

Code of Student Conduct

Utica University Code of Student Conduct Utica University is a community committed to the principles of civility and fairness in pursuit of a purposeful academic experience. Students (residential, commuter, and online), staff, and faculty can expect that every interaction will be governed by the values of The University - lifelong learning, ethical behavior and integrity, honest communication, and the well-being of others. These are integral components of Utica University. The Code of Student Conduct articulates the connection between student behavior and these norms and expectations of The University community.

Each student is responsible for his/her conduct from admission to Utica University to graduation. Students are expected to know and uphold the Code of Student Conduct, as well as abide by local, state, and federal law. When the Code is not upheld, students will face action through the conduct process. While most alleged violations of the Code of Student Conduct occur while the student is on campus, students involved in off-campus incidents may also be charged through The University's conduct process. This occurs when the alleged incident adversely affects members of The University community, interferes with the daily lives of local residents, and/or jeopardizes The University's positive public relationship with the community/public. This may also occur prior to an applicant being accepted as a Utica University student when an alleged incident adversely affects members of The University community, interferes with the daily lives of local residents, and/or jeopardizes The University's positive public relationship with the community/public.

The following behaviors are violations of the Code of Student Conduct:

1. **Academic dishonesty** which includes, but is not limited to: plagiarism, cheating, misuse of academic resources or facilities, misuse of software, data, equipment, or networks, or any act that hinders the academic process.
2. **Academic and professional misconduct** which includes, but is not limited to: misuse of academic resources or facilities, behavior in and outside of the classroom, misuse of software, data, equipment, or networks, or any act that hinders the academic process.
3. **Disruptive Behavior** - Participating in any activity that disrupts or obstructs the normal operations of The University or its members, or leading/inciting others to disrupt scheduled and/or normal activities. Specific examples of how The University categorizes misconduct in this area include, but are not limited to:
 - A. Disruptive Behavior
 - B. Insubordination to Faculty or Staff
 - C. Noise Violation
4. **Physical harm** or threat of physical harm to any person(s). Specific examples of how The University categorizes misconduct in this area include, but are not limited to:
 - A. Aggressive behavior, including behavior that is perceived to be forceful, hostile or attacking, which may occur either in retaliation or without provocation.
 - B. Physical violence, including striking, shoving, or kicking another person, or attempting/ threatening to do the same.

5. **Harassment** occurs if an individual engages in conduct (physical, verbal, graphic, written, or electronic) that is sufficiently severe, pervasive, or persistent so as to interfere unreasonably with or limit the ability of another individual to participate in or benefit from the services, activities or privileges provided by The University, or has the purpose of creating an intimidating or hostile environment. Harassment may include conduct that occurs based on race, sex, color, ethnic or national origin, religion, age, sexual orientation, disability, or veteran status. Harassment is not limited to the categories listed above, and may include obscene or threatening behavior and/or verbal abuse. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated instances. The University reserves the right to discipline offensive conduct that is inconsistent with community standards even if it does not rise to the level as defined by applicable law.

- A. Conduct that is sufficiently severe, pervasive, or persistent so as to interfere unreasonably with or limit the ability of another individual to participate in or benefit from the services, activities or privileges provided by The University
- B. Behavior that creates an intimidating or hostile environment
- C. Retaliatory Behavior

6. **Unauthorized Use of Electronic or other Devices** - Any unauthorized use of electronic or other devices to make an audio or video record of any person while on University premises without his/her prior knowledge, or without his/her effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, restroom, or in any place where there is a reasonable expectation of privacy.

7. **Health and Safety** - Conduct that threatens the mental or physical health and safety of any person(s). Specific examples of how The University categorizes misconduct in this area include, but are not limited to:

- A. Endangering one's safety
- B. Endangering the safety of others
- C. Alcohol/drug use resulting in medical treatment
- D. Inhaling or ingesting any substance that could alter a student's mental state or have a negative impact on a student's well-being

8. **Theft or Damage** - Theft or damage to personal or institutional property or services. Specific examples of how The University categorizes misconduct in this area include, but are not limited to:

- A. Theft
- B. Theft of services
- C. Vandalism
- D. Damage to property
- E. Possession or use of stolen property
- F. Misappropriation of funds

9. **Misuse of Documents or Identification** - Misuse of University identification cards, records, or documents, including forgery, alteration, or fabrication.

10. **Failure to Comply/Act** - Failure to comply/failure to act. Specific examples of how The University categorizes misconduct in this area include, but are not limited to:

- A. Failure to comply with the directives of University officials or representatives in the performance of their duties
- B. Furnishing false information to a University official or representative
- C. Being present when a violation of the Code of Student Conduct or Residence Hall Agreement is occurring, and failing to leave and notify campus authorities that there is a violation(s) taking place
- D. Failure to carry Utica University ID and/or provide ID at the request of a University official
- E. Intentionally reporting a false incident/situation
- F. Violation of parking regulations (3rd parking ticket)
- G. Violation of traffic regulations (2nd incident)

11. **Unauthorized Entry/Use of Facilities - Unauthorized entry, use, or occupation of University facilities** that are locked, closed, or otherwise restricted as to use. Specific examples of how The University categorizes misconduct in this area include, but are not limited to:

- A. Unauthorized use/misuse of keys
- B. Trespassing
- C. Unauthorized use of property
- D. Providing unauthorized access to University facilities

12. **Campus Quality of Life** - Conduct that adversely affects the campus's quality of life or unduly disturbs one or more members of The University community. Specific examples of how The University categorizes misconduct in this area include, but are not limited to:

- A. Solicitation
- B. Hallway sports
- C. Lewd/indecent behavior

13. **Alcohol** - Underage use, possession, purchase, or distribution of alcohol to underage persons, or being an underage person in the presence of alcohol being consumed. Specific examples of how The University categorizes misconduct in this area include, but are not limited to:

- A. Underage possession/underage consumption of alcohol
- B. Underage persons in the presence of alcohol being consumed
- C. Providing alcoholic beverages to underage persons
- D. Hosting or participating in any activity that promotes mass or excessive consumption of alcohol
- E. Public intoxication
- F. Possession or being in the presence of alcohol paraphernalia including, but not limited to, empty containers
- G. Violating Residence Hall Alcohol Policy
- H. Suspicion of possession/use of alcohol

14. **Drugs** - Use, possession, manufacturing, distribution, or sale of drugs or other controlled substances except as expressly permitted by law, or being in the presence of any of the above. Specific examples of how The University categorizes misconduct in this area include, but are not limited to:

- A. Sale/distribution of illegal drugs
- B. Possession/use of illegal drugs
- C. Being in the presence of drugs or other controlled substances except as expressly permitted by law
- D. Use of a prescription drug if the prescription was not issued to the student, or the distribution or sale of a prescription drug to a person to whom the prescription was not originally issued
- E. Possession or being in the presence of drug paraphernalia, including, but not limited to, bong, glass pipes, hookahs, vaping equipment, e-cigarettes, etc.
- F. Suspicion of marijuana/illegal drug use

NOTE: While the new state law immediately permits using marijuana, it remains illegal, in all forms, at the federal level. Since Utica University receives federal funding, it is required to operate under applicable federal guidelines. As such, Utica University's policy continues to ban the purchase, use, or possession of marijuana and cannabis derivatives on campus.

15. **Weapons** - Unauthorized possession or use of firearms, explosive devices, fireworks, dangerous or illegal weapons (contact Campus Safety for specifications), or hazardous materials. This may include the use of anything as a weapon which was not intended for that purpose.

16. **Safety Equipment** - Interference with or misuse of fire alarms, fire prevention and detection equipment, or other safety and security equipment. Specific examples of how The University categorizes misconduct in this area include, but are not limited to:

- A. Tampering with or misuse of fire, safety, or security equipment
- B. Causing the false report of a fire
- C. Intentional or reckless behavior that causes a fire
- D. Interfering with or failing to follow emergency procedures
- E. Fire safety violations including, but not limited to, candles and extension cords.

17. **Policy Violations** - Violation of any university policy, rule, or regulation published in hard copy or available electronically on the Utica University website. Specific examples of how The University categorizes misconduct in this area include, but are not limited to:

- A. Violation of the Residence Hall Agreement
(<https://www.utica.edu/student/reslife/agreement.cfm>)
- B. Violation of the Hazing Policy
(<http://www.utica.edu/student/activities/organizations/igc/hazing.cfm>)
- C. Violation of the Utica University Posting Policy
(<http://www.utica.edu/policies/policies.cfm?id=89>)
- D. Violation of the Copyright and Peer to Peer File Sharing Policy
(<http://www.utica.edu/policies/policies.cfm?id=129>)

18. **Comply with laws** - Violation of federal, state, or local laws. Students are expected to comply with all laws, whether or not they are on The University campus.

19. **Off-Campus Disruption** - Behavior that reflects negatively on the reputation of The University and its students as a result of a student's behavior anywhere off campus. Examples of off-campus disruption include but are not limited to damage to neighbors' and/or public property hosting large parties/noise ordinance violations, obstruction of public streets by crowds or vehicles, illegal parking, upkeep of rented apartment/areas, littering, etc.

20. **Social Media and Online Conduct** - Although it is acknowledged that students use technology to connect, collaborate, and communicate with each other and that online forms of expression such as the value of open sharing, diversity of opinion, and civil debate are as important to student development as traditional oral and written expression; The University categorizes misconduct in this area to include, but not be limited to:

- A. Personal attacks, insults, or threatening language
- B. Plagiarized or copyrighted material
- C. Commercial promotions or spam

21. **Bias Related Conduct** - Conduct that adversely and unfairly targets an individual or group based on social identity categories (national origin, ethnicity, race, age, religion, gender, gender identity & expression, sexual orientation, disability, veteran status, color, creed, marital status or any combination of these characteristics); and speech or other forms of expression intended to harass, threaten, cause fear of physical injury, or otherwise incite violence or other criminal action against an individual or group. The act may be verbal, written or physical and occur on campus or within an area that affects the campus community.

22. **Hate Crime** - A person commits a hate crime when they commit a specified criminal offense and either intentionally commits the act or intentionally selects the person against whom the offense is committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation of a person, regardless of whether the belief or perception is correct.

23. **Sexual Misconduct** - Sexual Misconduct is a term used by this policy to refer to forms of non-consensual sexual activity or offenses. While sexual misconduct can be a criminal offense under New York State law, a person's conduct may violate Utica University's policy even if it does not violate State law. Thus, offenders may be prosecuted under New York State criminal statutes and/or be subject to disciplinary action by the University. The University may choose to pursue disciplinary action while criminal action is pending, even if criminal justice authorities choose not to prosecute. Sexual misconduct includes the following behaviors:

A. **Sexual Harassment** - "Sexual harassment" means unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex or gender, sexual orientation, or gender identity or expression, when such conduct has the purpose or effect of unreasonably interfering with an individual's work, academic, or extracurricular performance, or creating an intimidating, hostile, or offensive work or learning environment, even if the reporting individual is not the intended target of the sexual harassment. Harassing conduct can occur in various forms, including: verbal, physical, visual, sex-stereotyping, or communication based.

B. **Sexual Assault** - "Sexual assault" includes any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will, without affirmative consent, or where the victim is incapable of giving affirmative consent.). Sexual assault consists of the following specific acts:

- Non-Consensual Sexual Intercourse - Sexual assault of this type includes the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, forcibly or without affirmative consent or where the victim is incapable of affirmative consent due to mental or physical incapacity. This type of sexual assault also includes non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.
- Non-Consensual Sexual Contact - This form of sexual assault includes any intentional touching, however slight, for purposes of sexual gratification or with sexual intent, of the private body parts (including genitalia, anus, groin, breast, inner thigh, or buttocks) of another person without affirmative consent. This may include non-penetrative acts, touching directly or with an object, and/or touching the private body parts of another over clothing. This may also include forcing or causing another without affirmative consent to touch one's own private body parts.

C. **Sexual Exploitation** - Taking non-consensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited, if the conduct does not otherwise constitute another offense under this policy. Examples of sexual exploitation include (a) sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed); (b) taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the 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 or beyond the parameters of consent), including the making or posting of revenge pornography; (c) exposing one's genitals in non-consensual circumstances or nonconsensual disrobing of another person so as to expose the other person's private body parts; (d) prostituting another person; (e) engaging in sexual activity with another person while knowingly infected with a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the STD or STI; (f) causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity; (g) misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections; (h) forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity; or (i) knowingly soliciting a minor for sexual activity.

D. **Dating Violence** - Dating violence refers to violence (including but not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the statement or the reporting party with consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Dating violence can include behavior such as coercion, isolation or other forms of

emotional, verbal or economic abuse if it reflects a threat of sexual or physical abuse as described above. Dating violence does not include acts covered under the definition of domestic violence.

E. Domestic Violence - Domestic violence refers to violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner. To categorize an incident as Domestic Violence, the relationship between the responding party and the reporting party/complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship as described above.

F. Stalking - Stalking refers to a course of knowingly unwanted conduct directed at a specific person that would cause a reasonable person to fear for that person's safety or the safety of others, or suffer substantial emotional distress. Stalking involves repeated and continued harassment made against the expressed wishes of another individual, which causes the targeted individual to feel emotional distress, including fear and apprehension. Stalking behaviors may include, but are not limited to, intentional pursuing, following, or observing another; repeated non-consensual (unwanted) communication or contact (including face-to-face, telephone calls, voice messages, electronic messages, web-based messages, text messages, unwanted gifts, etc.); or using "spyware" or other electronic means to gain impermissible access to a person's private information. Such behaviors may also include interference with the safety of any of the immediate family members of the community.

Community Standards Violations - The University prohibits the previous listed behavior (Sexual Misconduct) under circumstances in which a University interest is implicated (such as an impact on individuals as members of the University community). For the purpose of Community Standards Violations, the above conduct (Sexual Misconduct) is prohibited even if the conduct occurs off-campus, outside the United States, if the reporting party/complainant is not participating or seeking to participate in the University's education program or activity, or otherwise in circumstances over which the University does not have influence or control, including but not limited to during University academic breaks.

24. Infectious Disease - Infectious Disease (e.g. COVID-19), violating University requirements or public health orders in place to reduce the risk of spreading infectious disease.

A. Failing to comply with any and all applicable University federal, state, and/or local public health orders.

B. Failing to comply with University policies, procedures, and any other requirements in place to help reduce the risk of contracting or spreading infectious diseases.

C. Failing to comply with any additional or more specific actions to limit the spread of infectious disease, while participating in a program or activity, utilizing a service or benefit, or using University facilities.

D. Failing to abide by face covering requirements.

E. Failing to abide by social gathering/distancing requirements.

*Instances of academic dishonesty may be referred to the Academic Standards Committee by the Office of Student Conduct & Community Standards, and instances of academic misconduct may be referred by the Academic Standards Committee to the Office of Conduct & Community Standards for possible action through the student conduct process. Behavior by a student may result in both academic action and action through the student conduct process. As these processes are separate, the decision rendered in one place will not determine the decision rendered in the other. Please refer to The University catalog for a complete description of the definition and procedures followed for cases involving academic dishonesty.

**Matters of professional misconduct are typically handled by the relevant academic department, unless the behavior is so egregious as to warrant it being referred to the Office of Academic Affairs.

***This document will be reviewed annually, and periodically revised and distributed to The University community. The responsibility for review and revision of this document falls under the purview of the Office of Student Conduct & Community Standards.

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