



MONTCLAIR STATE
UNIVERSITY

A STUDENT CONDUCT GUIDE FOR FAMILIES

Adapted from: THE STUDENT CONDUCT PROCESS: A GUIDE FOR PARENTS
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1. Why Student Conduct?

Clearly articulated and consistently administered standards of conduct form the basis for behavioral expectations within an academic community. The enforcement of such standards should be accomplished in a manner that protects the rights, health, and safety of members of that community so that they may pursue their educational goals without undue interference.

Student conduct systems in higher education have been in existence for many years, and have evolved over time. Today, the main purpose of the student conduct system is education. The goal is to have each incident of misconduct create a learning opportunity for the student. In addition, conduct officers strive to repair any harm done to the community. There likewise is a deterrent aspect of the student's participation in the conduct process.

This guide will focus on general procedures of most campus discipline processes, with particular emphasis on the difference between the campus process and criminal prosecution; goals of the conduct process; and student records and confidentiality. It also includes some general advice you can use in working with your student who may be involved with the campus conduct system. We hope this guide aids you in understanding what your student may be facing as they begin to navigate their way through the student conduct system.

This guide serves as a basic introduction to the student conduct system and as a springboard for understanding the procedures specific to Montclair State University. With your support and understanding, you can help your student navigate the student conduct process and encourage the growth, development and accountability that we all want from our students.

2. General Overview and History of Student Conduct Procedures

Universities began addressing student misconduct as far back as 1822 when a group of University of Virginia students rioted on the UVA Lawn. In response to this incident, Thomas Jefferson wrote:

"The article of discipline is the most difficult in American education. Premature ideas of independence, too little repressed by parents, beget a spirit of insubordination, which is the greatest obstacle to science with us, and a principal cause of its decay since the revolution. I look to it with dismay in our institution, as a breaker ahead, which I am far from being confident we shall be able to weather."

Did you know?

In determining what to do in the UVA Riot, the following former United States Presidents were consulted:

Thomas Jefferson (1801-09)

James Madison (1809-17)

James Monroe (1817-25)

Student discipline is not therefore a recent invention of higher education. However, discipline as used by Jefferson has undergone an evolution of sorts over the years. Modern disciplinary practices trace their routes to the 1961 case of *Dixon v Alabama State Board of Education*. In *Dixon*, the students argued that their meeting with the administrator did not meet the standards for due process. As a result of this meeting, the students were expelled from the institution. The Court ruled that students should be given at least notice of the charges and an opportunity to be heard. The court also said that a full criminal hearing is not required.

Over the years, *Dixon* has been tested from time to time. The basic decision still prevails. A more recent case is *Flaim v Medical College of Ohio*. Flaim was expelled from the medical college for a felony drug conviction. In *Flaim*, the court returned once again to the due process standards set forth by *Dixon*. That is, the more serious the repercussions, the more procedure that is due.

However, in both cases, the courts have consistently stated that even where a student is facing expulsion from the institution, the process that is due need not be as elaborate as the process that would be due in a criminal hearing. Thus, students facing disciplinary action from their institution generally are not entitled to have an attorney represent them, to cross-examine witnesses or have an appeal unless the institution's conduct code allows for these procedures.

3. What to Do When Your Student is Involved in the Student Conduct Process

Sending your student to an institution of higher education is as much of a transition for families as it is for students. The relationship you have with your student will undoubtedly change. Students are expected to make decisions on their own, to learn to resolve conflict independently, and to take responsibility for their actions. At the same time they covet your love, respect your opinion, and generally operate on the values you instilled in them. So what should you do when your student becomes involved in the campus conduct system?

The following section provides some recommendations for family members when they discover that their student is involved in the campus conduct process:

1. While the University recognizes that your goal is to provide support for your student, conduct officers ask that you provide this support unconditionally, but not blindly. Understand that there is a process in place to hear all information regarding the incident in question and encourage your student to prepare him or herself for the process.
2. When your student receives paperwork regarding conduct procedures and has questions, direct him or her to contact a staff member in the conduct office for information. Staff members are not permitted to give specifics to family members. This also empowers the student to learn how to solve his or her own issues and concerns.
3. The Family Educational Rights and Privacy Act of 1974 (FERPA) precludes the college or university from discussing your child's academic and disciplinary record without his/her written permission.
4. Educate yourself on the University's student conduct process by going to the web site, which can be located at <http://www.montclair.edu/dean-of-students/student-conduct/code-conduct/>. Many of your questions may be easily addressed through this medium.
5. Practice the "24 Hour Rule." You may receive a phone call or email message from your student because he or she is upset about facing conduct charges. You may be tempted to try to immediately fix the problem for them. This intervention invariably fails. Try to allow 24 hours to inform, guide, teach, observe, and chastise (if necessary). Lessons learned through participation in a student conduct process must be experienced to have the desired effect. After all, gaining a higher education degree is about learning. University conduct officers take their responsibilities as educators very seriously and do their best to provide a fair and unbiased system for all students. While these professionals understand that involvement in the conduct process may be difficult for students, they do their best to provide them support to effectively handle the situations in which they find themselves.

4. Frequently Asked Questions

How is a conduct complaint filed at Montclair State?

Any University member can file a report. The University may receive reports from the University police department, Residential Education and Services, faculty and other University staff, and students. To file a conduct complaint, your student may contact the Dean of Students, the Director of Student Conduct, Community Directors, Community Assistants or University Police.

If your student chooses to file a complaint (which is also referred to as an incident report), his/her role becomes one of witness in the case; however, the student may also be required to assume the role of complainant. The submitter of the

complaint is usually asked to participate in the adjudication of the case to explain what he/she saw or heard and to answer questions about the incident.

Please note that filing a complaint with the conduct office does **not** constitute filing a criminal charge. The University's Police Department can assist students in this process.

If my student is a victim in a conduct case, what support do they receive?

The University is first and foremost concerned about your student's safety. The University has victim advocates and a variety of programs that can assist students with safety planning as well as inform them of the various options for resolving their complaint. If a hearing is scheduled, the advocate may be permitted to attend with your student.

If my student is charged with a violation and does not meet with an administrator, but is found responsible anyway, is this not a violation of due process?

No. Universities have to give the student notice of charges and an opportunity to be heard. When students are charged with a violation, they receive an electronic email that states the alleged violations and gives them the opportunity to schedule a meeting. If they choose not, or fail to schedule a meeting per the notice, they have still been given due process and the subsequent sanction is still valid. It may be important to discuss with your student how abdicating their right to speak for themselves is not in their best interest as it does not allow for their side to be taken into account.

How is somebody found responsible for a violation within the conduct process?

In less severe cases, the decision can be made by a member of the residential education staff, the Director of Student Conduct, or other administrative staff member. This is often described as an administrative hearing. Any cases that are deemed more serious may go to the Director of Student Conduct or a University Panel Hearing made up of faculty, staff and students.

Due process provides that a student accused of violating the conduct code will be given written notice of the charges and an opportunity to explain his/her version of events to an unbiased decision-maker. This decision-maker, whether an administrator or panel, will weigh the evidence and the oral information on both sides and decide if the student is responsible for violating the conduct code; and if so, will determine the appropriate sanction. The outcome of the adjudication of the complaint will be communicated to the student in writing.

Sanctions and their corresponding stipulation are designed to be educational in nature. Examples of sanctions include:

- University Warning
- University Probationary
- University Suspension
- University Expulsion

Examples of stipulations include, but are not limited to, the following:

- Loss of privileges
- Research papers
- Community service
- Letters of apology
- Reflection papers
- Educational seminars
- Psychological assessments
- On-line educational modules
- Ban from the residence halls and apartments
- Removal or relocation from the residence halls
- Transcript Notation
- Removal from the University

How is the campus process different from the criminal system?

There are several differences between the systems.

- First and foremost, rules governing the handling of student conduct matters at institutions of higher education are different from criminal statutes. Criminal prosecutions take place only when violations of law are alleged. On campuses, there are many types of violations that may not be violations of the law but violate institutional community

standards, such as academic dishonesty. There are other types of violations that mirror criminal statutes such as underage drinking. There are still others that may use similar terminology but are defined differently. Sexual assault and rape are good examples of these.

- A second major difference between the campus process and the criminal process is the standard of proof. On most campuses, there must be a preponderance of the evidence, enough evidence to tip the scales (i.e. 51% or "more likely than not"), before a student is found responsible for violating the student conduct code. In contrast, the standard in a criminal case is beyond a reasonable doubt, which is a 97%. *Montclair State University holds our process to the preponderance of evidence standard.*
- Another difference is that the campus process is usually confidential whereas a criminal prosecution creates public records. Many states have laws defining public information and regulating its use. For more on the limitations on disclosure of student records, please visit the University website located at www.montclair.edu/sdcl/ferpa/index.html on the Family Educational Rights and Privacy Act (FERPA).
- In addition, a campus' jurisdiction is more limited than the courts. Most institutions of higher education require some connection to the campus in order to address a violation of the code. The connection can be as minimal as the conduct reflects negatively on to the institution or as significant as requiring proof that the conduct had an effect on another student. Still others only address conduct that occurs on campus property. *Please refer to the UCOC, Section I, C. Authority for Montclair State University's jurisdictional position.*
- A fifth difference is that the process on many campuses is an administrative hearing and not a trial, and as such is not adversarial in nature. Therefore, the institution's process will not have the same procedures as a criminal trial. In Montclair State's process, students must speak for themselves. They are not permitted to have an attorney, or anyone else speak on their behalf. This is mainly to preserve the educational nature of University disciplinary hearings. It is important for students to represent themselves and to explain their conduct to others.
- Finally, as the student conduct process is considered an educational tool, the sanctions imposed tend to focus on repairing harm to the community, to victims, and to the institution as a whole. They also take into account what the accused student needs to learn from the situation. The process focuses on helping the student understand why his/her behaviors violated community standards and how the person can avoid making the same mistake again. It is also focused on helping the student see how the instances of misconduct affect others. These are generally not addressed in the criminal process. However, where weapons, drugs or violence are involved for example, students may be facing separation from the institution. In these instances, the campus' primary concern is maintaining a safe environment and a lesser educational response would not be appropriate.

Does being convicted of a campus violation give you a criminal record?

A college or university's student conduct process does NOT lead to anyone being "convicted of a crime." It is a process to determine if a student is to be found responsible for violating the Student Code of Conduct and/or other campus regulations. It can only result in a student discipline record that is maintained for a finite period of time. Also, a criminal record is only generated as a result of a violation of the law and only by a law enforcement official.

Can criminal charges be filed at the same time as a campus complaint?

Yes: the criminal justice system and the student conduct process are completely independent. Student victims are encouraged to discuss their situation with a police officer to help decide whether or not to file a criminal charge as well. In most cases, it is up to the victim to decide if he or she wishes to file a criminal charge. This is not something a college or university, or any other third party, can do on the victim's behalf.

Why is this not considered double jeopardy?

As stated above the goals of the two systems are not the same. The term *double jeopardy* is generally understood to mean that a person cannot be tried for the same crime twice. The institution is not charging an accused student with a crime, or violation of law. Instead, the student is being accused of violating the Code of Conduct within the domain of the campus. Therefore, being found guilty simultaneously of a crime in the court system and found responsible of a violation of the University's Code of Conduct does not constitute double jeopardy. The two domains are separate.

What are the appeal rights in our system?

For any conduct sanction, Montclair State University allows a student to file an appeal. The appeal must meet one of the following three conditions:

- Substantial and prejudicial failure to follow procedures;
- New evidence not available during the original hearing; or
- The sanction imposed is unduly severe compared to the nature of the violation.

A student is not granted an appeal because he or she objects to the outcome of a case – one or more of the above conditions must be substantiated.

Is the case reheard in an appeal?

No. In making their decision, an appellate officer limits their review to the record of the case including written statements submitted by the complainant and the accused student. The appellate officer will determine if there were serious errors made in the case, if significant new evidence has been revealed, or if the sanctions are appropriate given the nature of the violation. If any of these conditions are proven, the appellate officer may alter the decision or modify the sanctions.

How long does it take to resolve a case?

Cases that are handled informally are often resolved within a couple of weeks, although we try to resolve matters expeditiously. When a formal University Panel Hearing is required, the process takes longer. All parties have the right to develop their respective arguments. It can take a few weeks time to arrange for a day when all the parties and the hearing panel are available.

Once a decision is made, the student then has a finite amount of time to file a notice of appeal. Students have three business days to submit a written appeal based on the appeal guidelines set forth in the UCOC.

What are the long-term affects of being found responsible for violating the student conduct code?

Generally, minor violations will have no long-term impact. A more serious violation and sanction can have significant long-term impacts on your student. Graduate schools and some jobs typically look for a pattern of inappropriate behavior. One or two violations, if minor, probably won't have a significant impact. It is generally acknowledged by most colleges and universities that testing limits and making mistakes are part of the "college experience." However, if students aren't able to show how they learned from those incidents and changed their behavior over time, this will more likely impact their being hired or being accepted to graduate or professional school.

5. Talking with your college student about alcohol

Parents need to recognize that college students, especially first-year students, are at a significantly higher risk for alcohol-related problems than almost any other population.

AVAILABILITY OF ALCOHOL + ABSENCE OF PARENTS/GUARDIANS + DESIRE TO FIT IN = POTENTIALLY RISKY DRINKING DECISIONS

The first few weeks while at college, students' primary concerns are about seeking acceptance and making social connections. Many will find very healthy ways to do this such as joining student organizations. Others will resort to alcohol to break down some of their inhibitions. While students are informed of some of the physical risks associated with alcohol, very few are aware of the legal, academic, and social consequences of high risk drinking. Making poor choices regarding alcohol and drug use can negatively impact your student's success in higher education. Here are some suggestions for beginning a discussion about alcohol with your student:

- 1. Set clear and realistic expectations regarding academic performance and the use of alcohol.**
- 2. Make sure your student knows the legal penalties for underage drinking, using a fake ID, public intoxication, and DUI. In addition, make sure your student understands the academic consequences of underage drinking and alcohol use on campus.**
- 3. Stress to your student that drinking alcohol to the point of impairment or intoxication is dangerous.**

Low Risk Drinking is:

- Thinking about whether you will drink, what you will drink before the party
- Being 21 or older
- Eating a meal before drinking
- Abstaining
- Drinking no more than one drink per hour; maximum 1 for women, 2 for men
- Always knowing what you are drinking, who you are drinking with
- Alternating alcohol-free drinks throughout the evening
- Knowing how you will get home safely before you go out

High Risk Drinking is:

- Chugging, drinking games, shots (drinking anything out of a punch bowl, trough, hose or funnel)
- Drinking to get drunk (intoxicated)
- Driving after drinking or riding with someone under the influence
- Drinking too much, too fast
- Going to parties where people drink too much
- Not knowing what is in your glass or leaving it unattended
- Not knowing with whom you are drinking
- Mixing alcohol with medications or illegal drugs
- Underage drinking

- 4. Examine your own values and behavior and the messages you send regarding alcohol and other drugs. Refrain from "glorifying" alcohol related stories from your college days.**
- 5. Encourage them to stand up for their right to a safe academic environment.**
- 6. Encourage them to intervene when classmates or roommates are in trouble with alcohol.**
- 7. Stay in touch.**

8. Know where to go for help. If you suspect that your student is having problems, please encourage them to seek help at the following on-campus locations:

Counseling and Psychological Services (CAPS)
University Health Center
University Health Promotions
Drop-In Center
Department of Residential Education and Services
First Year Counselor
Your student may also talk to his or her academic advisor for assistance

6. Helpful Resources

Facts on Tap. Information available at <http://www.factsontap.org/>.

The Higher Education Center for Alcohol and Other Drug Prevention.

Information available at <http://www.edc.org/hec>.

National Institute on Alcohol Abuse & Alcoholism. *College Drinking: Changing the Culture.* Available at <http://www.collegedrinkingprevention.gov/>

O'Connell, Kathy (2004). *Talking to your student about alcohol.* Bloomington, IL: Chestnut Health Systems.

SAMHSA's Center for Substance Abuse Prevention. Information available at

<http://www.prevention.samhsa.gov/>

Truman State University. *Most Dogs Don't.* Available at <http://mostdogs.truman.edu/parents.htm>

University of San Francisco. *Information for Parents.* Available on the web at

http://www.usfca.edu/shep/parent_alcohol1.htm

Virginia Tech's *College Years and Alcohol... What Every Parent Should Know.*

Available on the web at <http://www.hokiehandbook.vt.edu/parentalcohol.html>

Conclusion

We hope this guide has been a useful tool to begin to orient you to the student conduct process. We encourage you to contact Mr. Jerry Collins, Director of Student Conduct, with questions regarding the handling of student misconduct allegations. Mr. Collins can be contacted via electronic mail at collinsje@mail.montclair.edu.

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