

SECTION V: CODE OF CONDUCT

TABLE OF CONTENTS

Introduction

Learning Outcomes

Application of the Code of Conduct

Discrimination, Sexual Harassment, and Sexual Violence

Overview of Code of Conduct Disciplinary Process

Definitions

Disciplinary Offenses

Discipline for Disruptive Conduct

Discipline for Academic Dishonesty

Off Campus Behavior

Interim Measures

Code of Conduct Disciplinary Process

1. Disciplinary Process
2. Judicial Board Hearing
3. Conduct of Hearing
4. Sanctions
5. Appeal

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INTRODUCTION

MassBay Community College recognizes that all students, as members of the college community, enjoy the freedom of speech and assembly, freedom of association, freedom of the press, right of petition and the right of due process. These rights do not come without responsibilities and respect for others in the College community. Attendance at the College is a privilege and not a right, and enrollment carries with it obligations in regard to conduct, both in and out of class. Students are responsible for knowing and understanding the contents of this Code. Students are responsible for abiding by the laws governing the College and are expected to observe standards of conduct set by the College.

LEARNING OUTCOMES

The College expects its students to act in a mature and responsible manner. Respect for the rights of others, openness to new and challenging ideas, civility and courtesy are examples of this expectation. The Code of Conduct process is intended to be an educational process that supports the mission of the College. This policy is therefore intended to promote personal responsibility, integrity and ethical decision making. Students who participate in this process should achieve the following learning outcomes:

- Understand how the Code supports the goals and mission of the College;
 - Understand the possible impact of their choices on their academic and personal success;
 - Accept personal responsibility for the choices and decisions made and the impact of their behavior on the College community;
 - Reflect on their ethical obligations as a student in the College community;
 - Recognize the value of the student conduct process as an educational opportunity; and
 - Identify ways to address their behavior so it does not negatively impact their educational goals or the community in the future.
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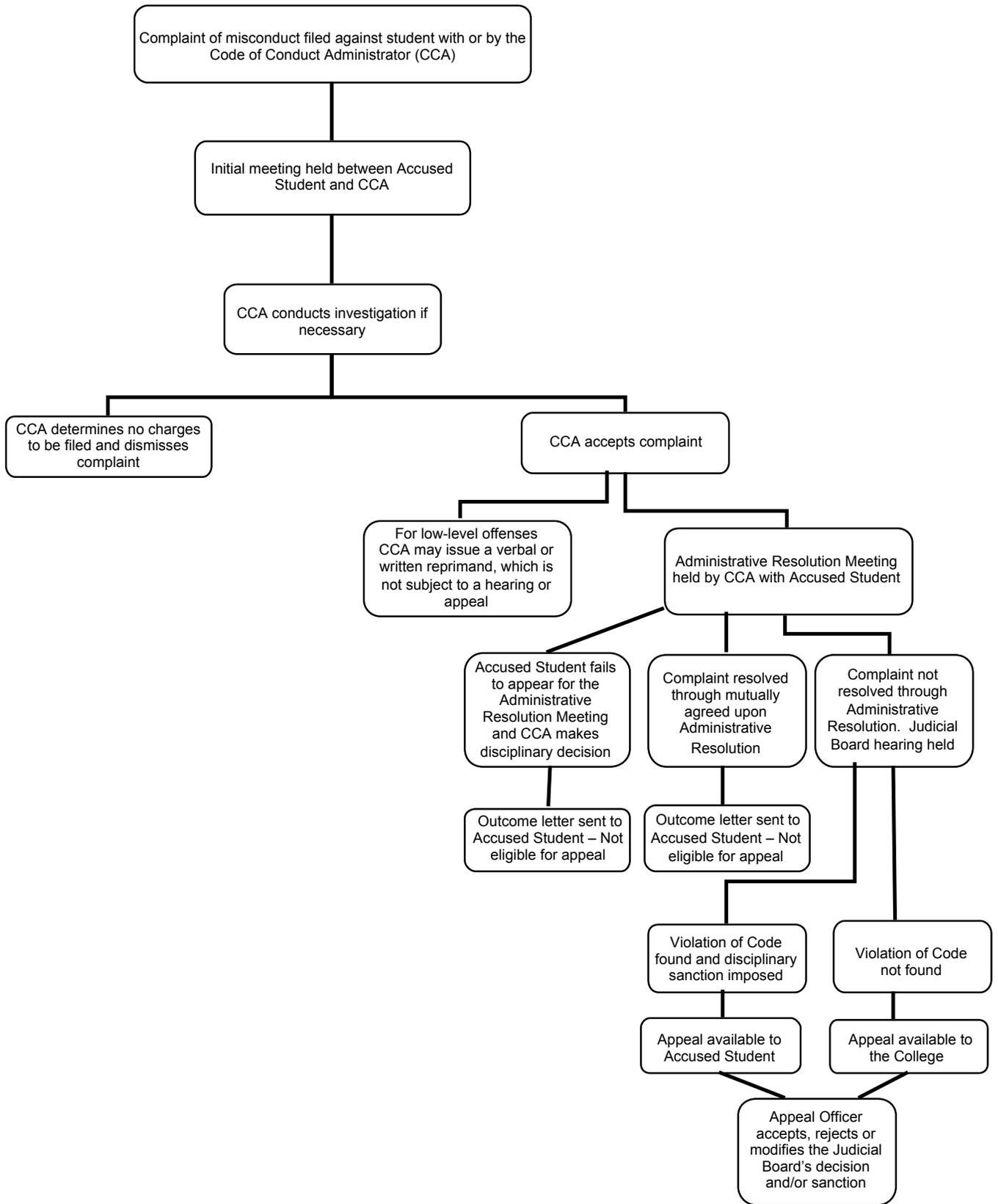
APPLICATION OF THE CODE OF CONDUCT

The Code of Conduct shall be used to address student disciplinary offenses as referenced in this policy. The Code of Conduct applies to student conduct, which occurs at the College, in any of its facilities, on any of its grounds or at any College related activity regardless of location. Under certain circumstances, the Code may also apply to off-campus conduct. Each student shall be responsible for his/her conduct from the time of admission through the actual awarding of a degree, before classes begin and after classes end, and during periods between terms of actual enrollment. The Code of Conduct shall apply to a student's conduct even if the student withdraws from the College while a discipline matter is pending.

DISCRIMINATION, SEXUAL HARASSMENT, AND SEXUAL VIOLENCE

The Code of Conduct shall not be used to address complaints of discrimination, sexual harassment and sexual violence, including Title IX offenses, such as rape, sexual assault, domestic and dating violence and stalking. Those complaints shall be investigated according to the College's Policy on Affirmative Action, Equal Opportunity and Diversity by the College's Director of Equity Compliance.

OVERVIEW OF CODE OF CONDUCT DISCIPLINARY PROCESS



DEFINITIONS

Accused Student – The student who is alleged to have violated the Student Code of Conduct.

Administrative Resolution – A resolution of a complaint, which is mutually agreed upon by the CCA and the Accused Student. An Administrative Resolution shall be put in writing by the CCA, signed by the CCA and the Accused Student and maintained in a student's disciplinary file. An Administrative Resolution shall result in an Accused Student waiving his/her right to a Judicial Board hearing or Appeal.

Appeals Officer – The College's senior administrator responsible for student affairs or designee.

Code of Conduct Administrator (CCA) – The College official charged with the responsibility of administering the College's Student Code of Conduct. A member of the Massachusetts Community College Council (MCCC) shall not be selected to serve as the CCA.

College Property – Includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College, including adjacent streets and sidewalks.

Complaint – An allegation of a violation of the Code of Conduct, which is filed with or by the CCA.

Day – Shall mean a calendar day. The number of days indicated at each level shall be considered as a maximum. All reasonable efforts shall be made to expedite the process, but the CCA may extend the time limits at his/her discretion with notice to both parties in writing, including for inclement weather and/or College closures.

Judicial Board – Members of the College community selected by the CCA to conduct a hearing when it has been determined by the CCA that a violation of the Student Code of Conduct may have occurred. Members of the Judicial Board shall act in a fair and impartial manner.

Preponderance of Evidence – The evidentiary standard used in resolving a complaint filed under this Code's Disciplinary Process. The standard is met if the proposition is more likely to be true than not true (i.e.; more probable than not). Effectively, the standard is satisfied if there is greater than 50 percent chance that the proposition is true.

Sanctions – Disciplinary sanctions under this policy shall include, but are not limited to:

- i. **Verbal Reprimand** – The lightest form of disciplinary action. A verbal warning may be documented in writing.
- ii. **Written Reprimand** – An official written notice to a student that his/her conduct is in violation of College rules or regulations and will not be tolerated.
- iii. **Restrictions/Loss of Privileges** – Restriction or loss of privileges as a student for a specified period of time, including but not limited to: attending College classes, events and/or activities; accessing College property or specifically designated areas; or participating in College organizations.
- iv. **Community Service** – A student may be required to perform community service as a condition of attendance at the College.
- v. **Educational Sanction** – A student may be assigned an educational sanction, including but not limited to: preparing a reflection paper or apology letter, developing and presenting an educational seminar, participating in training programs, meeting with academic counselors, and/or researching and proposing alternative educational sanctions.
- vi. **Restitution** – The assessment of financial charges or other forms of recompense for any damage or loss incurred by the College or any members of the College community.

- vii. **Probation** – A student’s status at the College is in jeopardy due to one or more violations of the Code of Conduct. Probation is a more severe sanction than a reprimand. For the duration of a stated probationary period, a student must comply with College rules and regulations or other stipulated conditions or requirements. Unless expressly authorized by the CCA, a student on probation may not represent the College in any context, run for or hold office in any student organizations or participate in intercollegiate athletic teams, intramural programs, or any student clubs or organizations.
- viii. **Suspension** – Temporary removal from the College or a program, without financial reimbursement, for a specified period of time. A suspended student may not enter College property and loses all privileges to participate in any College activities.
- xi. **Expulsion** – Permanent separation from the College or a program without financial reimbursement. An expelled student may not be readmitted to the College or a program and a notation of expulsion from the College may be placed on the student’s official College transcript.

Student – Includes all persons enrolled in courses at the College, both full-time and part-time, credit and non-credit. Persons who are not officially enrolled for a particular term but who have a continuing academic relationship with the College are considered “students.”

DISCIPLINARY OFFENSES

A student shall be subject to disciplinary action under this policy for engaging in acts including, but not limited to:

1. Physical violence and/or threats of physical violence;
2. Any conduct that threatens and/or endangers the health or safety of any person;
3. Creating or false reporting of bombs or other dangerous devices;
4. Extortion - The use, or the express or implicit threat of the use, of violence or other criminal means to cause harm to person, reputation, or property as a means to obtain property from someone else without his/her consent;
5. Unauthorized use of fire alarm or fire equipment;
6. Unauthorized or illegal gambling;
7. Hate crimes as defined under state or federal law;
8. Hazing as defined under state or federal law;
9. Illegal or unauthorized possession of firearms, explosives, other weapons, or dangerous chemicals on College premises;
10. Conduct resulting in a violation of the College’s Computer/Technology Acceptable Use policies, Email and Social Media policies and/or related Information Technology Resource policies;
11. Failure to comply with the directions of a College official or law enforcement officer acting in the performance of their duties, including failure to identify oneself when requested to do so;
12. Use, possession, manufacturing, or distribution of alcoholic beverages, or controlled substances, including marijuana, heroin or narcotics except as expressly permitted by law. Public intoxication is prohibited;
13. Smoking any tobacco product or use of e-cigarettes, vaporizers or inhalers in violation of state law, including in any public buildings, and in any areas prohibited under College policy;
14. Breach of peace; including disorderly, lewd, or indecent conduct, or aiding, abetting, or procuring another person to breach the peace on College premises or at functions

- sponsored by, or participated in, by the College;
15. Defacement or destruction of College or personal property;
 16. Attempted or actual theft of College or personal property;
 17. Acting on or off-campus in a manner that substantially interferes with or disrupts the normal and/or safe operation of the College, including but not limited to disrupting or interfering in the educational process, including teaching, advising, research, administration, disciplinary proceedings, public service or other College activities or functions;
 18. Verbal or physical harassment or intimidation;
 19. Any unauthorized use of electronic or other devices to make an audio or video recording of any person(s) while on College premises or participating in a College-related activity without the person's prior knowledge or without the person's effective consent due to intoxication, drug use, mental impairment or other conditions that may impair a person's ability to convey effective consent. This includes, but is not limited to, surreptitiously taking pictures of another person in a locker room or restroom;
 20. Acts of dishonesty, including but not limited to the following:
 - Forgery, alteration, or misuse of any College document, record, or instrument of identification;
 - Furnishing false information to any College official, faculty member or office; or
 - Disrupting or tampering with the election of any College recognized student organization.
 21. Acts of academic dishonesty, including but not limited to the following:
 - Use of any unauthorized assistance in taking quizzes, tests, or examinations;
 - Dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments;
 - The acquisition, without permission, of tests or other academic material belonging to a member of the College faculty or staff; or
 - Plagiarism, which is defined as the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgement. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials. Taking credit for work done by another person or doing work for which another person will receive credit. Copying or purchasing other's work or arranging for others to do work under a false name.
 22. Abuse of the Disciplinary process, including but not limited to:
 - Falsification, distortion, or misrepresentation of information during the judicial process;
 - Disruption or interference with the orderly conduct of the judicial process;
 - Attempting to discourage an individual's participation in, or use of, the judicial process;
 - Attempting to influence the decision of a member of a Judicial Board prior to, and/or during the course of, the judicial proceeding;
 - Harassment (verbal or physical) and/or intimidation of a member of a Judicial Board, College official, party to a complaint or witness participating in the judicial process;
 - Failure to comply with the sanction(s) imposed under the Code of Conduct;
 - Influencing or attempting to influence another person to commit an abuse of the judicial process; or

- Knowingly filing a false complaint under the Code of Conduct.
 - 23. Unauthorized possession, duplication, or use of keys to any College premises or unauthorized entry to or use of College premises;
 - 24. Unauthorized solicitation, including but not limited to sale of goods and services for personal profit;
 - 25. Unauthorized activity that constitutes forgery;
 - 26. Violation of state or federal laws not otherwise enumerated herein;
 - 27. Violation of any College policies, rules, or regulations published in written copy or available electronically on the College's website.
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DISCIPLINE FOR DISRUPTIVE CONDUCT

Disrupting or interfering in the educational process in a class (or clinical site), is prohibited under this policy. If a student engages in disruptive conduct a faculty member or other College employee may address and resolve the matter informally without filing a complaint under the Code, including temporarily removing the disruptive student from a class (or clinical site). On the first occasion when a student is removed, the faculty member or other College employee is strongly encouraged to notify the CCA. In all subsequent cases of removing the same student from a class (or clinical site), the faculty member or other College employee shall notify the CCA. A faculty member or other College employee may seek assistance from Public Safety if necessary to remove a student. A student may not be permanently removed from a class (or clinical site) for a conduct-related offense except upon referral to the CCA of a complaint for administration under this policy. The CCA can exercise his/her discretion to allow the accused student to attend class (or clinical site) during the disciplinary process upon consultation with the faculty member and the Chief Academic Officer or his/her designee.

DISCIPLINE FOR ACADEMIC DISHONESTY

This policy recognizes the right of faculty to manage their class, including addressing directly with students' issues of academic dishonesty. When academic dishonesty is suspected, a faculty member may choose to issue a failing grade. If the student believes that there is substantial evidence of error or injustice associated with that grade, the student may file a grievance under the Student Grievance Procedure's Grade Appeal Process. Alternatively, a faculty member may choose not to issue a grade, but rather refer the matter directly to the CCA for administration under this policy. However, where the issuance of a failing grade by a faculty member for academic dishonesty will result in a student's dismissal from a program (for example in nursing and other health care programs), the charge of academic dishonesty shall be directly referred to the CCA for administration under this policy, which shall be completed, where practicable, within thirty (30) days.

OFF CAMPUS BEHAVIOR

The College reserves the right to take disciplinary action against a student for off-campus conduct when such conduct adversely affects the College community, poses a threat of harm to the College community; interferes with the College's pursuit of its objectives and mission, and/or if a student is charged with violating state or federal law. Proceedings under this Student Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

INTERIM MEASURES

Under certain circumstances during the Code of Conduct process interim measures may be imposed by the CCA including, but not limited to: no-contact orders, restriction/loss of privileges or interim

suspension. The College reserves the right to issue an interim suspension when it reasonably concludes that a student:

- Poses a threat to others;
- Poses a threat to College property or equipment;
- Substantially disrupts or interferes with the normal operations of the College;
- Engages in off-campus conduct that adversely affects the College community; and/or
- Is charged with a crime in violation of state or federal law.

During an interim suspension, a student is prohibited from entering upon any College property and participating in any College activities.

CODE OF CONDUCT DISCIPLINARY PROCESS

The Disciplinary Process is initiated once a complaint is filed against a student by a member of the College community or by the CCA. This policy is not intended to prevent members of the College community from attempting to resolve matters informally. Failure to cooperate with the College's investigation of an alleged Code of Conduct violation, including failing to appear for an Administrative Resolution meeting or a Judicial Board Hearing will result in discipline of the Accused Student by the CCA and a forfeiture of his/her rights to a hearing or appeal.

1) DISCIPLINARY PROCESS

- All complaints under the Code of Conduct shall be filed with or by the CCA.
 - When the CCA files or receives a complaint alleging that a student has acted in a manner which may be in violation of the Code, the CCA initiates the disciplinary process by meeting with the Accused Student, putting him/her on notice of the alleged violation and providing him/her an opportunity to respond to the allegations. The CCA may conduct further investigation if necessary. Under certain circumstances during the Code of Conduct process interim measures may be imposed by the CCA including, but not limited to: no-contact orders, restriction/loss of privileges, or interim suspension, in a manner consistent with this Code.
 - If the CCA determines that a violation exists, three procedural options are available.
 - 1. Verbal or Written Reprimand** - For low-level offenses, the CCA may issue a verbal or written reprimand to the Accused Student. Reprimands shall not be subject to a hearing before a Judicial Board or an appeal.
 - 2. Administrative Resolution** - An Administrative Resolution is reached only upon the mutual agreement of the CCA and the Accused Student. By accepting an Administrative Resolution, the Accused Student waives his/her right to a hearing before the Judicial Board or an appeal. If the CCA and the Accused Student cannot agree on an Administrative Resolution the matter proceeds to a Judicial Board hearing. Failure by the Accused Student to appear for an Administrative Resolution meeting with the CCA will result in discipline of the Accused Student by the CCA and a forfeiture of his/her rights to a hearing or appeal.
 - 3. Judicial Board Hearing** - When an Administrative Resolution cannot be reached, the CCA shall refer the alleged violation to a Judicial Board for a hearing. Please see Section 2 below for Judicial Board Hearing rules.
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2) JUDICIAL BOARD HEARING

- A hearing with the Judicial Board shall be scheduled by the CCA not later than thirty (30) days following an Accused Student's request for a hearing. If no hearing is requested, the hearing shall be scheduled by the CCA no later than thirty (30) days from the date of the Administrative Resolution meeting;

- A written Statement of Charges shall be presented to the Accused Student not less than five (5) days prior to the hearing;
- A Judicial Board hearing is an administrative hearing. The rules of evidence do not apply;
- In a matter involving more than one Accused Student, the Judicial Board may permit at its discretion individual hearings for each Accused Student;
- The Accused Student has the right to be accompanied by any advisor of his/her own choosing and at his/her own expense. The advisor may be another student, faculty member, administrator or an attorney. The advisor may not otherwise be involved in the proceedings. An advisor's role is limited to advising the Accused Student directly and discretely. An advisor is not permitted to participate directly in the hearing.

3) CONDUCT OF HEARING

- A hearing is normally conducted in private;
- There shall be a record created of all hearings. The record shall be the property of the College;
- All procedural questions are subject to the final decision of the Judicial Board;
- Admission of any person(s) to the hearing shall be at the discretion of the Judicial Board;
- A hearing shall proceed as follows:
 - The CCA presents the Statement of Charges on behalf of the College. The CCA may present documents, materials and/or witnesses in support of the Statement of Charges;
 - Accused Student responds to the Statement of Charges. The student may present documents, materials and/or witnesses in response to the Statement of Charges;
 - Following the parties' presentations, the Judicial Board may question each party, their witnesses and/or review all information presented. The Judicial Board has the discretion to request additional documents, materials or information from either party;
 - While direct cross-examination by the parties is not permitted, each party will be given the opportunity to question the other by presenting questions through the Judicial Board. If the Judicial Board determines a question is relevant, the other party will be asked to respond;
 - The Judicial Board shall have a final opportunity to question the parties.
- After the hearing, the Judicial Board shall determine by majority vote whether the Statement of Charges has been proven;
- A Judicial Board's decision shall be based on a preponderance of evidence standard. Within fifteen (15) days of the conclusion of a hearing, the Judicial Board shall issue a written decision outlining its findings and disciplinary action, if any, to the parties.

4) SANCTIONS

A student found in violation of the College's Code of Conduct shall be subject to sanctions (refer to pg. 58-59 for definitions), including but not limited to:

- Verbal or Written Reprimand;
- Restrictions/Loss of Privileges;
- Community Service;
- Educational Sanction;
- Restitution;
- Probation;
- Suspension;
- Expulsion.

A student who violates the Code of Conduct while serving any of the above sanctions shall be subject to further discipline, up to and including expulsion. The intent of the College is to impose sanctions in a progressive manner, beginning with the least punitive sanction. However, depending on factors, such as

the nature and severity of a student's violation and/or prior disciplinary history, the College reserves the right to impose any of the above-referenced sanctions at any time.

5) APPEAL

- Within five (5) days of receiving the Judicial Board's decision, either the CCA or the Accused Student may appeal the Judicial Board's decision to the College's Appeals Officer;
- An appeal must be in writing and be based on a credible claim that: the hearing was not conducted in conformity with the Code of Conduct; the decision was not supported by a preponderance of the evidence presented; the sanction imposed was not appropriate in light of the Judicial Board's decision; or new evidence exists, which was not presented at hearing because it was not reasonably known to the Accused Student at that time, and which is sufficiently relevant such that it could alter the Judicial Board's decision;
- The Appeals Officer shall issue a written decision within ten (10) days of receiving the appeal;
- The Appeals Officer may accept, reject or modify the Judicial Board's decision or sanction;
- The Appeals Officer's decision shall be final.

SECTION VI: STUDENT RIGHTS AND GRIEVANCE PROCEDURE

MassBay is committed to providing a collegiate atmosphere that allows individual freedom, rights and privileges to coexist with reasonable order. The College recognizes and will strive to protect the right of all students, faculty, administrators and staff members to be treated with respect, courtesy and fairness. The information that follows applies to all MassBay students. Separate documents outline the community responsibilities related to faculty, staff and administrators. Effective July 1, 2001, all rights, responsibilities and procedures included in this section will be considered to be in effect. The College reserves the right to amend the policies and procedures relating to “Student Rights and Responsibilities” at any time giving reasonable notice of the changes.

STUDENT RIGHTS

Your basic rights as a MassBay student are outlined below. These rights were established by the College to help in your academic and personal development. When exercising these rights, you must do so in accordance with local, state and Federal laws, the rules and regulations of MassBay, and the Code of Student Conduct.

1. The Right to Individual Expression- Students have the right to express their ideas, thoughts, and opinions without fear of censure or retribution.
2. The Right to Governance and Participation- Students have the right to establish representative governmental bodies and to participate in College governance in accordance with the rules and regulations of MassBay.
3. The Right to Collective Expression- Students have the right to assemble in order to express themselves. This right extends to the press and broadcast media.
4. The Right to Academic Pursuit- Enrolled students have the right to an environment conducive to the pursuit of academic requirements and interests, and reasonable access to, and support of, faculty and staff.
5. The Right to Non-Discrimination- Students have the right to not be discriminated against by any agent, organization, or member of the MassBay community for reasons of age, ethnicity, national origin, gender, marital status, disability, race, religion, political/social affiliation, or sexual orientation.
6. The Right to Exercise Beliefs- Students have the right to state and exercise their beliefs (including but not limited to religious, political and social beliefs) and to associate with or create organizations in accordance with these beliefs.
7. The Right to a Safe Environment- Students have the right to an environment in which the College takes reasonable measures to offer students protection from foreseeable danger.
8. The Right to Privacy- Students have the right to reasonable privacy in their academic, co-curricular, and personal lives.
9. The Right to Confidentiality- Students have the right to access and control access to their educational records as provided in the federal Family Educational Rights and Privacy Act (FERPA) of 1974, also known as the Buckley Amendment. This includes the right to review and challenge the content of educational records, to control disclosure of personal and academic information to third parties, and to limit the routine disclosure of all or some information defined as “directory information” by the College’s FERPA Notification of Rights Policy. This policy can be found in the College Catalog and the Student Handbook.
10. The Right of Access to College Documents- Students have the right to view and/or obtain any public College documents.

11. The Right to Fair Practice in Disciplinary Matters- Students have the right to a fair process to address all alleged violations of the Code of Student Conduct. MassBay's judicial process follows procedures of "Fair Practice" as defined in the Code of Student Conduct. Fair Practice includes an initial interview with the person bringing the complaint to determine if judicial action is warranted and if so, an interview with the student responding to the complaint, written notification of the alleged violation of the Code of Student Conduct, an Administrative Disposition or College Judicial Board Hearing, and the right of appeal.
12. The Right to Utilize a Grievance Procedure- Students have the right to a fair process to address alleged violations of their rights.

STUDENT GRIEVANCE PROCEDURE

Policy Goal: Conflict Resolution

Before invoking the Student Grievance Procedure, a reasonable effort shall be made by those involved in a dispute to resolve it amicably. A dispute is most effectively handled and resolved by those closest to the problem, having the best understanding of the issues, and having the ability to formulate a mutually acceptable resolution. Therefore, it is in the best interest of the student, the potential subject of a Grievance, and the College to resolve disputes through open and cooperative dialogue. Only when such efforts are unsuccessful should the Student Grievance Procedure be invoked. Throughout all phases of the Student Grievance Procedure, all reasonable efforts shall be made to maintain confidentiality in accordance with applicable law.

DEFINITIONS

Complaint - The informal, unwritten stage of an allegation of mistreatment.

Day - As used in this policy, shall mean a calendar day.

Grievance - A written grievance filed by a student with the person designated by the President as the Student Grievance Officer specifically alleging an abridgment of his or her rights as a student.

Grievant - the student filing the Grievance. The Grievant must have been a registered student of the College at the time of the alleged mistreatment.

Instructional Period - The academic semester, summer session or intersession when a grievable act or omission occurs. The Instructional Period shall end on the last day of final exams.

Responding Party - The person against whom a complaint or Grievance is directed.

Senior Officer - Senior level employee who reports to the President for the Responding Party's work area.

Student Grievance Officer - A College employee assigned responsibility for administering the Student Grievance Procedure, including the maintenance of specified records. The Student Grievance Officer shall ordinarily be the Senior Student Affairs Officer. If this individual is the person against whom the Grievance is filed, the President shall designate another College official to act as the Student Grievance Officer.

Substantial Evidence of Error or Injustice - For purpose of Grade Appeals, substantial evidence of error or injustice is defined as:

- The assignment of a course grade to a student on some basis other than performance in the course; or
- The assignment of a course grade to a student by resorting to unreasonable standards different from

- those which were applied by the same instructor to other students in that course; or
- The assignment of a course grade by a substantial, unreasonable and unannounced departure from the instructor’s previously articulated standards.

Time - The number of days indicated at each level shall be considered as a maximum. All reasonable efforts shall be made to expedite the process, but the President or his/her designee may extend the time limits in extenuating circumstances with notice to both parties in writing, or by mutual written agreement between the Grievant and the Responding Party.

UTILIZING THE STUDENT GRIEVANCE PROCEDURE

The Student Grievance Procedure may be used by a student to address alleged abridgment of the student’s rights, as stated in the College’s Student Handbook and/or Policy Guide. The student Grievant or the Responding Party may consult with the Student Grievance Officer at any time. The College’s Student Grievance Officer is the Dean of Students, or his/her designee.

The Student Grievance Procedure may not be used to address allegations of discrimination, including sexual harassment. When a student believes that he/she has been discriminated against due to his/her race, creed, religion, color, sex, sexual orientation, gender identity, age, disability, veteran status, genetic information or national origin, the College’s Affirmative Action Grievance Procedure is a mechanism for resolution. The College’s Affirmative Action Grievance Procedure is contained in the College’s Affirmative Action Plan.

If a Grievance involves a grade dispute, a student shall process the Grievance in accordance with the Student Grievance Procedure. However, if a grade dispute raises issues of discrimination or sexual harassment, the Grievance should be processed in accordance with the Director of Equity Compliance.

Claims of physical or sexual assault shall not proceed under the Student Grievance Procedure. A claim of physical assault alleged against a student shall be reported to the Code of Conduct Officer. A claim of physical assault alleged against an employee shall be reported to the Human Resources Office. In both cases, law enforcement authorities shall also be notified. A claim of sexual assault shall be reported to the College’s Director of Equity Compliance and law enforcement authorities and shall proceed under the College’s Affirmative Action Plan. In matters involving physical or sexual assault, alleged victims are strongly encouraged to independently report the incident to the law enforcement authorities. The College’s Campus Police/Security Department can assist with the reporting process.

At any Level of the Student Grievance Procedure, either party may request mediation by contacting the Student Grievance Officer. Mediation shall be mutually agreed upon, and not unreasonably refused by either party. The Student Grievance Officer shall select an impartial mediator who shall be mutually agreed upon and not unreasonably refused by either party, make the arrangements, determine the timetable for the mediation process, and inform the parties of the timetable in writing. Where practicable, a mediation session shall be conducted no later than thirty (30) days after requested and agreed to by the parties. The purpose of mediation is to resolve the dispute to the satisfaction of both parties. If a mediated resolution cannot be achieved, the Grievant may proceed with the Grievance Process. The Grievant has the right to be accompanied by any advisor of his/her own choosing and at his/her own expense throughout the grievance process. The advisor may be an attorney. An advisor’s role is limited to personally advising the Grievant only. An advisor is not permitted to participate directly in any aspect of the grievance process.

Except for under extenuating circumstances, as determined by the President or his/her designee, failure by a party to comply with the Student Grievance Procedure during the course of a Grievance may result in the waiving of the noncompliant party’s rights under the Procedure.

LEVEL ONE - INFORMAL PROCEDURE

This is the informal stage where most complaints are resolved. The Grievant and the Responding Party should consult with the Student Grievance Officer at this time. A Grievant initiates the informal phase of the Grievance process. The Grievant shall first present his/her complaint orally and informally to the Responding Party. This shall be done in a reasonable period of time, not exceeding thirty (30) calendar

days following the instructional period when a grievable act or omission occurs.

The Responding Party must respond to the Grievant's complaint within ten (10) days. Though this phase of the process is informal, the parties may present their positions in writing. If the matter is not resolved informally within ten (10) calendar days from the date a response to the complaint was due, the Grievant may proceed to Level Two.

LEVEL TWO – FORMAL PROCEDURE

Prior to filing a written Grievance at Level Two, a Grievant must consult with the Student Grievance Officer. The Responding Party should also consult with the Student Grievance Officer at this phase of the Process.

- **Level Two – Step One**

The Student Grievance Officer shall notify the parties in writing when a complaint is not resolved informally at Level One. The Grievant may, within ten (10) calendar days after receipt of the Student Grievance Officer's written notice, file with the Student Grievance Officer a Grievance. The Grievance shall contain the following information: the name and title of the person(s) against whom the Grievance is directed, a statement of all known facts, documents and materials supporting the grievance, a list of individuals who have information pertinent to the grievance, and the relief sought by the Grievant. All supporting documents, if any, shall be attached to the grievance as part of the Grievance. The Grievance shall also state the date it is filed and that it is being filed at "Level Two, Step One."

The Grievance may be filed with the Student Grievance Officer by email, regular mail, certified mail, or in hand. Thereafter, the Student Grievance Officer shall deliver the Grievance, and all supporting documents, if any, to the Responding Party within five (5) calendar days. If the Responding Party is unavailable at the time the Grievance is filed, the Student Grievance Officer shall use reasonable means to deliver the Grievance within a reasonable period of time.

The Responding Party shall forward a written Level Two - Step One response to the Student Grievance Officer within ten (10) calendar days of his/her receipt of the Grievance. The Student Grievance Officer shall deliver the written response to the Grievant within five (5) calendar days of receipt.

- **Level Two – Step Two (Supervisor Level)**

If the Grievance is not resolved to the satisfaction of the Grievant within ten (10) calendar days after his/her receipt of the Step One response, or if no written response is submitted, the Grievant may within ten (10) calendar days after the written response was received or due, request the Student Grievance Officer to forward the Grievance and response, if any, to the supervisor of the Responding Party, with a copy to the Senior Officer of the work area of the Responding Party.

The supervisor shall investigate the Grievance and confer with the Senior Officer. The supervisor shall forward his/her written decision to the Student Grievance Officer, within ten (10) calendar days after receipt of the Step Two Grievance. Thereafter, the Student Grievance Officer shall deliver the decision to the Grievant and the Responding Party within five (5) calendar days.

At any time before the issuance of the Supervisor's Step Two decision, the Senior Officer may request that the parties meet to discuss the issue and attempt to resolve it. Grade appeals do not go beyond this Step (Level Two - Step Two) per the section on Grade Appeals. No new issues or allegations may be raised by either party after Step Two.

- **Level Two – Step Three (Student Grievance Committee Level)**

If the Grievance is not resolved to the satisfaction of the Grievant within the period allowed at Level Two - Step Two, the Grievant may request a hearing before a Student Grievance Committee. Such a request must be in writing and presented to the Student Grievance Officer within ten (10) calendar days from the issuance of the Supervisor's Level Two - Step Two decision.

Within ten (10) calendar days of the Student Grievance Officer's receipt of the Grievant's request for a hearing, the Student Grievance Officer shall arrange a hearing before a Student Grievance Committee. The Student Grievance Officer shall use reasonable efforts to schedule the hearing at a time mutually convenient to the parties. At least twenty-four (24) hours prior to the hearing, the Student Grievance Officer shall provide each member of the Committee and all parties to the Grievance with copies of the Grievance, responses to the Grievance, decisions issued, and all relevant supporting documentation and materials. The Committee's make-up and hearing rules are discussed later in this policy.

The Committee shall deliver its findings and recommendations to the Student Grievance Officer within ten (10) calendar days following the hearing. A copy of the Committee's findings and recommendations shall be delivered to the President or his/her designee, within five (5) calendar days of receipt.

Within ten (10) calendar days of the President's receipt of the Committee's findings and recommendations, the President or his/her designee, shall issue a written statement accepting, modifying or rejecting the Committee's recommendations. The decision of the President, or his/her designee, shall be final and binding on all parties.

GRADE APPEALS

Complaints or Grievances filed in connection with assigned grades represent a special case within the Grievance procedure. Grading reflects careful and deliberate assessment of a student's performance by the instructing professional(s). As such decisions are necessarily judgmental, the substance of those decisions may not be delegated to the Grievance process. Nevertheless, the College recognizes that in rare cases the process of grading may be subject to error or injustice.

Except as otherwise provided by a separate appeal procedure for a clinical program as approved by the President of the College, a student who alleges an error or injustice in the grading process may file a Grievance under the Student Grievance Procedure. A grade appeal Grievance shall proceed no further than Level Two, Step Two. For purposes of a grade appeal, the Vice President of Academic Affairs of the College, or his/her designee, shall serve as the Student Grievance Officer throughout the grade appeal process.

If the faculty member who assigned the challenged grade is no longer employed by the College or is not available within the timelines specified (see "Time" definition), the student may initiate his/her Level One complaint with the chief administrator of the appropriate instructional division (who shall be identified by the Vice President of Academic Affairs).

If at any level substantial evidence of error or injustice is produced, the grading process may be remanded to the instructor of record for reassessment. If after reassessment, the dispute remains unresolved, the matter shall be referred to the Senior Academic Officer, or his/her designee, for final review. If the instructor of record is no longer available, the Senior Academic Officer or his/her designee shall instead reassess the grading process.

MEMBERSHIP OF THE STUDENT GRIEVANCE COMMITTEE

The composition of the College's Student Grievance Committee shall consist of five members: one student, one unit professional, one faculty member, one non-unit professional and one unit classified employee. The President or his/her designee shall appoint each member from among the recommendations submitted by the Student Grievance Officer.

Service on the Committee shall be voluntary, provided that a member who has a personal interest in a particular Grievance shall be ineligible to serve on the Grievance Committee. All College employees serving on the Student Grievance Committee, and acting within the scope of their official duties on the Committee, shall be protected from liability to the full extent provided under Massachusetts General Laws, Chapter 258, and eligible for indemnification as provided for pursuant to M.G.L. Chapter 258, Section 9.

All Student Grievance Committee members, as well as all others in attendance at a student Grievance proceeding, shall maintain the confidentiality of the proceedings. The Student Grievance Officer shall attend all Committee hearings but shall not vote.

GUIDELINES FOR COMMITTEE HEARINGS

The following guidelines provide the framework for conducting a Student Grievance Committee Hearing:

- Prior to the hearing, the newly impaneled Committee shall meet to elect a Committee Chairperson;
 - The Chairperson shall be selected by a simple majority vote;
 - The Chairperson on the Committee shall be responsible for conducting the hearing and drafting the decision of the Committee, but shall vote only in the event of a tie;
 - All hearings shall be closed and deliberations of the Committee shall be confidential and conducted in private;
 - The Grievant and the Responding Party shall be in attendance at the hearing. Each party may be accompanied by an advisor at the hearing. The advisor, however, may not participate in the hearing or question witnesses. Either party may at any time during a hearing consult in private with his/her advisor;
 - Witnesses may be asked by the Committee to remain outside of the hearing room until they are called to testify;
 - The Grievant will address the Committee first. The Grievant will state the nature of his/her Grievance and may present relevant evidence and/or witnesses in support of the Grievance;
 - The Responding Party may respond to the Grievant's allegations and present relevant evidence and/or witnesses in opposition to the Grievance;
 - Once the parties have presented their respective positions, the Committee may question the parties and/or witnesses;
 - After the Committee has questioned the parties, each party will be given the opportunity to question the other party and their respective witnesses. All questions must be directed through the Committee. If the Committee determines that a question is relevant to the Grievance, the party or witness to whom it is addressed will be asked to respond;
 - Following the parties' questioning of each other, the Committee will have another opportunity to question the parties and witnesses;
 - Hearings before the Committee shall not be subject to the formal rules of evidence. In all cases, the hearing shall be conducted in a fair and impartial manner;
 - If a party to a Grievance fails to appear for a scheduled hearing, the Committee has the discretion to proceed with the hearing and issue its findings and recommendations in the party's absence;
 - The decision of the Committee shall be based on the relevant evidence presented at the hearing. The decision shall be in writing and include: a list of all documentary evidence and witnesses presented; a summary of the testimony offered by both parties and their respective witnesses; and the findings of the Committee and its recommendations. Copies of the decision and recommendations of the Student Grievance Committee shall be forwarded by the Student Grievance Officer to the President or his/her designee for review and final disposition. The President or his/her designee shall accept, reject or modify the Committee's decision and/or recommendations and issue a final written decision;
 - All findings and decisions reached under this Procedure shall be based on a "preponderance of evidence" standard (i.e., more likely than not). Any action taken hereunder shall be reasonable under the circumstances, in accordance with applicable College rules and procedures and be grounded in fundamental fairness.
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WITHDRAWAL

A student may withdraw his/her complaint or Grievance at any time. Withdrawal must be accomplished in writing or by oral agreement confirmed in writing.

RETALIATION

No member of the College community shall retaliate or threaten to retaliate against, interfere with, restrain, or coerce any student in the exercise of his/her rights under the Student Grievance Procedure or his/her participation in any Grievance proceedings.

COLLATERAL RIGHTS OF PERSON GRIEVED BY STUDENT

If the recommendations made at any level of the Grievance procedure result in sanctions against a college employee, the sanctions shall be regarded as administrative actions subject to all conditions of applicable collective bargaining agreements and College or Board of Higher Education personnel policies.

ALTERNATIVE FORUMS

Filing a Grievance in accordance with the Student Grievance Procedure in no way abrogates a student's right to file a complaint with an appropriate state or federal agency or in another forum.

CONTACT US:

Wellesley Hills Campus

50 Oakland Street
Wellesley Hills, MA 02481
781.239.3000

Framingham Campus

19 Flagg Drive
Framingham, MA 01702
508.270.4000

Ashland Campus

250 Eliot Street
Ashland, MA 01721
781.239.3030



MassBay's campuses are located approximately 30 minutes from downtown Boston.

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