

# STUDENT CODE OF CONDUCT VIOLATIONS DEFINITIONS

## Discriminatory and Bias-Related Harassment

Harassment constitutes a form of discrimination that is prohibited by Mid-Plains Community College policy as well as the law. Mid-Plains Community College condemns and will not tolerate discriminatory harassment against any employee, student, visitor, or guest on the basis of any status protected by policy or law. Mid-Plains Community College will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, Mid-Plains Community College may also impose sanctions on the harasser through the application of the Equity Resolution Process. Mid-Plains Community College's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class by any member or group of the community.

A hostile environment may be created by harassing verbal, written, graphic, or physical conduct that is severe or persistent/pervasive and objectively offensive such that it interferes with, limits, or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.

The Mid-Plains Community College reserves the right to address offensive conduct and/or harassment that

1. does not rise to the level of creating a hostile environment, or
2. that is of a generic nature and not on the basis of a protected status. Addressing such behaviors may not result in the imposition of discipline under Mid-Plains Community College policy, but will be addressed through respectful confrontation, remedial actions, education, and/or effective conflict resolution mechanisms

## Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Nebraska regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. Mid-Plains Community College has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employers and employees but of students as well.

Sexual harassment is:

- unwelcome,
- sexual, sex-based, and/or gender-based,
- verbal, written, online, and/or physical conduct.

Anyone experiencing sexual harassment in any Mid-Plains Community College program is encouraged to report it immediately to the Title IX Coordinator or a deputy. Remedies, education, and/or training will be provided in response.

Sexual harassment may be disciplined when it takes the form of quid pro quo harassment, retaliatory harassment, and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

Severe, persistent or pervasive, and objectively offensive, such that it unreasonably interferes with, denies, or limits someone's ability to participate in or benefit from the University's/College's educational, employment, social, and/or residential program.

*Quid Pro Quo* Sexual Harassment is:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another. In addition, sexual harassment is when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational development or performance.

## Sexual Misconduct

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, Mid-Plains Community College has defined categories of sex/gender discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, Mid-Plains Community College considers Non-Consensual Sexual Intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, Mid-Plains Community College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other sex/gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Violations include:

### Sexual Harassment

(as defined in section 2 above)

### Non-Consensual Sexual Intercourse

Defined as:

- any sexual intercourse
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual intercourse includes:

- Vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

### Non-Consensual Sexual Contact

Defined as:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual touching includes:

- Intentional contact with the breasts, groin, or genitals, mouth or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other bodily contact in a sexual manner.

## Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse, or Non-Consensual Sexual Contact. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person observed).
- Invasion of sexual privacy.
- Taking pictures or video or audio recording another in a sexual act or during any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- Prostitution.
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD), or infection (STI) without informing the other person of the infection.
- Administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent (assuming the act is not completed).
- Exposing one's genitals in non-consensual circumstances.
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

## Force, Consent, and Incapacitation

Force:

1. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent ("Have sex with me or I'll hit you." "Okay, don't hit me, I'll do what you want.").
2. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual

advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

Consent:

1. Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.
2. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

Incapacitation:

1. A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.
2. It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.
3. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.
4. In Nebraska, a minor (meaning a person under the age of 19 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 19 years old may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act.

## Other Civil Rights Offenses

In addition to the forms of sexual misconduct described above, the following behaviors are also prohibited as forms of discrimination when the act is based upon the reporting party's actual or perceived membership in a protected class.

## Threatening or causing physical harm

Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person or causes an unreasonable fear of harm in another person;

## Discrimination

Discrimination is defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;

## Intimidation

Intimidation is defined as implied threats or acts that cause an unreasonable fear of harm in another;

## Hazing

Hazing is defined as acts likely to cause physical or psychological harm or social ostracism to any person within the college community when related to admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy). This includes forcing or requiring another person to perform an act that creates a substantial risk of bodily injury or emotional stress, with or without the consent of that person, as a condition of association with a group or organization. Hazing is considered a violation of human rights and is prohibited.

## Bullying

Bullying is defined as repeated and/or severe aggressive behavior which is likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally. Bullying is not speech or conduct otherwise protected by the 1st Amendment.

## Intimate Partner Violence

Intimate Partner Violence is defined as violence or abuse between those in an intimate relationship with each other;

## Stalking

Stalking can be considered a course of conduct directed at a specific person on the basis of actual or perceived membership in a protected class that is unwelcome and would cause a reasonable person to feel fear. Stalking may also be defined as repetitive and menacing while pursuing, following, harassing, and/or interfering with the peace and/or safety of another individual.

## Any Other College Rules

Any other College policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender. Sanctions for the above-listed behaviors range from reprimand up through and including expulsion (students) or termination of employment (faculty or staff).

## Intimidation

Intimidation is defined as implied threats or acts that cause an unreasonable fear of harm in another. Threatening another person face-to-face or via any means of communication, including but not limited to telephone, telegraph, mail, electronic mail (e-mail), social media, or communication of a threat through a third person is regarded as a serious violation of state law.

## Retaliation

Retaliation is any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing an allegation, or for assisting in providing information relevant to a claim of harassment is a serious violation of Mid-Plains Community College policy and will be treated as another possible

instance of harassment or discrimination. Mid-Plains Community College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

## Provocation

Provocation is reckless and/or intentional conduct likely to provoke a reasonable person to commit battery and is a violation of state law.

## Expression of Hate

Expressions of hate are defined as gestures, words, or other actions of a physical or psychological nature against another human based on race, gender, age, sexual orientation, religious preference, or disability.

## Disorderly Conduct

Obstruction or disruption of normal College activities by any means, including physical or psychological methods, disturbing the peace, dropping or throwing objects, sports in hallways, or inappropriate behavior on College property is not permitted.

## Unreasonable Noise Level

Reasonable quiet is required in or near sleeping, study, and class areas of the campus. Actions that interrupt the study, rest, or activities of others are not permitted. (Quiet hours are established in each residence hall and are to be observed by all those present in the hall.)

## Guest Conduct

Members of the College community who bring guests/visitors to the campus assume responsibility for the behavior of those persons. Students hosting guests on campus who violate College policy will be held accountable for the actions of their guests. Guests who violate College policy or guidelines repeatedly or whose violations are of an extremely serious nature are subject to eviction from College property and may be barred from future visits.

## Guest Event Attendance

Guests attending College-sponsored events and activities must be accompanied by their student host. Guests 16 years or older must be prepared to provide a picture ID (i.e., driver's license) when requested.

## Non-Compliance with College Officials

Students must comply with verbal or written instructions of College officials acting in the performance of their duties.

## Soliciting and Sales

Soliciting or selling merchandise on campus is not permitted. Violators are subject to eviction from College property and/or disciplinary action.

Students, staff, faculty, and registered campus organizations may solicit or sell merchandise for charitable causes in specific locations on campus, in campus buildings, and in residence halls. The College official responsible for the area where the solicitation will occur is the individual authorized to give permission. The selling of homemade foods (i.e., bake sales), except under conditions established by the Nebraska Board of Health, is not permitted.

## Presence of Fire Hazards

All open flames, open flame devices, slow-burning items, items that are designed to support open flame or burning items, and items that present

a potential fire hazard may not be present in campus buildings. Includes, but is not limited to Grills, Smokers, candles, incense, hot plates, natural Christmas trees, and coffee makers.

## Failure to Evacuate or Move to Safety

Disregarding or refusing to follow emergency response procedures during fire or tornado alarms is a violation of College policy.

## Tampering with Safety/Security Equipment

Fire extinguishers and fire detection and alarm systems are in place to protect the community. Tampering with fire safety devices is a serious violation and is prohibited. This includes, but is not limited to:

- disabling smoke detectors
- covering smoke detectors with any materials
- activating an alarm when no hazard is present
- hanging items from sprinkler system
- discharging, tampering with, or moving fire extinguishers

Tampering with locks, door hardware, cameras or other equipment used to provide security on campus is a violation of College policy.

Enabling unauthorized access to campus facilities by providing keys or access by other means, such as the propping of doors, is prohibited.

## False Report of Bomb or Fire

Knowingly initiating or circulating a false report or warning of an impending bombing, setting off a fire alarm when no fire is present, activating emergency phones when no threat exists, or creating another such false report is a violation of both state law and College policy.

## Fireworks

Possession and/or use of fireworks, incendiary devices, and other types of explosives are prohibited.

## Unauthorized Cooking

Cooking in student rooms is limited. Details are outlined in the Residential Life section.

## Weapons

The possession on the campus of any instrument that could be perceived as a dangerous and/or deadly weapon, including but not limited to knives (over 3.5" in length), guns, BB and pellet guns, paintball guns, bows and arrows, and martial arts weapons is not permitted. This prohibition extends to any vehicle parked on College property and to any decor items which, though intended for display only, could be considered potentially dangerous.

## Theft

The unauthorized taking of individual or College property is a violation of both state law and College policy.

## Property Damage

Damaging or destroying personal or College property or littering on College property is a violation of the College Policy.

## Removal of Window Screens

Removal of screens from any window within the residence halls or other College buildings is not permitted.

## Pets and/or Animals

In accordance with public health regulations, no pets/other animals, with the exception of fish in a 5-gallon or smaller tank, are allowed in the residence halls. Fish may not be left unattended in the residence halls over any scheduled holidays except when permitted by the Director of Residence Life or their designees. Proper notification and approval of service animals per the MPCC Policy can be found at <http://www.mpcc.edu/about/consumer-information.php>

## Alcoholic Beverages

Possession, consumption, being in the presence of, the sale of, or the transfer of alcoholic beverages or their containers (including providing alcohol to minors) on College property or in College-owned vehicles is prohibited.

## Illegal Drugs

The use, possession, being in the presence of, the sale of, or the transfer of any narcotic, hallucinogen, or other drug or drug paraphernalia, except as permitted by law, is prohibited.

## Disorderly Conduct While Under the Influence

No person while under the influence of alcohol or other drugs shall engage in conduct or create a condition that represents a risk of physical harm to self or another, results in damage to property, or is likely to be offensive or cause inconvenience, annoyance, or alarm to others.

## Tobacco on Campus

The College is a tobacco-free campus. Use of tobacco of any kind on-campus or in campus vehicles is prohibited. Tobacco as used in this policy shall mean all tobacco products, including smokeless (chewing) tobacco, electronic cigarettes, and vape pens. This policy may be found at <http://www.mpcc.edu/about/tobacco-free-campus-policy.php>

## Honesty

Intentional falsification of information or misrepresentation of identity to College personnel is a violation of College policy.

## Unauthorized Use/Removal of College Property

Unauthorized use, entry, tampering, or occupancy of any College facility, structure (including roofs, building ledges, designated spaces, and special facilities), equipment, or property is not permitted. This includes breaking tamper seals. Placement of unwanted room furnishings or personal belongings in hallways or any room other than storage rooms is not permitted.

Community furnishings are for community usage. The removal of College property located in community spaces (i.e., furniture, televisions, etc.) is not permitted without written approval from the Assistant Director of Residence Life or their designees.

## Displays on Windows, Doors, and Rooms

While the privacy of the individual's residence hall room is respected, it is recognized that the decorations and furnishings of that room should reflect positively on the policies, standards, commitments, and philosophy of the College and should reflect respect for others.

Signs, containers, trademarks, and other displays on windows and doors that advertise or represent products (such as alcoholic beverages), behaviors, or philosophies not compatible with College policies or commitments are not permitted.

The possession or display in College buildings of signs or other facsimiles that appear to be the property of municipalities or private businesses (without proof of ownership) is not permitted and will be confiscated.

## Mid-Plains Campus Identification

The Mid-Plains Campus Card is the identification card for all Mid-Plains Community College students and employees. All currently registered students may issued a Campus Card and are required to carry it at all times while on campus. Students are also required to provide their Campus Card to college officials, including Residence Life student staff, upon request. Students are not permitted to allow others to use their Campus Card for any purpose. If Campus Cards are lost or stolen, this should be communicated to Student Life for deactivation to prevent any unauthorized use of that card. Lost or broken Campus Cards can be replaced, for a fee, at the Learning Commons.

## Room Lock-outs / Key Replacement

Residents are responsible for maintaining control of their keys and key cards. Residents are allowed assistance for one lockout each semester. Students creating multiple lockouts are subject to a \$10 charge each time.

## Vehicle Regulations

All residential students must register their motor vehicles.

Mechanical repairs to any vehicle are prohibited on campus property. In the event a vehicle leaks fluid of any kind on campus property, it will be the owner's responsibility to clean up the leaked fluid. Failure to do so will result in towing of the vehicle at the owners' expense or possible citations.

Any vehicle found on the Mid-Plains Community College (MPCC) property that has not been moved for a period of two weeks or longer will be considered abandoned and will be towed at the owner's expense.

Each vehicle registered on campus must be covered by the state-required minimum liability insurance for the state in which the vehicle is registered.

No ATVs or golf carts are allowed on College property without prior approval.

Extension cords are not permitted to be run from an outlet (exterior or interior) across a sidewalk or driveway to a vehicle or charging destination.

Moving vehicles and parking violations on campus are subject to enforcement.

## Inappropriate Use of Electronic Devices

Cellular phones, computers, cameras, and other electronic devices may not be used in a manner that causes disruption within any College-owned or College-operated facilities. Utilizing these devices for the purpose of photographing test questions or other forms of academic misconduct or illegal activity is prohibited. Taking photographs of any individual in a locker room or lavatory is prohibited. Individuals taking photographs of others without prior consent may be subject to sanctions.

## Violation of Federal, State, and/or Local Law

Any behavior that violates Nebraska state law and/or United States federal law is also a violation of College policy. The College reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community. Such action may include, but is not limited to, pursuing disciplinary action for any violation of state or federal law — on- or off-campus — that affects the College's educational interests. Students may be accountable to both civil authorities and to the College for acts that constitute violations of state and/or the law. Disciplinary action at the College will normally proceed during the pendency of criminal proceedings.

## Unauthorized Room Change

Residents seeking to change housing room assignments will require the written approval of the Assistant Director of Residence Life or their designees prior to changing room assignments. Unauthorized room changes are subject to judicial sanctions.

## Inappropriate Use of Internet or E-Communications

Access to the Internet, email, and all electronic communications provided by the College comes with the responsibility of using these services in a responsible and ethical manner. Violations of this policy include but are not limited to illegal downloading of copyrighted materials or the downloading of illegal images.

## Violation of State and/or Federal Law

Any behavior that violates Nebraska state law and/or United States federal law is also a violation of College policy. The College reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community. Such action may include, but is not limited to, pursuing disciplinary action for any violation of state or federal law — on- or off-campus — that affects the College's educational interests. Students may be to both civil authorities and to the College for acts that constitute violations of state and/or the law. Disciplinary action at the College will normally proceed during the pendency of criminal proceedings.