic or written statements, or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Sex-based harassment includes sexual harassment and non-sexual harassment based on stereotypical notions of what is female/feminine versus male/masculine or failure to conform to those gender stereotypes.

Sexual Harassment is unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's work or educational performance, or creates an intimidating, hostile or offensive working or learning environment. Consistent with the law, there are two types of sexual harassment:

1. **Tangible Employment or Educational Action (Quid Pro Quo)**
This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, or participation in College activity is conditioned upon either explicit or implicit submission to or rejection of unwelcomed sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, or participation in a College program or activity. Generally, perpetrators will be agents or employees with some authority of the College.
2. **Hostile Environment**
Sexual Harassment may create a hostile environment as defined in section below.

Hostile Environment Harassment A Hostile Environment based on race, color, religion, national origin, creed, service in the federally and state defined uniform services, veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation exists when harassment :

- is severe, pervasive or persistent and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the College's programs, services, opportunities, or activities; or,
- when such conduct has the purpose or effect of unreasonably interfering with an individual's employment.

Sexual Misconduct includes, inducing incapacitation for sexual purposes, sexual assault, sexual harassment, stalking, and sexual exploitation.

Sexual Assault means an actual, attempted, or threatened sexual act with another person without that person's consent. Sexual assault includes, but is not limited to:

1. Involvement in any sexual act when the victim is unable to give consent;
2. Intentional and unwelcome touching, or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast);
3. Offensive sexual behavior that is directed at another such as indecent exposure or voyeurism;
4. Forced sexual intercourse is included in this definition, as are the acts commonly referred to as "date rape" or "acquaintance rape."

Inducing incapacitation for sexual purposes includes, using drugs, alcohol, or other means with the intent to remove the ability of an individual to provide consent to sexual contact.

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses.

Consent is informed, freely given, and mutually understood. If coercion, intimidation, threats, and/or physical force are used there is no consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption, or being asleep or unconscious. Silence does not necessarily constitute consent, and past consent of sexual activities does not imply ongoing future consent.

Relationship Violence is abuse or violence between partners or former partners involving one or more of the following elements:

- Battering that causes bodily injury;

- Purposely or knowingly causing reasonable apprehension of bodily injury;
- Emotional abuse creating apprehension of bodily injury or property damage;
- Repeated telephonic, electronic, or other forms of communication, directly or anonymously, made with the intent to intimidate, terrify, harass, or threaten.

Stalking includes repeated following, harassing, threatening, or intimidating another by telephone, mail, e-mail, social media, or any other method that purposely or knowingly causes emotional distress or reasonable fear of bodily injury or death.

Retaliation is action taken by an accused individual or allied third party, toward or against such individuals who has opposed any practices forbidden under this policy or because he or she has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop sexual misconduct. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices forbidden under this policy.

Preponderance of the evidence is the greater weight of the evidence required in a civil (non-criminal) complaint to decide in favor of one side or the other. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.

Beyond reasonable doubt is a more severe test of evidence required to convict in a criminal trial.

Responsible Employee is a Helena College employee who has the duty or authority to act and assist students with a policy complaint.

Mandatory Employee Reporting of Sex-based Discrimination, Sexual Harassment and Sexual Misconduct Involving STUDENTS

In order to enable Helena College to respond effectively and to proactively stop instances of sex-based discrimination, sexual harassment and sexual misconduct at the College, all employees of Helena College are required to report information they have about such prohibited activities involving students to the Title IX Coordinator, The Assistant Dean of Student Services. Employees are not required to report victims' names if they have requested that their names be kept confidential. Upon receiving a report of sex-based discrimination, sexual harassment and/or sexual misconduct, the appropriate individual will evaluate the information received and determine what further action should be taken and will follow the procedures accompanying this policy. The appropriate individual will take steps either directly or through a reporting employee to inform a victim of available health and advocacy resources, as well as options for criminal reporting should the victim wish to pursue such a direction. Employees who are exempt from these reporting requirements include health care professionals and any other employees who are statutorily prohibited from reporting.

Safe Harbor for Drug or Alcohol Violations

Helena College strongly encourages students and employees to report instances of sexual misconduct. Therefore, students or employees who report information to the appropriate individual about sexual misconduct involving students or employees will not be sanctioned by the College for any violation of Helena College's drug or alcohol policies in which they might have engaged in connection with the reported incident.

Complaints and Reporting

Complaints of Policy violation must be made to a Responsible Employee within 120 days after the most recent incident. There are different reporting locations based on Policy Violation. If the complaint or violation involves students, the complaint should be made to the Assistant Dean of Student Affairs/CSAO, Title IX Coordinator. If the violation or complaint involves employees or third-party reports of discrimination, including Policy Violations, the complaint should be filed with the Director of Human Resources. Both staff members are trained to help you find the resources you might need to explain all reporting options and to respond appropriately to conduct of concern. All instances of retaliation should be reported and will be addressed in the same manner. The contact information for both parties is listed below.

Assistant Dean of Student Affairs/CSAO/Title IX Coordinator
Helena College University of Montana
1115 N. Roberts Street
Helena, MT 59601
406.447.6903
www.umhelen.edu/student_services/

Director of Human Resources
Helena College University of Montana
1115 N. Roberts Street
Helena, MT 59601
406.447.6925
www.umhelen.edu/hr

Complaints and reports should be made as soon as possible after an incident. The appropriate staff member coordinates and tracks all complaints and reports under this procedure.

There are several avenues available for submitting a complaint or report:

- Leave a private voice message for the appropriate staff member;
- File a complaint or report on the form contained on the website;
- Send a private email to the appropriate staff member;
- Mail a letter to the appropriate staff member;
- Visit one of the appropriate staff members (it is best to make an appointment first to ensure availability).
- Make or submit a report to a 'Responsible Employee' as identified in the Policy. This individual is required under policy to report the incident.

If there is a complaint about the Assistant Dean of Student Affairs/CSAO or the Director of Human Resources or if a staff member of Human Resources has a complaint, that complaint should be filed with the Dean/CEO of Helena College. The CEO/Dean will appoint another trained individual to take the place of the staff member for purposes of the complaint.

Criminal Reporting

Please remember that if someone is in immediate danger or needs immediate medical attention, the first place to report is 911. You may also report to the Helena Police Department (406-447-3233). Some forms of discrimination and harassment may also be crimes. For example, sexual assault, stalking and rape are crimes. Criminal reports should be made to law enforcement, even if it is uncertain whether the particular conduct is a crime. Calling local law enforcement can help you: obtain emergency and nonemergency medical care; get immediate law enforcement response for your protection; understand how to provide assistance in a situation that may escalate to more severe criminal behavior; arrange a meeting with victim advocate services; find counseling and support; initiate a criminal investigation; and answer questions about the criminal process.

Confidentiality of Complaints and Reports

Parties in these processes, including the Complainant, the individual accused of a Policy Violation ("Respondent"), and witnesses, have privacy rights and reasonable expectations of confidentiality in the investigation of matters subject to this procedure. In addition, the integrity of the process depends on ensuring reasonable expectations of confidentiality. The appropriate staff member will keep confidential the complaint, report, witness statements, and any other information provided by the Complainant, Respondent, or witnesses and will disclose this information only to the Complainant, Respondent, or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation; to law enforcement consistent with state and federal law; to other Helena College University of Montana officials as necessary for coordinating interim measures or for health, welfare, and safety reasons, and to government agencies who review the Helena College University of Montana's compliance with federal law. The investigation report and any written decision from the investigation will be disclosed only to the Complainant, Respondent, Discipline Authority¹ as necessary, and Helena College University of Montana officials as necessary to prepare for subsequent proceedings (e.g., Helena College CEO/Dean, University of Montana President and University Legal Counsel). Members of the Discrimination Grievance Committee have the same strict obligations to keep all information they learn confidential, subject to the limited exception when necessary to protect health, welfare or safety. Information about complaints and reports, absent personally identifiable information, may be reported to Helena College officials and external entities for statistical and analysis purposes pursuant to federal and state law and college policy.

Anonymous and Third Party Reporting

The appropriate staff member accepts anonymous and third-party reports of conduct alleged to violate this Policy and will follow up on such reports. The individual making the report (Reporter) is encouraged to provide as much detailed information as possible to allow the staff member to investigate and respond as appropriate. The appropriate staff member may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to conduct a meaningful and fair investigation.

In the case of employees, the Discipline Authority is the Helena College Administrator with the authority to impose sanctions in accordance with applicable employment policies, procedures and collective bargaining agreements. In the case of students, the Discipline Authority is the Dean of Students.

Disciplinary records for Discrimination and Harassment violations are maintained in the same manner as other disciplinary records under the Student Conduct Code.

Jurisdiction and Cooperation with Law Enforcement Agencies

Generally, the jurisdiction of the Code is limited to student conduct occurring on property owned, leased, or otherwise controlled by the college. In exceptional circumstances, jurisdiction may be asserted off-campus when conduct impairs, interferes with, or obstructs college activities or the mission and functions of the institution, or poses a substantial threat to the health and safety of the campus community. As members of the larger community of which the college is a part, students are subject to all national, state and local laws and ordinances. While the laws of the larger community and the Student Code of Conduct may overlap, they operate independently and do not substitute for each other. If a student's violation of such laws or ordinances also adversely affects the institution's pursuit of its educational objectives, the college may enforce its own regulations, regardless of any legal proceedings either pending or underway by other authorities. Conversely, violation of any section of these regulations may subject a student to disciplinary measures by the institution, whether or not such conduct is simultaneously a violation of local, state, or national laws. Further, the college makes no attempt to shield members of the campus community from the law, nor does it automatically intervene in legal proceedings against members of the campus community. The college will cooperate with law enforcement agencies, courts, and any other agencies in programs for rehabilitation of students.

The full policy and a flow chart of the complaint process for Discrimination, Harassment, Sexual Misconduct, Stalking and Retaliation (Helena College Policy 100.3) may be found at

http://www.umhelena.edu/campus_facilities/policiesprocedures/default.aspx.

Student Complaint Procedures

A complaint is any expression of dissatisfaction with the performance of a college employee or procedure. Any student who has a concern about the actions of a particular staff or faculty member or student or with a college procedure has the right to have his or her complaint heard in a logical and orderly manner. Helena College emphasizes the importance of direct, courteous and respectful communication to informally resolve student concerns and complaints. The college has identified specific procedures for various types of complaints as outlined on the following pages.

Students are advised to consult with the Assistant Dean of Student Affairs for advice in proceeding with a complaint. The Assistant Dean of Student Affairs may act as an advocate who will assist the student in the completion of the appropriate complaint procedure. A student may waive the right to an advocate.

Time Limits for Filing Complaints

The appropriate administrative officer may suspend or extend the time limits specified in the various steps of the General Complaint procedure under exceptional circumstances such as extended illness, sabbatical leave, or the absence of one or both parties to the complaint. In the event that a formal complaint is suspended or the timeframe for resolution is extended, the administrator will notify both parties to the complaint in writing. If the complaint involves a discrimination issue, the time limits in the appropriate policy or regulation shall apply.

When either party of the complaint is no longer at the College and does not expect to return, the appropriate administrator shall give reasonable opportunity for either party to respond before making a decision to dismiss or provide resolution to the complaint as necessary.

Complaint Procedures

The college has established procedures for each of the following types of complaints:

General Complaint Procedure

When there is good cause to believe a student has a complaint and a satisfactory resolution cannot be obtained through direct communication with the staff or faculty member, the following procedure should be utilized:

Step One: If no satisfactory resolution is reached through discussion with the faculty or staff member against whom the complaint exists, or if the student determines that the complaint may be resolved more appropriately without the faculty or staff member involved, the student should attempt to resolve the complaint through a meeting with the appropriate academic division chair or immediate supervisor. This meeting must occur within five (5) instructional days of the attempt to directly resolve the complaint informally or the situation or circumstance that gave rise to the complaint if the student determines the complaint may be resolved more appropriately without the faculty or staff member involved.

Step Two: If a satisfactory resolution cannot be obtained through the Step 1 meeting, a student may proceed with a formal written complaint. The student shall outline in writing the complaint, identifying dates and persons involved, why previous attempts at informal resolution failed, and the desired resolution to the complaint. The written complaint must be submitted to five (5) instructional days of the Step 1 meeting. When the formal complaint is received it shall be forwarded by the appropriate senior administrator (academic, Student Affairs, fiscal & plant) to the faculty or staff member and other appropriate parties concerned for a written response within ten (10) instructional days. The appropriate senior administrator shall keep all written documentation associated with the complaint as a record of the proceedings. The senior administrator shall inform the student of the nature of the written response from the parties. If the written response fails to resolve the complaint to the satisfaction of the student, the appropriate senior administrator (academics, Student Affairs, fiscal & plant) will convene a conference of all the parties to the complaint within ten (10) instructional days for the purpose of bringing the complaint to resolution.

Step Three: In the event the administrative conference fails to resolve the complaint, the written complaint, along with any records of proceedings, and a recommendation for resolution will be provided to the Dean/CEO for a final resolution within ten (10) instructional days. The Dean/CEO will review the complaint and may amend, modify, reverse or accept the recommendation, advising all affected parties of the final resolution to be implemented.

If a student is not satisfied with the resolution implemented by the Dean/CEO, the student may address his or her complaint in writing to the Office of the President, University of Montana, 32 Campus Drive, Missoula, MT 59812, and the Commissioner of Higher Education, 2500 Broadway Street, PO Box 203201, Helena, MT 59620-3201, in accordance with Montana Board of Regents of Higher Education 203.5.2.

A complaint against a faculty or staff member shall not result in the forfeiture of said faculty or staff member's rights as protected under the Collective Bargaining Agreement between the Helena Teacher's Union, MEA-MFT, NEA, AFT, AFL-CIO and the Montana Board of Regents of Higher Education or the Montana Public Employees Association and the Montana University System.

Final Course Grade Appeal

Every student has the right to appeal the final grade in a course, in accordance with the stipulations outlined below. Such an appeal must be initiated by the student or the student's agent/representative, who has been identified in writing, no later than commencement of subsequent semester. Spring grades will normally be appealed in the following fall semester. The initiating student should begin with the INFORMAL process outlined in Section A, and may then pursue the FORMAL process in Section B if satisfaction is not obtained informally. Once a formal appeal has been initiated, the process will conclude within two weeks whenever possible.

SECTION A

Preliminary Procedure:

Student initiated INFORMAL Process

1. Discuss the matter with his/her instructor. Clerical errors are usually handled in this manner, with the instructor signing the correction of official records. If the student believes the problem is not resolved, the student shall then;
2. Visit with the division chair who supervises faculty teaching the course to discuss the issue. If the concern still remains unresolved, the student may;
3. Elect to file a formal written Grade Appeal with the Associate Dean of Academics. The Associate Dean records the official filing of the appeal and then refers it to the Peer Review Committee. A formal Grade Appeal may not be filed until steps 1 and 2 above have been completed. It is recommended that students present documentation that may shed light on the appeal.

SECTION B FORMAL PROCESS

Conditions under which grade may be appealed:

1. If there is a dispute over the numerical calculation of the grade OR
2. If the grade assigned appears arbitrary or capricious or inconsistent with syllabus assessment/grading policy.

Faculty Peer Review Committee

Upon receipt of a student's written Grade Appeal, the Associate Dean of Academics shall then convene a hearing of the Peer Review Committee. The committee will be formed ad hoc and consist of:

1. A division chairperson from OUTSIDE of the division where the course is offered. This chairperson is nonvoting and serves only to facilitate the process.
2. Four faculty members who shall be selected by the Associate Dean of Academics, with two from the Airport Campus and two from the Donaldson Campus.
3. The student who has filed the appeal must be in attendance or else waive his/her right to attend the meeting in writing prior to its being scheduled.
4. The involved faculty member may attend or send written comments at her/his discretion.
5. The institutional Registrar may be invited to provide information or as a committee resource.

The purpose of the Peer Review Committee is to determine whether or not the grade should be changed. If the Peer Review Committee finds that the grade assigned was miscalculated, or appears arbitrary or capricious or inconsistent with syllabus assessment/grading policy, the Committee shall make a recommendation as to the appropriate grade to the Associate Dean of Academics who will have final decision authority.

Assignment Grade Dispute

Every student has the right to appeal a grade while the course is in progress, in accordance with the stipulations outlined below. Such an appeal must be initiated by the student no later than TEN working days after the assignment grade in question is delivered or posted. It is important to note there is NO FORMAL PROCESS for appealing a grade while the course is in progress.

SECTION A Student initiated – INFORMAL Process

1. Discuss the matter with his/her instructor. Clerical errors are usually handled in this manner, with the instructor signing the correction of official records. If the student believes the problem is not resolved, the student shall then;
2. Visit with the division chair who supervises faculty teaching the course to discuss the issue. If the concern still remains unresolved, the student must wait to;
3. File a formal written Grade Appeal with the Associate Dean of Academics according to the process outlined above AFTER the final grade for the course has been posted. It is recommended that students present documentation that may shed light on the appeal.

Access to Personal Records

The Family Educational Rights and Privacy Act of 1974 (FERPA) affords students certain rights with respect to their educational records as detailed under the College Policies section in this handbook. This includes the right to file a complaint with the U.S. Department of Education with regard to any alleged failures of the College to comply with the requirements of the Act. A student may submit a written complaint with regard to an alleged violation of the Act to the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Financial Aid

Specific rules, regulations and eligibility requirements for obtaining and maintaining federal and state financial aid can be obtained from the Financial Aid Office as well as online at www.umhelena.edu. A summary can also be found in the academic catalog. Any complaint related specifically to these rules, regulations and eligibility requirements should be submitted in writing to the Director of Financial Aid located in Enrollment Services at the Donaldson Campus.

If students are unable to resolve a dispute with their lender or loan servicer, they may also contact the Federal Ombudsman in writing at U.S. Department of Education FSA Ombudsman, 830 First Street N.E., Washington, D.C. 20202-5144, by email at fsaombudsmanoffice@ed.gov, or by telephone (toll free) at 1.877.557.2575.

Student Code of Conduct Complaints

Helena College expects all students to conduct themselves in a law-abiding manner at all times, and to respect the rights of other students, staff, faculty, and the public to use and participate in the college's facilities and programs. Any conduct that

violates the personal, educational or property rights of others is prohibited and may be subject to disciplinary sanction as outlined in the Student Code of Conduct.

If a student, staff, or faculty member has reason to believe a student has violated the Student Code of Conduct, a complaint may be initiated. A formal written complaint may be submitted to the Assistant Dean of Student Affairs. The written complaint must contain at a minimum the name of the student alleged to have violated the Student Code of Conduct, the date and location of the violation, and a description of the incident which provides sufficient detail to establish that a possible conduct violation occurred. The Assistant Dean of Student Affairs will complete an investigation to determine if the alleged violation occurred and what, if any, sanctions may be imposed according to the disciplinary procedure outlined in the Student Code of Conduct.