

Utica College Code of Student Conduct

Utica College Code of Student Conduct Utica College 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 college - lifelong learning, ethical behavior and integrity, honest communication, and the well-being of others. These are integral components of Utica College. The Code of Student Conduct articulates the connection between student behavior and these norms and expectations of the college community.

Each student is responsible for his/her conduct from admission to Utica College 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 College's conduct process. This occurs when the alleged incident adversely affects members of the College community, interferes with the daily lives of local residents, and/or jeopardizes the College's positive public relationship with the community/public.

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

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

A. Failing to follow any and all applicable College, federal, state, and/or local public health orders.

B. Failing to follow College 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 College facilities.

D. Failing to abide by face covering requirements. If College policy, procedures, or other requirements and/or public health orders require wearing face coverings, students are required to wear face coverings that cover the nose and mouth whenever indoors on campus and whenever outdoors on campus when physical distancing of six feet or more is not possible. This does not apply to: (1) offices when used only by one student with a closed door; (2) private living spaces such as the interior of an apartment or residence hall room and bathroom, but not including communal living spaces that are accessible to all students in a building such as shared kitchens, lounges, or bathrooms; or (3) when a specific activity the student is participating in cannot be reasonably done while wearing a face covering with this exception applying only as long as the duration of the activity, including but not limited to while brushing one's teeth in a communal bathroom, while eating in a College dining hall or center, or while exercising in the College recreation center or other College recreation facility.

E. Failing to abide by gathering requirements. All on campus gatherings, public or private, must comply with applicable College policy, procedure, or other requirements and the most restrictive public health order in place. All off campus gatherings, public or private, must comply with the most restrictive public health order in place. For example, if specific capacity or density limitations or guidelines are in place, students must abide by those parameters.

Failure to comply with these requirements will result in a violation of the Student Code of Conduct and the appropriate charges will be applied. Interim suspension or expulsion from the College may be considered.

2. 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.

3. 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.

4. Participating in any activity that disrupts or obstructs the normal operations of the College or its members, or leading/inciting others to disrupt scheduled and/or normal activities. Specific examples of how the College categorizes misconduct in this area include, but are not limited to:

- A. Disruptive Behavior
- B. Insubordination to Faculty or Staff
- C. Noise Violation

5. Physical harm or threat of physical harm to any person(s). Specific examples of how the College 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.

6. 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 College, 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 College 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.

7. Any unauthorized use of electronic or other devices to make an audio or video record of any person while on College 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.

8. Conduct that threatens the mental or physical health and safety of any person(s). Specific examples of how the College 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

9. Theft or damage to personal or institutional property or services. Specific examples of how the College 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

10. Misuse of college identification cards, records, or documents, including forgery, alteration, or fabrication.

11. Failure to comply/failure to act. Specific examples of how the College categorizes misconduct in this area include, but are not limited to:

- A. Failure to comply with the directives of College officials or representatives in the performance of their duties

- B. Furnishing false information to a College 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 College ID and/or provide ID at the request of a College official

12. Unauthorized entry, use, or occupation of College facilities that are locked, closed, or otherwise restricted as to use. Specific examples of how the College 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 College facilities

13. Conduct that adversely affects the campus's quality of life or unduly disturbs one or more members of the college community. Specific examples of how the College categorizes misconduct in this area include, but are not limited to:

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

14. 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 College 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

15. 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 College 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, bongos or glass pipes
- F. Suspicion of marijuana/illegal drug use

16. 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.

17. Interference with or misuse of fire alarms, fire prevention and detection equipment, or other safety and security equipment. Specific examples of how the College categorizes misconduct in this area include, but are not limited to:

- A. Tampering with 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.

18. Violation of any college policy, rule, or regulation published in hard copy or available electronically on the Utica College website. Specific examples of how the College 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 College 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>)

19. Violation of federal, state, or local laws. Students are expected to comply with all laws, whether or not they are on the college campus.

20. Off-Campus Disruption: Behavior that reflects negatively on the reputation of the College 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.

21. Social Media - 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 College 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

22. 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.

23. Hate Crime - A person commits a hate crime when he or she commits 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.

24. 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 College'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 College. The College 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 Assault is defined, consistent with federal law, as including non-consensual sexual intercourse and non-consensual contact which can be further defined as follows:
- B. Non-Consensual Sexual Contact is any intentional sexual touching, however slight, for purposes of sexual gratification or with sexual intent, of any private body part or with an object, by a person upon another person that is without affirmative consent. This may include non-penetrative sexual assaults.
- C. Non-Consensual Sexual Intercourse is any sexual penetration (anal, oral, or vaginal), however slight, with any body part or object by a person upon another person that is without affirmative consent. Non-consensual sexual acts include the following:

- Rape: 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 of the victim.
- Statutory Rape: 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.

D. Sexual Exploitation occurs when, without affirmative consent, a person takes sexual advantage of another to benefit or advantage anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, prostitution, observing or recording (whether by video or audio tape) of a sexual or other private activity (such as consensual sexual activity, undressing, or showering) without the consent of all involved; engaging in voyeurism; engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of such infection; or exposing one's genitals in non-consensual circumstances.

E. Affirmative Consent - In order for individuals to engage in sexual activity of any type with each other, there must be clear affirmative consent. Whenever the term consent is used in this policy, it should be understood to mean affirmative consent as defined here. Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of affirmative consent does not vary based on a participant's sex, sexual orientation, gender identity, or gender expression. Under this policy, "No" always means "No." At the same time, silence, or the absence of an explicit "no", cannot be assumed to indicate consent.

- Consent to some form of sexual activity cannot be automatically taken as consent to any other sexual activity.
- Past consent to sexual activity cannot be presumed to be consent to engage in the same sexual activity in the future.
- Consent can be withdrawn at any time by expressing in words or actions that the individual no longer wants the sexual activity to continue and, if that happens, the other person must stop immediately.
- Affirmative consent cannot be obtained by use of physical force, compelling threats, intimidating behavior, or coercion. Coerced sexual activity violates this policy just as much as physically forced sex violates this policy. Coercion happens when someone unreasonably pressures someone else for sex.
- Consent cannot be given in the following contexts:
 - Incapacitation- this occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness, mental disability, being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. In order to give affirmative consent, one must be of legal age, which is 17 in the State of New York. Use of alcohol or other drugs does not, in and of itself, negate a person's ability to give affirmative consent. However, depending on the degree of intoxication, someone who is under the influence of alcohol or drugs or other intoxicants may be incapacitated and therefore unable to consent. A person who has been drinking or using drugs is still responsible for ensuring that the other person provides affirmative consent to engage in sexual activity. An individual's incapacity may also be caused by consuming "date rape" drugs. Possession, use, and/or distribution of any of these substances (including Rohypnol, Ketamine, GHB, Burundanga, and others) is

prohibited, and administering any of these drugs to another person for the purpose of inducing one to consent to sexual activity is a violation of this policy.

F. Coercion - Coercion is unreasonable pressure for sexual activity. The degree of pressure is such that it deprives the person of the ability to make a choice as to whether or not she or he wants to engage in sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When one person makes it clear to another 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.

G. Force - 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.

H. Predatory Drugs - A person under the influence of predatory drugs is also considered incapacitated. Predatory drugs, also called date rape drugs, include but are not limited to GHB (gamma hydroxybutyrate), Rohypnol, and Ketamine. These are odorless, colorless drugs that can easily be slipped into a drink. They can produce disorientation, loss of inhibition, and unconsciousness, and may also cause amnesia as an aftereffect. These drugs are fast-acting and more dangerous when combined with alcohol.

I. Dating Violence is the use of physical violence, coercion, threats, intimidation, isolation, or other forms of violence directed towards a person who is or has been in a social relationship of a romantic or intimate nature with another. Dating violence can be a single act or a pattern of behavior in relationships. The "intimate" relationship may be characterized as short or long-term relationships (current or former) involving a series of sexual encounters, dating, "hooking up," or similar interactions. The existence of such a relationship may be determined based on consideration of the length of the relationship, the type of relationship, and/or the frequency of interaction between the persons involved in the relationship.

J. Domestic Violence refers to physical or non-physical violence between spouses or former spouses, cohabitating romantic partners or individuals who were formerly cohabitating romantic partners, individuals who share a child in common, or others in a family relationship.

K. 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 or members of the community.

*** The adjudication process for violation #24, Sexual Misconduct, will parallel that of the Title IX adjudication process. ***

*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 College 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 College community. The responsibility for review and revision of this document falls under the purview of the Office of Student Conduct & Community Standards.

Revised August 2020