

Colorado School of Mines' Student Code of Conduct

ARTICLE I: PREAMBLE

A community exists on the basis of shared values and principles. These values help to form the *Student Code of Conduct* that students are expected to uphold and abide by throughout their time as a member of the Mines community. By enrolling at Colorado School of Mines and entering into this community, students voluntarily agree to the expectations of academic performance and personal behavior required by the School through the *Student Code of Conduct*. Each student bears the responsibility for their personal behavior and is asked to further promote the values and principles of the School by holding other members of the Mines community accountable to the *Student Code of Conduct* as well.

When students fail to exemplify the values and principles of the School by engaging in violations of the rules listed in Article V below, campus conduct proceedings are used to assert and uphold this *Student Code of Conduct*. The student conduct process at Colorado School of Mines is not intended to punish students; rather, it exists to protect the interests of the community. Sanctions imposed are intended to educate students and to help them bring their behavior into accordance with community standards. All sanctions will be proportionate to the severity of the violation and to the cumulative conduct history of the student.

Students should be aware that the student conduct process is separate and quite different from criminal and civil court proceedings. Procedures and rights in student conduct procedures are conducted with fairness to all and include certain protections of due process. Due process, as defined within these procedures, assures written notice and a meeting with an objective decision-maker. Another difference from court proceedings is that Mines utilizes a preponderance of evidence standard when determining a student's responsibility for a violation. The standard holds that a student will be found in violation of Mines policy if, based on the information presented, the conduct professional believes that it is more likely than not that a policy violation occurred.

ARTICLE II: JURISDICTION

A. Overview

The *Student Code of Conduct* and the student conduct process apply to the conduct of individual students, both undergraduate and graduate, and all Mines-affiliated student organizations. Students are provided a copy of the *Student Code of Conduct* annually in the form of a link to the Colorado School of Mines website. Hard copies are available upon request from the Office of Student Life on the second floor of the Student Center. Students are responsible for reading, understanding, and abiding by the provisions of the *Student Code of Conduct*. The *Student Code of Conduct* may also be applied to members of the Mines community for the misconduct of their guests. Additionally, visitors to and guests of Mines may seek resolution of violations of the *Student Code of Conduct* committed against them by members of the Mines community.

The *Student Code of Conduct* and the student conduct process apply to behavior that occurs on Mines premises, at Mines official functions and activities, and to off-campus conduct that may adversely affect the Mines Community and/or the pursuit of its objectives, including:

- Any situation where it appears that the student's conduct may present a danger or threat to the health or safety of him/herself or others; and/or
- Any situation that impinges upon the rights, property or achievements of self or others or breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational mission and/or interests of Mines.

Each student shall be held responsible for his/her conduct from the notification of the acceptance of their admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is not discovered until after a degree is awarded).

In the event of serious misconduct committed while still enrolled but reported after the accused student has graduated, Mines may invoke conduct procedures and should the former student be found responsible, Mines may revoke that student's degree. Students may also be held responsible for conduct that occurred prior to admission if it resulted in suspension from another college or university, felony conviction, sex offender registration, or other results that could adversely affect the Mines Community, and/or the pursuit of its objectives.

The *Student Code of Conduct* may be applied to behavior conducted online, via email or other electronic medium. Students should also be aware that online postings such as blogs, web postings, chats and social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of a policy violation is posted online. Mines does not routinely search for this information but may take action if and when such information is brought to the attention of a Mines official.

There is no time limit on reporting violations of the *Student Code of Conduct*; however, the longer someone waits to report an offense, the harder it becomes for Mines officials to obtain information and witness statements and to make determinations regarding alleged violations. Though anonymous complaints are permitted, doing so may limit Mines' ability to investigate and respond to a complaint. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Associate Dean of Students and/or Mines Public Safety.

B. Concurrent Violation of the Law

Alleged violations of federal, state and local laws may be investigated and addressed under the *Student Code of Conduct*. When an offense occurs, the School's conduct process will usually go forward notwithstanding any criminal complaint that may arise from the same incident. Students should be aware that the student conduct process is separate and quite different from criminal and civil court proceedings regarding the standard of proof and due process. Additionally, students should be aware that campus conduct proceedings will run separately from any criminal or civil court proceedings that are scheduled. Proceedings under this *Student Code of Conduct* may be carried out prior to, simultaneously with, or following civil or criminal proceedings at the discretion of the Dean of Students or designee. Determinations made or sanctions imposed under this *Student Code of Conduct* shall not be subject to change because criminal charges were dismissed, reduced, or resolved in favor of or against the criminal defendant.

When federal, state, or local authorities charge a student with a violation of law, Mines does not routinely request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also being remediated under the *Student Code of Conduct*, Mines officials may advise off-campus authorities of the existence of the *Student Code of Conduct* and of how such matters are typically handled within the Mines community. Mines will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with campus rules or sanctions).

ARTICLE III: DEFINITIONS

1. The term "Mines" means Colorado School of Mines.
2. The term "student" includes all persons taking courses at the Mines, either full-time or part-time, pursuing undergraduate, graduate, or professional studies. It also includes persons who withdraw after allegedly violating the *Student Code of Conduct*, who are not officially enrolled for a particular term but who have a continuing relationship with Mines, or who have been notified of their acceptance for admission.
3. The term "Mines official" includes any person employed by Mines, performing assigned administrative or professional responsibilities.
4. The term "faculty member" means any person hired by Mines to conduct classroom or teaching activities or who is otherwise considered by Mines to be a member of its faculty.
5. The term "member of Mines community" includes any person who is a student, faculty member, administrator, staff member or any other person employed by Mines or who is a volunteer for Mines. The Dean of Students shall determine a person's status in each situation.
6. The term "Mines premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by Mines (including adjacent streets and sidewalks).
7. The term "Due Process" means that students will be provided with written notice and a meeting before an objective decision-maker prior to any conduct decision being made.
8. The term "student organization" means any number of persons who have complied with the requirements for Mines and/or Undergraduate Student Government recognition.

9. The term “Conduct Professional” means a Mines official or faculty member authorized to determine whether a student has violated the *Student Code of Conduct* and impose sanctions upon any student found to have violated the *Student Code of Conduct*.
10. The term “Student Conduct Appeals Board” means any person or persons authorized to consider an appeal of a conduct decision as to whether a student has violated the *Student Code of Conduct* or regarding a sanction imposed by a Conduct Professional.
11. The term “policy” means the written regulations of Mines as found in, but not limited to, the *Student Code of Conduct*, Student Handbook, Residence Life Handbook, the Mines policy web page, the Mines computer use policy, and the Graduate and Undergraduate Bulletins.
12. The term “Complainant” means any person who submits a charge alleging that a student violated this *Student Code of Conduct*. When a student believes that s/he has been a victim of another student’s misconduct, the student who believes s/he has been a victim will have the same rights under this *Student Code of Conduct* as are provided to the Complainant, even if another member of the Mines community submitted the charge itself.
13. The term “Accused Student” means any student accused of violating this *Student Code of Conduct*.
14. The terms “Official Function” and “Mines Activity” refer to any meeting, event, program, conference, or other function hosted by, sponsored by, marketed by, or paid for by a Mines student, employee, department, or organization in an effort to conduct Mines business or affect a substantial Mines interest.
15. The term “campus housing” refers to all residence halls and apartments located on the Mines campus. For this document, campus housing does not include the fraternity and sorority chapter houses.

ARTICLE IV: STUDENT CODE AUTHORITY

The Vice President for Student Life, acting on behalf of the President of the Colorado School of Mines, will designate appropriate individuals or entities to serve as Conduct Professionals and administer the Colorado School of Mines student disciplinary process. The responsibilities of these Conduct Professionals are defined as follows:

1. The Associate Dean of Students is hereby designated by the Vice President for Student Life as the representative of the Colorado School of Mines in all student disciplinary matters, unless otherwise indicated below. As the senior discipline officer, s/he shall develop policies for the administration of the student conduct system and procedural rules for administrative conduct meetings. The Associate Dean of Students shall be responsible for monitoring student compliance with all disciplinary conditions and sanctions imposed through the discipline process and shall maintain all official student disciplinary records. The Associate Dean of Students and will submit periodic reports regarding student conduct to the Vice President for Student Life and other Mines officials. The Associate Dean of Students shall determine the process for the composition of the Student Conduct Appeals Boards.
2. The Director of Auxiliary Services is hereby designated by the Vice President for Student Life to assist the Dean of Students as the representative of the Colorado School of Mines to address student disciplinary matters involving students that live in campus housing or for infractions which take place in campus housing. The Director of Auxiliary Services will also serve as a Judicial Appeals Officer. This person may also work on other student discipline matters, as they are referred to him/her by the Associate Dean of Students.
3. The Director of Residence Life is hereby designated by the Director of Auxiliary Services to assist with student disciplinary matters involving students that live in campus housing or for infractions which take place in campus housing. This person may also work on other student disciplinary matters cases, as they are referred by the Associate Dean of Students or Director of Auxiliary Services.
4. All Residence Life Coordinators are hereby designated by the Director of Residence Life to assist with student disciplinary matters involving students that live in campus housing or for infractions which take place in campus housing. These individuals may also work on other student disciplinary matters, as they are referred by the Associate Dean of Students.
5. The Director of Student Activities and Associate Directors of Student Activities are hereby designated by the Associate Dean of Students to assist with student disciplinary matters involving student organizations and for infractions which take place in fraternity and sorority chapter houses. These individuals may also work on other student disciplinary matters, as they are referred by the Associate Dean of Students.
6. All faculty members are designated by the President of the Colorado School of Mines with the responsibility of providing an academic environment free of academic misconduct. Should a faculty member become aware of such

behavior, the faculty member has the authority and responsibility to follow the procedures outlined in the School's Academic Integrity policy to resolve the issue.

Decisions made by any of the Conduct Professionals shall be final, pending the appeal processes outlined below in Article VI, Section H.

The Vice President for Student Life, acting on behalf of the President of the Colorado School of Mines, will also designate appropriate individuals or entities to serve on various committees to assist with the administration of the Colorado School of Mines student disciplinary process. The responsibilities of these committee and individuals are defined as follows:

Appeal Review Administrators

The Vice President for Student Life will designate individuals to serve as Appeal Review Administrators. These individuals will be tasked with reviewing appeal requests to determine if the specified grounds for appealable matters have been met and if the appeals are timely filed. The Appeal Review Administrators are employees of the Colorado School of Mines and may be selected from the members of the academic faculty, administrative faculty or the state classified system and will be designated on an annual basis and appointed to two-year terms.

Student Conduct Appeals Board

The Vice President for Student Life will designate individuals to serve on the Student Conduct Appeals Board (Appeals Board). The Appeals Board hears appeals of disciplinary and academic misconduct decisions that have been rendered by a Conduct Professional or faculty member when such decisions are appealable. The Appeals Board is chaired by the Vice President for Student Life, or designee. The Appeals Board consists of the chair, two academic faculty members, two classified staff members, two administrative faculty members, three undergraduate students, and three graduate students. When an appeal request is granted, the chair of the Appeals Board will coordinate, subject to availability, at least four additional members of the Appeals Board to preside over an Appeal Meeting. The participating Appeals Board members will review the materials and render a decision. Decisions of the Appeals Board will be decided by majority vote. The chair of the Appeals Board will break all ties and make the final decision on all procedural issues. Decisions made by the Student Conduct Appeal Board shall serve as the final decision of Mines and there shall be no subsequent proceedings.

ARTICLE V: PROHIBITED CONDUCT

All the conduct or attempts to commit the conduct listed below is prohibited. Aiding, abetting, or inciting others to commit conduct that is prohibited by this code is also not permitted. Any student found to have committed or to have attempted to commit any of the prohibited conduct may be subject to disciplinary action as outlined in Article VI.

1. Acts of dishonesty, including but not limited to the following:
 - a) Cheating, plagiarism, or other forms of academic dishonesty
 - b) Furnishing false information to any Mines official, faculty member, or office
 - c) Forgery, alteration, or misuse of any Mines document, record, or instrument of identification
 - d) Violations of positions of trust within the community
 - e) Election tampering
2. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, other Mines activities, including its public service functions on or off campus, or of other authorized non-Mines activities when the conduct occurs on Mines premises.
3. Any form of physical abuse and/or domestic partner abuse.
4. Verbal abuse, threats, intimidation, harassment, bullying, coercion, and/or other conduct which threatens or endangers the health or safety of any person. This also includes cyber-bullying.
5. Sexual harassment or sexual misconduct of any kind. This includes, but is not limited to:
 - a) Any sexual contact that occurs without the consent of an individual, or that occurs when someone is unable to give legal consent. Consent must be actively given by the parties involved. Having sexual contact with someone who does not actively give consent or cannot give legal consent is sexual assault. A person has the right to say "no" to sexual contact at any point, even in the midst of a consensual sex act and even if s/he has consented in the past. *Please see Appendix 1 for additional information regarding consent.*
 - b) Obscene or indecent behavior such as exposure of one's sexual organs or the display of sexual behavior that would reasonably be offensive to others. This includes all public sex acts.

- c) Conduct of a sexual nature that creates an intimidating, hostile, or offensive campus, educational, or working environment for another person. This includes unwanted, unwelcome, or inappropriate sexual or gender-based activities or comments.
- d) Apathy or acceptance in the presence of sexual harassment or sexual misconduct will also be considered a violation.

The Mines Policy Prohibiting Sexual Harassment specifically states that engaging in retaliatory acts against a person who reports an alleged violation of the policy is committing an act of sexual harassment. Please see the Mines Policy Prohibiting Sexual Harassment for further information on retaliation or other aspects of misconduct.

- 6. Any act that is based upon an individual or group's actual or perceived status (sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, or sexual orientation, or other protected status) that is sufficiently severe that it limits or denies the ability to participate in or benefit from the Mines' educational program or activities.
- 7. Stalking directed at a specific person that is unwelcome and would cause a reasonable person to feel fear.
- 8. Theft of and/or damage to property of Mines or property of a member of the Mines community or other personal or public property, on or off campus.
- 9. Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acceptance in the presence of hazing will also be considered violations.
- 10. All forms of Academic Misconduct outlined in the Academic Integrity Policy, including but not limited to dishonesty, plagiarism, falsification, tampering, cheating, impeding, and sharing work.
- 11. Unauthorized use or misuse of Mines parking permits, equipment, and/or facilities.
- 12. Unauthorized access to any Mines premises or unauthorized possession, duplication or use of access control items (keys, Blastercards, etc.). Additionally, any behavior, such as propping doors or manipulating locks, which assists in the unauthorized entry into Mines' facilities, is prohibited. Failing to timely report a lost identification card or key will be considered a violation.
- 13. Use, possession, manufacturing, sale or distribution of marijuana, heroin, narcotics, prescription medications, or other controlled substances except as expressly permitted by law.
NOTE: Although possession and use of marijuana consistent with the requirements of the Colorado Constitution is not a crime in the State of Colorado, the possession and use of marijuana remains illegal under federal law. Consistent with federal law, including the Controlled Substances Act and the Drug Free Schools and Communities Act, the use and/or possession of marijuana continues to be prohibited while a student is on Mines owned or controlled property, and/or any function authorized or supervised by Mines and/or in state owned or leased vehicles.
- 14. Use, possession, manufacturing, sale or distribution of alcoholic beverages (except as expressly permitted by Mines regulations), or public intoxication. Alcoholic beverages may not, in any circumstance, be used by, possessed by or distributed to any person under twenty-one (21) years of age. Facilitating, arranging, or participating in any extreme alcohol consumption activity that constitutes, facilitates, or encourages competitive, rapid or excessive consumption of alcohol when such activity occurs on campus, in the housing of any student organization or group, or in connection with a Mines activity is prohibited.
- 15. Possession of firearms, explosives, other weapons, or dangerous chemicals on Mines premises or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others.
- 16. Violation of local, state, federal, or campus fire policies including, but not limited to intentionally or recklessly causing a fire which damages Mines or personal property or which causes injury, failure to evacuate a building during a fire alarm, improper use of fire safety equipment, or tampering with or improperly engaging a fire alarm or fire detection/control equipment.
- 17. Participating in an on-campus or off-campus demonstration, riot or activity that disrupts the normal operations of Mines and/or infringes on the rights of other members of the Mines community; leading or inciting others to disrupt

scheduled and/or normal activities within any campus building or area. This includes the obstruction of the free flow of pedestrian or vehicular traffic on Mines premises or at Mines sponsored or supervised functions.

18. Unauthorized use or misuse of official Mines trademarks, logos, branding, and images.
19. Conduct that is disorderly, lewd, or indecent. Indecent conduct includes, but is not limited to public urination or defecation. Disorderly conduct includes but is not limited to: Any unauthorized use of electronic or other devices to make an audio or video record of any person without his/her prior knowledge, or without his/her effective consent when such a recording is likely to cause injury or distress. Secretly taking pictures of another person in a gym, locker room, or restroom will be considered a violation.
20. Theft or other abuse of computer facilities and resources, including but not limited to:
 - a) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
 - b) Unauthorized transfer of a file.
 - c) Use of another individual's identification and/or password.
 - d) Use of computing facilities and resources to interfere with the work of another student, faculty member or Mines Official.
 - e) Use of computing facilities and resources to send obscene or abusive messages.
 - f) Use of computing facilities and resources to interfere with normal operation of the Mines computing system.
 - g) Use of computing facilities and resources in violation of copyright laws.
 - h) Any violation of the Mines Information Technology Policies.
21. Skateboarding, roller-blading, roller-skating, bicycling or similar wheeled use inside Mines buildings, residence halls, on tennis courts, or on the pedestrian plaza. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities, and individuals may be liable for damage to Mines property caused by these activities.
22. Any actions that create health and/or safety hazards such as dangerous pranks or hanging out of or climbing from/on/in windows, balconies, roofs, etc.
23. Engaging in retaliatory acts against a person who reports an alleged violation of Mines policies or assists/participates in a conduct proceeding or investigation.
24. Failure to comply with directions of Mines officials or law enforcement officers acting in the performance of their duties and/or failure to identify oneself to these persons when requested to do so.
25. Abuse of the student conduct system, including but not limited to:
 - a) Failure to obey the notice from a Mines Conduct Professional to appear for a meeting.
 - b) Falsification, distortion, or misrepresentation of information before a Mines Conduct Professional or Student Conduct Appeals Board.
 - c) Initiation of a student conduct code proceeding in bad faith.
 - d) Attempting to discourage an individual's proper participating in, or use of, the student conduct system.
 - e) Attempting to influence the impartiality of a member of a Student Conduct Appeals Board prior to, and/or during the course of, an appeal meeting.
 - f) Influencing or attempting to influence another person to commit an abuse of the student conduct code system.
 - g) Failure to comply with the sanction(s) imposed under the *Student Code of Conduct*.
26. Violation of any Mines policy, rule, or regulation published in hard copy or available electronically on any of the Colorado School of Mines websites. This includes violations of rules listed in the Residence Hall Handbook.
27. Violation of any federal, state or local law.
28. Failure to accurately report an off-campus arrest by any law enforcement agency for any crime to the Associate Dean of Students within seventy-two hours of release.

Students are required to engage in responsible social conduct that reflects credit upon the Mines community and to model good citizenship in any community. Any conduct not included above, which adversely affects the functions of Mines or the pursuit of its educational purposes and objectives may be considered a violation.

ARTICLE VI: STUDENT CONDUCT CODE PROCEDURES

A. Charges

Any member of the Mines community may file charges against a student for violations of the *Student Code of Conduct*. A charge shall be directed to the Dean of Students office and submitted as soon as possible after the event takes place.

B. Interim Suspension

In certain circumstances, the Vice President of Student Life or the Associate Dean of Students may impose an interim suspension or residence hall suspension prior to the Administrative Conduct Meeting.

1. Interim suspension may be imposed:

- a. to ensure the safety and well-being of members of the Mines community or preservation of Mines property;
- b. to ensure the student's own physical or emotional safety and well-being; or
- c. if the student poses an ongoing threat of disruption of, or interference with, the normal operations of Mines.

2. During the interim suspension, a student shall be denied access to the residence halls and/or to the campus (including classes) and/or all other Mines activities or privileges for which the student might otherwise be eligible, as the Vice President for Student Life or Dean of Students may determine to be appropriate.

3. The interim suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a Student Conduct Appeals Board meeting, if required. However, the student should be notified in writing of this action and the reasons for the suspension. The notice should include an option for the student to request a meeting to show cause why his or her continued presence on the campus does not constitute a threat

C. Amnesty for Health and Safety Intervention

The health and safety of students are of primary importance to Mines. Students are encouraged not only to look out for their own health and safety but also for that of their peers. When an individual's health and/or safety is/are threatened or appear(s) to be in jeopardy, immediate action should be taken to prevent injury and illness. The appropriate action is to get assistance from Residence Life staff, Public Safety officers, medical professionals, and/or local or state police. Whatever the particular need/problem, it is important to respond in a responsible and timely manner.

To safeguard students so they receive the help they need without fear of penalty or retribution, an amnesty philosophy has been adopted related to alcohol and drug violations. This amnesty provides that the conduct officer will take into consideration the efforts that were made to get help or assist others and limit the disciplinary action against students for whom emergency assistance is sought, or against those who seek assistance for others in need. This is assuming the student has not violated other Mines policies that warrant formal disciplinary action. This philosophy refers to isolated incidents only and does not excuse or protect those who flagrantly or repeatedly violate the *Student Code of Conduct*. A student who receives medical assistance may be required to meet with a Mines official to receive education, assessment, and possible referral for treatment related to possible drug and/or alcohol use. Parents of such students may also be notified.

D. Administrative Conduct Meetings

All administrative conduct meetings shall be administered by a Conduct Professional in accordance with the following guidelines:

1. A student shall be notified by the Conduct Professional by phone, e-mail or in person that a meeting will take place. The notification will provide the student with the charge(s) against him/her and set a date and time for the meeting. Meetings will be scheduled within fifteen (15) business days after the Conduct Professional has been notified of an alleged conduct violation. Any deviation from this time frame requires proper notification to all parties involved by the Conduct Professional conducting the hearing and should only be needed for unusual circumstances or scheduling conflicts.
2. The student may be accompanied by an advisor or support person of his/her choosing, at his/her own expense. Such advisor may be an attorney. Since the direct interaction with the student(s) involved is essential to the educational relationship with the School, the advisor is limited to counseling the student and may not act as a representative of the student, speak on the student's behalf, or participate directly in any meeting. The advisor may not serve in a dual role in the meeting, meaning the advisor may not also serve as a witness. The Conduct Professional holding the meeting may consult with or choose to have Mines Legal Counsel, in a similar advisory capacity, present at a meeting.
3. The student may be permitted to bring witnesses and/or ask for relevant witnesses to be called. The Conduct

Professional will make the final decision whether a witness will be permitted to be present and provide information related to the matter. If permitted, the Conduct Professional will arrange for witnesses to meet with him/her and provide information related to the matter. Witnesses will provide information to and answer questions directed from the Conduct Professional.

4. Administrative conduct meetings are considered private educational interactions between the student and the School. All meetings are considered closed to anyone not directly involved in the proceedings. Admission of any other persons to the meeting shall be at the discretion of the Conduct Professional.
5. Pertinent records, exhibits and written statements may be accepted as information for consideration. The student shall be allowed to review and respond to any reports the Conduct Professional will consider as the basis for the charges.
6. The student will be afforded the opportunity to present his/her own version of the incident or events by personal statement, as well as through written statements and witnesses to the incident.
7. If requested by the accused student or determined by the Conduct Professional to be appropriate, one verbatim record, such as a recording, will be made. This recording shall be the property of Mines. If such a recording is made, a student wishing to obtain a copy of the recording must submit a request to the Associate Dean of Students. This may be done via mail, email, or in person. Once the request has been received, the Associate Dean of Students will provide the student with a copy.
8. If information presented in the meeting creates additional need for clarification or investigation, or to accommodate irresolvable scheduling conflicts with key witnesses, the Conduct Professional may reschedule the meeting.
9. If the meeting involves more than one student offender from the same incident, the Conduct Professional may permit the meeting concerning each student to be conducted either jointly or separately.
10. The Conduct Professional may make accommodations related to concerns for the personal safety, well-being, and/or fears of confrontation of the student, victims and/or other witnesses during any conduct meetings.
11. If the accused student, with appropriate notice, does not appear for the meeting, a decision may be reached taking into consideration the totality of the information related to the charges available at the time of the meeting.
12. Formal rules of process, procedure, or evidence as established and applied in the civil or criminal justice system do not apply to the meeting.

E. Investigations

A Conduct Professional may conduct an investigation to determine if the charges have merit and/or if they can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to the Conduct Professional, such as mediation. Such disposition shall be the final decision of Mines and there shall be no subsequent proceedings.

The Conduct Professional may take the following steps to investigate a potential *Student Code of Conduct* violation:

1. Initiate any necessary remedial actions on behalf of the victim (if needed);
2. Determine the identity and contact information of the party bringing the complaint, whether that person is the initiator of the complaint, the alleged victim, or a Mines representative;
3. Conduct an immediate preliminary investigation to identify an initial list of all policies that may have been violated, to review the history of the parties, the context of the incident(s), any potential patterns and the nature of the complaint; If there is insufficient evidence through the initial investigation to support reasonable cause, the allegations will be closed with no further action.
4. Meet with the party bringing the complaint to finalize the complaint and/or statement. If the victim is reluctant to pursue the complaint, determine whether the complaint should still be pursued and whether sufficient independent evidence could support the complaint without the participation of the victim. Notify the victim of whether Mines intends to pursue the complaint regardless of their involvement, and inform the victim of their rights in the process and option to become involved if they so choose.
5. Commence a thorough, reliable and impartial investigation to determine if there is reasonable cause to believe that the responding student violated Mines policy, and to determine what specific policy violations should serve as the basis for the complaint.
6. Interview all relevant witnesses, summarize the information they are able to share.
7. Obtain all documentary evidence and information that is available.
8. Obtain all physical evidence that is available.
9. Complete the investigation promptly by analyzing all available evidence.
10. Make a finding, based on a preponderance of the evidence standard.
11. Share the findings and update the complainant on the status of the investigation and the outcome.

F. Sanctions

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

- a) **Warning** - A notice given orally or in writing to the student that the student's behavior is unacceptable and may have violated institutional regulations and that continuation or repetition of the misconduct shall be cause for more severe disciplinary sanctions.
- b) **Disciplinary Probation** - A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions (such as suspension or expulsion) if the student is found to violate any institutional regulation(s) during the probationary period.
- c) **Loss of Privileges** - Denial of specified privileges for a designated period of time.
- d) **Fines** - Monetary expenses related to certain misconduct.
- e) **Restitution** - Compensation for loss, damage, or injury. This is not a fine, but rather a repayment for labor and material costs to replace/fix the damaged property.
- f) **Community Service** – Service to Mines or members of the campus community.
- g) **Discretionary Sanctions** - Work assignments, essays, service to Mines, or other related discretionary assignments.
- h) **Behavioral Requirement** – Activities designed to change behavior including things such as academic counseling, substance abuse screening, or writing a letter of apology.
- i) **Educational Program** – Requirement to attend, present, and/or participate in a program related to the violation.
- j) **Parental Notification** - Parents may be notified of disciplinary decisions when a student under the age of 21 is found responsible for engaging in an infraction(s) involving alcohol, drugs, sexual harassment, or use of violence.
- k) **Housing Suspension** - Separation of the student from campus housing for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- l) **Housing Termination** – Permanent separation of the student from campus housing and termination of the housing contract.
- m) **No Contact Orders** – Avoidance of any and all contact with identified members of the Mines community. This includes all personal interaction, email, text messaging, phone calls, and social media contact. It also includes refraining from all forms of third-party contact on the student's behalf.
- n) **Disciplinary Suspension** - Separation of the student from Mines for a definite or indefinite period of time, after which the student is eligible to return. Conditions for readmission may be specified. Suspension for an indefinite period of time usually comes with the implication that a student must fulfill certain requirements before readmission will be considered. Returning to the School after suspension, a student may be put on probation for a year or longer.
- o) **Disciplinary Expulsion** - Permanent separation of the student from Mines. Expulsion shall be used in cases of misconduct considered by the Vice President of Student Life or Associate Dean of Students to involve severe or repeated violation of the Student Code of Conduct. The student must vacate Mines premises at a time determined by the Vice President of Student Life or Associate Dean of Students. The student may not attend classes and will be considered a trespasser unless given specific written permission by the Vice President of Student Life or Associate Dean of Students to enter the Mines premises.
- p) **Revocation of Admission and/or Degree** - Admission to or a degree awarded from Mines may be revoked for fraud, misrepresentation, or other violation of Mines standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- q) **Withholding Degree** - Mines may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Code of Conduct, including the completion of all sanctions imposed, if any.

2. More than one of the sanctions listed above may be imposed for any single violation.

3. Other than expulsion, suspension, or revocation or withholding of a degree, disciplinary sanctions shall not be made part of the student's permanent academic record, but shall become part of the student's disciplinary record. Upon graduation, the student's disciplinary record may be expunged of disciplinary actions other than those violations that involved violence towards another person or resulted in suspension, expulsion, residence hall expulsion, or revocation or withholding of a degree, by a request to the Dean of Students. Cases involving the imposition of sanctions other than residence hall expulsion, disciplinary suspension, disciplinary expulsion or revocation or withholding of a degree shall be expunged from the student's confidential record ten years after the incident occurred.

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

4. Many of the sanctions listed above may be imposed upon student groups and organizations:. Additionally a sanction of Deactivation may be imposed for groups and organizations. Deactivation is the loss of all privileges, including Mines recognition, for a specified period of time.

G. Notification of Outcomes

The outcome of the conduct proceedings will be shared with the accused student and become part of a student's education record. This record is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. The information may be shared with other Mines officials that have a need to know as determined by the Vice President of Student Life or Associate Dean of Students. The information will also be shared when the student gives permission for the information to be shared, or if the information is requested through a court order or subpoena, or as permitted or required by law.

As allowed by FERPA, when a student is accused of a policy violation that would constitute a "crime of violence" or forcible or nonforcible sex offense, Mines will inform the complainant and/or alleged victim of the final results of the proceedings regardless of whether Mines concludes that a violation was committed. Such release of information may only include the accused student's name, the violation committed, and the sanctions assigned (if applicable). In cases of sexual misconduct and other offenses covered by Title IX, only, the rationale for the outcome will also be shared with the complaint in addition to the finding and sanction(s).

In cases where Mines determines through the student conduct process that a student violated a policy that would constitute a "crime of violence" or nonforcible sex offense, Mines may release the accused student's name, the violation committed, and the sanctions assigned (if applicable) publicly and/or to any third party. FERPA defines "crimes of violence" to include:

- 1) Arson
- 2) Assault offenses (includes stalking)
- 3) Burglary
- 4) Criminal Homicide—manslaughter by negligence
- 5) Criminal Homicide—murder and nonnegligent manslaughter
- 6) Destruction/damage/vandalism of property
- 7) Kidnapping/abduction
- 8) Robbery
- 9) Forcible sex offences
- 10) Non-forcible sex offences

H. Appeals

This appeal process governs most requests for appeal related to violations of the *Student Code of Conduct*. However, grade appeals, residency appeals, academic misconduct appeals, and appeals related to research misconduct are handled through separate processes (please see the Undergraduate and Graduate Bulletins for more information on those processes). An appeal request will only be considered if it includes the specific aspect of the decision being appealed, the grounds for an appeal, and the rationale that support the selected grounds.

1. Appealable Decisions - Not all decisions can be appealed. Only those actions which violate due process or decisions that include sanctions that restrict civil liberties or remove a privilege (i.e. suspension, expulsion, eviction from housing and/or fines) may be appealed. Warnings, reprimands, probation and other conditions of a student's continued enrollment are not appealable.

2. Grounds for an Appeal - The four items listed below are the only acceptable grounds for an appeal. Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the administrative conduct meeting and supporting documents for one or more of the following purposes:

- a. To determine whether the administrative conduct meeting was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and to present information that the Student Code was violated, and giving the Accused Student a reasonable opportunity to prepare and to present a response to those allegations. Minor deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.
- b. To determine whether the decision reached regarding the accused student was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the Student Code of Conduct occurred.

- c. To determine whether the sanction(s) imposed were appropriate for the violation of the Student Code of Conduct which the student was found to have committed.
- d. To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original administrative conduct meeting.

3. Submitting an Appeal Request - Decisions reached by a Conduct Professional may be appealed by the accused student. In cases dealing with intimidation, assault, harassment, or sexual harassment/misconduct, the complainant may also appeal. A student may file an appeal by completing a Student Conduct Appeal Request Form and submitting it to the Office of the Vice President for Student Life by the date stated in the original decision letter (typically within seven business days of the date of the decision notification). This form is available online and in person at the Office of the Vice President for Student Life. It is the student's obligation to complete the form in its entirety and provide any and all materials that s/he wishes to have considered at the time of the appeal request submission. Incomplete forms, subsequent information and revised requests will not be accepted. If the student's appeal request is not received within this time frame, the decision of the Conduct Professional is final and no further appeal is permitted.

4. Whether the appeal will be allowed - Once an appeal request is received, the Office of the Vice President for Student Life will forward it on to an Appeal Review Administrator. Within seven business days, the Appeal Review Administrator will review the written request form and materials to determine if the acceptable grounds for an appeal have been met and if the appeal has been timely filed. After review of the request, the Appeal Review Administrator will take one of the following actions and will notify the student:

a. **Allow the appeal to proceed.** The Appeal Review Administrator will then submit all the relevant information to the Executive Assistant for the Vice President for Student Life for further coordination.

b. **Deny the appeal**

If the appeal is denied, the decision is final and is considered binding upon all involved, unless the student can provide evidence that the Appeal Review Administrator abused his/her authority and/or made an arbitrary decision without fully considering the information presented. If this is the case, the student requesting the appeal must notify the Vice President for Student Life in writing within two (2) business days and request that the appeal request be reviewed by another Appeal Review Administrator. This option can only be used once. If the second appeal administrator denies the appeal request, the decision is final and is considered binding upon all involved.

Within two business days of the student receiving notification that the appeal will proceed, s/he must provide the Executive Assistant to the Vice President for Student Life with the following information:

- a. A list of potential witnesses (if any) that he/she would like to have interviewed
- b. The appeal review process, from the options below, which s/he would like the appeal to follow:
 - 1. Have the appeal reviewed by the Student Conduct Appeals Board
 - 2. Have the appeal reviewed by a Judicial Appeals Officer

5. While waiting on the appeal request - Throughout the entire appeal process, and while the decision of the Appeal Review Administrator, the Judicial Appeals Officer or the Student Conduct Appeals Board is pending, the student must continue to comply with all conditions of the original decision made by the Conduct Professional. Unless otherwise specified in the original written notification of suspension, a student may continue to attend classes while the appeal is pending.

6. Appeal Review Processes

Appeals reviewed by the Student Conduct Appeals Board

A list of the members of the Student Conduct Appeals Board will be provided to the student making the appeal. The student making the appeal and the Conduct Professional may each make one request to the Vice President for Student Life, or designee, for the removal of a member of the pool within two business days of receiving the list of potential members. Upon receipt of such request, the Vice President for Student Life will remove the potential member from the pool. Potential members of the committee have an affirmative obligation to excuse themselves if they have a conflict of interest. Please see Article II above for more information on the structure of the Student Conduct Appeals Board.

All pertinent information regarding the incident and appeal, including but not limited to, the student's disciplinary file, the appeal request and other evidence submitted by the student or Conduct Professional, will be given to the participating members of the Student Conduct Appeals Board for review. Within fifteen (15) business days of receiving the information, the Student Conduct Appeals Board will review the materials and make a decision. If needed, the Appeals Board may gather additional information, interview witnesses, and/or arrange for an appeal

meeting. The Appeals Board may extend this timeline by notifying all parties involved and informing each of the new timeline. This notification must take place prior to the original stated completion date. At the conclusion of the review, the Student Conduct Appeals Board may make one of the decisions outlined in the Outcome of Appeals section below.

Appeals reviewed by a Judicial Appeals Officer

The Director of Auxiliary Services will serve as the Judicial Appeals Officer when an appeal is permitted by policy in a decision that was originally made by the Associate Dean of Students. The Associate Dean of Students will serve as the Judicial Appeals Officer when an appeal is permitted by policy in a decision that was originally made by the Director of Auxiliary Services or the Director of Residence Life. If there is any conflict of interest by the Judicial Appeals Officer, the Vice President of Student Life, or designee, may serve as the Judicial Appeals Officer.

All pertinent information regarding the incident and appeal, including but not limited to, the student's disciplinary file, the appeal request and other evidence submitted by the student or Conduct Professional, will be given to the Judicial Appeals Officer for review. Within seven business days of receiving the information, the Judicial Appeals Officer will review the materials and make a decision. If needed, the Judicial Appeals Officer may gather additional information, interview witnesses, and/or arrange for an appeal meeting. The Judicial Appeals Officer may extend this timeline by notifying all parties involved and informing each of the new timeline. This notification must take place prior to the original stated completion date. At the conclusion of the review, the Judicial Appeals Officer may make one of the decisions outlined in the Outcome of Appeals section below.

7. Outcome of Appeals - At the conclusion of the review, the Student Conduct Appeals Board or the Judicial Appeals Officer may make one of the following decisions:

- a. Reverse the decision of the Conduct Professional:** the Appeals Board or Judicial Appeals Officer does not agree with the Conduct Professional's evaluation of evidence in support of the charges. The disciplinary decision will be changed to "Withdrawal of Accusations". This option is not possible for appeals in which a victim is requesting the appeal or appeals in which the student has accepted responsibility and is only appealing the severity of the sanction.
- b. Affirm the decision of the Conduct Professional:** the Appeals Board or Judicial Appeals Officer agrees that the information supports the original decision reached by the Conduct Professional.
- c. Return or forward the case on for further consideration:** the Appeals Board or Judicial Appeals Officer believes that additional considerations should be made which could include increasing or decreasing the sanctions imposed or addressing additional issues that arose through the appeals process. Recommendations for appropriate sanctions should be made by the Appeals Board or Judicial Appeals Officer. These recommendations will be considered by the original Conduct Professional to assist him/her while reconsidering the matter.

If the committee believes further consideration is necessary for an appeal in which a victim of attempted or actual intimidation, assault, harassment, or sexual misconduct files the appeal, the case will be referred back to the original Conduct Professional for appropriate review and possible sanctioning of the originally alleged offender.

The Student Conduct Appeals Board or the Judicial Appeals Officer will communicate the decision in writing to the student within three business days of the conclusion of the review and/or hearing. If a matter needs further consideration by the original Conduct Professional, the reconsideration should be conducted in a timely fashion and the decision communicated in writing to the student within ten business days of the original review or hearing. The decision issued by the Student Conduct Appeals Board, the Judicial Appeals Officer, or the original Conduct Professional (in matters that are returned for further consideration) is final and shall be considered binding upon all involved, from which no additional appeals are permitted.

ARTICLE VI: INTERPRETATION AND REVISION

1. Any question of interpretation or application of the Student Code of Conduct shall be referred to the Dean of Students or his or her designee for final determination.
2. The Student Code of Conduct shall be reviewed at least every two years under the direction of the Dean of Students.

Appendix

1. Consent

Consent for sexual activity is clear, knowing, voluntary, and mutually understandable through words or actions which indicate a willingness to participate in mutually agreeable sexual activity. Consent must be active; silence by itself cannot be interpreted as consent. Consent is not effectively given if it results from the use of actual or implied physical force, threats, intimidation or coercion. In the absence of mutually understandable words or actions (a meeting of the minds on what is to be done, where, with whom, and in what way), it is the responsibility of the initiator, or the person who wants to engage in the specific sexual activity, to make sure that he or she has consent from his/her partner(s) at every stage of sexual interaction. Engaging in sexual activity with a person who one knows to be incapacitated, or reasonably should know to be incapacitated is prohibited.

A. *Physical force, threats, intimidation and coercion:*

- Physical force is the use of physical violence or imposing on someone physically to gain sexual access.
- Threats exist where a reasonable person would have been compelled by the words or actions of another to give permission for sexual contact they would not otherwise have given. For example, threats to kill you, themselves, or to harm someone you care for constitute threats.
- Intimidation occurs when someone uses his or her physical presence to menace you, although no physical contact occurs, or where your knowledge of prior violent behavior by an assailant, coupled with menacing behavior, places you in fear as an implied threat.
- Coercion is unreasonable pressure for sexual activity. Coercion is differentiated from seduction by the repetition of the coercive activity beyond what is reasonable, the degree of pressure applied, and other factors such as isolation. When someone makes it clear that they do not want sex, do not want to go past a certain point, or want it to stop, continued pressure beyond that point can be coercive.

B. *Incapacitation due to alcohol, drugs, etc.*

Incapacitation is a state where a person lacks the ability to make rational, reasonable decisions including an inability to understand the who, what, when, where, why or how of sexual activity, or an inability to fully understand the details of sexual interaction. Incapacity can result from alcohol or drug consumption, illness, unconsciousness, blackout, sleep, mental disability, and other circumstances.

Administering rape drugs, such as Rohypnol, Ketamine, GHB, and Burundanga to another person is a violation of the *Student Code of Conduct*.

C. *Additional rules regarding consent*

- Consent will be determined using both objective and subjective standards. The objective standard is met when a reasonable person would consider the words or actions of the parties to have manifested an agreement between them to do the same thing, in the same way, at the same time, with one another. The subjective standard is met when a party believes in good faith that the words or actions of the parties manifested an agreement between them to do the same thing, in the same way, at the same time, with one another.
- A person who is the target of sexual aggression is not required to resist a sexual aggressor.
- Consent to some forms of sexual activity does not automatically imply consent to other forms of sexual activity.
- Silence, previous sexual relationships, or the existence of a current relationship do not imply consent. Consent cannot be implied by attire or inferred from the giving or acceptance of gifts, money or other items.
- Consent for sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly. Withdrawal of consent can be done in numerous ways and need not be a verbal withdrawal of consent.
- A respondent's intentional use of alcohol/drugs will not function as a defense to a possible violation of this policy.
- In order to give effective consent, one must be of legal age.