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SB73-20/21: Resolution Establishing the Code of Ethics in the ASUM Bylaws as Enforceable

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1 **The Associated Students of the University of Montana**
2 **Resolution Establishing the Code of Ethics in the ASUM Bylaws as Enforceable**
3 **February 28, 2021**
4 **SB73-20/21**

5 **Authored by: Patrick James Flanagan, ASUM Vice President; Ethan Hanley, ASUM**
6 **Business Manager;**

7 **Sponsored by: Noah Durnell, ASUM Senator; Nicholas Ververis, ASUM Senator;**
8

9 Whereas, The actions of the Associated Students of the University of Montana (ASUM) are
10 regulated by our governing documents;

11
12 Whereas, ASUM created a new governing document on September 23, 2020 in the establishment
13 of a Code of Ethics¹;

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15 Whereas, Section 2 of the Code of Ethics set expectations that apply to all active members of the
16 ASUM Student Government including but not limited to:

- 17 • *Faithfully execute the duties of their positions as outline in the ASUM*
18 *constitution and Bylaws*
- 19 • *Always act in the best interests of all students attending the University of*
20 *Montana, Missoula College and/or Bitter College*
- 21 • *Retain the self-awareness to separate themselves from potential bias in*
22 *order to represent all students regardless of race, sex, religion, political*
23 *affiliation, or portion of the student population...*
- 24 • *Uphold their Oath of Office, the Governing Documents of ASUM, and this*
25 *Code in conjunction with the Student Conduct Code, as well as State and Federal*
26 *Law...*
- 27 • *Not seek out special benefits as a result of their position...;*

28
29 Whereas, Section 3 of the Code of Ethics reads

30 *Section 3: Non-Discrimination*

31 *The Associated Students of the University of Montana (ASUM) is charged with*
32 *representing and respecting all students, regardless of race, color, religion,*
33 *national origin, creed, service in the uniformed services, veteran status, sex, age,*
34 *political ideals, marital or family status, pregnancy, physical or mental disability,*
35 *genetic information, gender identity, gender expression, or sexual orientation in*
36 *compliance with federal, state, and local non-discrimination ordinances and the*
37 *University of Montana Student Code of Conduct. As such, neither membership nor*
38 *participation in ASUM sanctioned affairs shall be barred to any student on the*
39 *basis of protected class.;*

40
41 Whereas, Section 4 of the Code of Ethics delineates that elected officials of ASUM are expected
42 to abstain from votes that would result in a direct and measurable benefit from a conflict of
43 interest;

44
45 Whereas, Article 1, Section 1, of the ASUM House Rules reads:

46 *Section 1: Oath of Office*

47 A. *All Executives and Senators shall be duly sworn in, by the ASUM Faculty*
48 *Advisor or their designee at the first regularly scheduled Senate meeting, with the*
49 *following oath: I, _____, do solemnly swear that I will faithfully execute the office*
50 *of President/Vice-President/Business Manager/Senator of the Associated Students*
51 *of The University of Montana, and will to the best of my ability, preserve, protect,*
52 *and defend the rights and privileges of the students of The University of*
53 *Montana, and will responsibly undertake all duties necessary to secure these*
54 *ends;*

55
56 Whereas, The ASUM Code of Ethics has no current method of enforcement and is merely a
57 suggested course of behaviors for members of the body;

58
59 Whereas, It is common for other organizations to enforce sanctions for violations of their code of
60 ethics up to termination:

61
62 *For members of an organization, violating the code of ethics can result in sanctions*
63 *including termination.²;*

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65 Whereas, The Montana State Senate and House of Representatives has an Ethics Committee that
66 enforces standards for legislators;

67
68 Whereas, Article IV, Section B, of the ASUM Bylaws reads:

- 69 *B. Any officer or member of the Senate may be impeached for:*
70 *1. Breach of duties as stated in the Constitution or Bylaws;*
71 *2. Failing to attend three regularly scheduled Senate meetings (and/or*
72 *ASUM committee meetings), per semester, without an excuse approved by*
73 *the chair (Vice President);*
74 *3. Missing final budgeting without being excused by the Chair;*
75 *4. Committing any larceny against the University, ASUM, or any*
76 *subsidiary thereof;*
77 *5. Being convicted of a felony or its equivalent in any jurisdiction;*
78 *6. Being convicted of a misdemeanor that is sexual in nature, or its*
79 *equivalent in any jurisdiction; ;*

80
81 Whereas, A serious violation of the Code of Ethics by any elected ASUM official should be
82 considered a serious breach of duty;

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84 Whereas, A violation of any section of the Code of Ethics goes directly against the Oath of
85 Office taken by Senators and Executives;

86
87 Whereas, Allowing Code of Ethics violations to take place without consequence delegitimizes
88 both the responsibility elected ASUM officials have as well as the authority of our Code of
89 Ethics and other governing documents;

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91 Therefore, Let It Be Resolved, That the ASUM Bylaws be amended to include a new Article VII
92 to read:

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Article VII – Code of Ethics

Section 1: Definitions

A. *ASUM: ASUM shall be the representative body of the members of the Association, organized exclusively for educational and non-profit purposes. The primary responsibility of the Association is to serve as an advocate for the general welfare of the students.*

B. *Ethical: A standard of principles guided by social and moral responsibility through which Senators are expected to behave.*

C. *Ethical Conduct: Behavior on and off of the Senate floor, pertaining to both physical and online presences, that is becoming of inclusivity, responsibility, credibility in decision making, and behavior that is considered morally sound.*

D. *Conflict of Interest: A conflict of interest occurs when a Senator or Executive becomes unreliable because of a clash between personal (or self-serving) interests and professional duties or responsibilities.¹*

E. *Gift: A voluntary transfer of property or of a property interest from one individual to another, made gratuitously to the recipient, which includes (but is not limited to) preferential treatment and/or work done for another person or entity.²*

F. *Hazing: Any action taken or situation created, whether on or off university premises, that is harmful or potentially harmful to an individual's physical, emotional, or psychological well-being, regardless of an individual's willingness to participate or its bearing on their membership status.³*

G. *Violation: An action that breaks or acts against the Code of Ethics.*

H. *Accused: ASUM Member alleged to have violated the Code of Ethics.*

Section 2: Duties and Expectations

The following expectations apply to all active members of the ASUM Student Government. Senators and Executives shall:

A. *Faithfully execute the duties of their position as outlined in the ASUM Constitution and Bylaws*

B. *Always act in the best interests of all students attending the University of Montana, Missoula College and/or Bitterroot College.*

C. *Retain the self-awareness to separate themselves from potential bias in order to represent all students regardless of race, sex, religion, political affiliation, group affiliation, or portion of the student population.*

D. *Maintain a zero-tolerance policy towards hazing to commit to the wellbeing of all UM students.*

137 E. Uphold their Oath of Office, the Governing Documents of ASUM, and this
138 Code in conjunction with the Student Conduct Code, as well as State and Federal
139 Law.

140 F. Not represent the procedures of ASUM in a misleading or ignorant
141 way to constituents or the press. The exercise of free speech in relation to ASUM
142 is recognized; in exercising free speech, those procedures by which policy is
143 enacted or created must be understood and capably illustrated by Senators and
144 Executives.

145 G. Be good stewards of their time through punctuality in committees, senate,
146 and their assigned office hours. They must expect that ASUM activities will likely
147 take up time outside of their University activities. Senators must also recognize
148 when they are overwhelmed so that they can request a workload fitting for their
149 situation.

150 H. Not seek out special benefits as a result of their position, nor should
151 they accept Gifts that may be related to their position or seen as influencing their
152 decisions as a Senator or Executive. Examples of Gifts include but are not limited
153 to: Monetary awards, performances or entertainment that is not reimbursed, and
154 material items or food costing any amount.

155 I. Conduct themselves in a professional manner when interacting as a
156 representative of ASUM.

157 158 *Section 3: Non-Discrimination*

159
160 *The Associated Students of the University of Montana (ASUM) is charged with*
161 *representing and respecting all students, regardless of race, color, religion, national*
162 *origin, creed, service in the uniformed services, veteran status, sex, age, political ideals,*
163 *marital or family status, pregnancy, physical or mental disability, genetic information,*
164 *gender identity, gender expression, or sexual orientation in compliance with federal,*
165 *state, and local non-discrimination ordinances and the University of Montana Student*
166 *Code of Conduct. As such, neither membership nor participation in ASUM sanctioned*
167 *affairs shall be barred to any student on the basis of protected class.*

168 169 *Section 4: Conflicts of Interest*

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171 *All Senators and Executives are expected to maintain and uphold ethical values as laid*
172 *out in the code with regards to all funding and financial votes. The elected officials of*
173 *ASUM are expected to abstain from all votes when a conflict of interest arises. Instances*
174 *when an elected official is required to abstain from voting due to a conflict of interest*
175 *may include but are not limited to:*

176 A. *A member must abstain on all votes regarding funding and recognition of*
177 *student groups of which they are currently a member.*

178 B. *If a member is employed by an agency, they are expected to remove*
179 *themselves from the respective agency's oversight board unless they are in*
180 *an ex-officio position.*

181 C. *If a member is employed by an agency, they must abstain from all*
182 *financial votes on that agency which are in conflict with the member's job.*

183 D. *A member cannot vote on their pay or hours for a position they are*
184 *seeking during the next academic year.*

185
186 *Section 5: Enforcement*

187 1. *Due Process:*

188 A. *The President shall appoint membership to a standing Ethics*
189 *Violation Review Board to be approved by a two-thirds (2/3) majority*
190 *vote of the Senate. The Board shall be composed as follows:*

191 I. *The Ethics Violation Review Board shall be*
192 *composed of five (5) students, none of whom may be*
193 *members of the ASUM Senate. The President has the*
194 *option to appoint up to two (2) ex-officio attorneys to be*
195 *selected from ASUM Legal and/or The University of*
196 *Montana Office of Legal Counsel, upon consent from*
197 *their office. The Board shall be chaired by one of the*
198 *five students appointed.*

199 B. *The Board shall convene upon notification of a potential violation.*
200 *Notifications may come from members of the Association, members of*
201 *the Senate, or Executives. Notifications shall be sent to the chair of the*
202 *Board who shall have contact information publicly available.*
203 *Violations must come in the form of a motion confirmed by the*
204 *Board.*

205 C. *The Ethics Violation Review Board shall hold a hearing within one*
206 *(1) week of the initial notification. Prior to the Board having a*
207 *hearing, the complainant and respondent shall submit all evidence to*
208 *the chair. The chair will then distribute the evidence to Board*
209 *members at which point, members can request further information*
210 *from either party through the chair. Additionally, both parties shall*
211 *email the name of witnesses they wish to bring to the hearing to the*
212 *chair. The chair must be notified of all witnesses being brought by*
213 *both parties 24 hours in advance of the hearing. On the day of the*
214 *hearing, the Board shall decide a standard of evidence and outline the*
215 *structure of the hearing. This, in addition to the hearing portion, shall*
216 *be done in an open session. The hearing will include a clear*
217 *presentation of the exact violation alleged and for the accused to*
218 *respond to allegations against them in some manner. The chair shall*
219 *have the authority to limit the duration of each party's statements in*
220 *addition to enforcing decorum standards. Upon the determination of*
221 *the Ethics Violation Review Board, witnesses may be called and*
222 *approved by 4/5 vote of the Board's membership. Witnesses are*
223 *considered evidence and will be placed under disclosure*
224 *guidelines. After the conclusion of statements and questioning, the*
225 *Board shall go into an Executive Session. If the Board feels there is*
226 *insufficient evidence to charge the respondent with an Ethics violation,*
227 *the Board shall craft a committee report asserting no Ethics violation*
228 *had been committed. If the Board feels an Ethics violation has*

229 occurred and is determined to have happened within the evidentiary
230 standard set by Board members before the hearing, they shall craft a
231 committee report asserting there was an Ethics violation. From there,
232 the Board shall delineate the alleged violation and recommend an
233 appropriate sanction as enumerated in Article VII, Section 5,
234 Paragraph C of the Bylaws. The opinion shall be forwarded to the
235 Senate for consideration during the next Senate meeting.

236 D. The Senate, by a two-thirds (2/3) majority vote, shall have the
237 opportunity to overturn the results of the hearing. The accused shall
238 have the opportunity to speak before the Senate votes during public
239 comment. If the recommendation is not overturned then it will proceed
240 as set by the Board.

241 E. The Board shall only convene at a time and place that the accused
242 is present and available to answer questions and respond to
243 information in the meeting. The accused may waive this.

244 2. Categories of Violations:

245 A. Base Code of Ethics

246 B. Student Conduct Code

247 C. State/Federal Crime

248 3. Categories of Discipline:

249 A. Private Censure – The minimum enforcement of a confirmed
250 violation. Acknowledgement of an occurred violation.

251 B. Public Censure – Public acknowledgement of the occurrence of the
252 violation including but not limited to physical materials posted in the
253 ASUM office or digital materials posted on the ASUM Website or
254 ASUM Social Media. Acknowledgement may include but is not
255 limited to: a written/verbal apology from the accused, a chronological
256 account of events, or a statement from the ASUM leadership on the
257 violation. The public acknowledgement must remain for a specified
258 amount of time.

259 C. Removal from Committee Assignments – The accused shall be
260 removed from certain committees to be delineated by the Board. The
261 accused shall not sit on the Committee they are removed from for a
262 specified amount of time.

263 D. Suspension of Voting Privileges – For a specified amount of time,
264 the accused shall not vote on any item in a Committee and/or Senate
265 Meeting. The Board may delineate an exception for Unanimous
266 Consent.

267 E. Suspension From Duties – For a specified amount of time, the
268 accused shall be suspended from voting, speaking, motioning, action
269 on motioning, and forwarding of New Business in Committee and/or
270 Senate meetings. The accused is still required to attend Committee
271 and/or Senate meetings.

272 F. Impeachment – If not overturned by the Senate, immediately after
273 the Senate hears the results of the hearing the accused shall be up for
274 impeachment.;

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Therefore, Let It Be Further Resolved, That all articles in the ASUM Bylaws thereafter be renumbered to reflect the addition of the new Article VII;

Therefore, Let It Be Further Resolved, That the existing Code of Ethics document be removed as an official governing document of ASUM;

Therefore, Let It Be Further Resolved, That Article IV, Section B, of the ASUM Bylaws be amended to read:

- B. Any officer or member of the Senate may be impeached for:*
 - 1. Breach of duties as stated in the Constitution or Bylaws;*
 - 2. A violation of the Code of Ethics;*
 - 3. Failing to attend three regularly scheduled Senate meetings (and/or ASUM committee meetings), per semester, without an excuse approved by the chair (Vice President);*
 - 4. Missing final budgeting without being excused by the Chair;*
 - 5. Committing any larceny against the University, ASUM, or any subsidiary thereof;*
 - 6. Being convicted of a felony or its equivalent in any jurisdiction;*
 - 7. Being convicted of a misdemeanor that is sexual in nature, or its equivalent in any jurisdiction;.*

Passed by ASUM Senate: April 7, 2021

Patrick James Flanagan,
Chair of the Senate