

*Code of Student Rights and Responsibilities*  
**2019-2020**



**BALL STATE  
UNIVERSITY**

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## Table of Contents

INTRODUCTION .....	3
The Beneficence Pledge.....	3
I.    BILL OF RIGHTS AND RESPONSIBILITIES .....	4
1.1    Preamble.....	4
1.2    Student’s Relation to Civil Law .....	4
1.3    Student’s Relation to Community .....	4
1.4    Student’s Relation to University .....	5
1.5    Academic Freedom .....	5
1.6    Additional Rights and Responsibilities .....	7
II.   AUTHORITY .....	9
2.1    Authority .....	9
2.2    Application .....	9
2.3    Other Proceedings .....	10
2.4    Application .....	10
2.5    Interpretation .....	10
2.6    Amendments and Review.....	10
2.7    Notice .....	10
III.  EQUITABLE PROCEDURES .....	11
IV.   DEFINITIONS.....	12
V.    PROHIBITED CONDUCT .....	14
5.1    Offenses Against Persons:.....	14
5.2    Offenses Related to the Operation of the University .....	15
5.3    Violations That Compromise the Health/Safety/Welfare of Others .....	16
5.4    Offenses Against Property .....	17
5.5    Offenses Involving the Conduct Process .....	17
VI.   CONDUCT PROCEDURES .....	19
6.1    General Procedures .....	19
6.2    Housing and Residence Life Disciplinary Procedures.....	20
6.3    Recreation Services Disciplinary Procedures .....	21
6.4    Student Organizations and Activities Disciplinary Procedures .....	23
6.5    Student Rights and Community Standards Conduct Procedures .....	27
6.6    Sanctions .....	33
6.7    Interim Restrictions and Interim Suspension.....	36

## **INTRODUCTION**

Ball State University expects and requires all of its students and their guests to cooperate in developing and maintaining high standards of scholarship and conduct. Upon entrance into the university, students are not only presented with many rights, privileges, and opportunities, they are also faced with attendant responsibilities. In order for students to live and learn in harmony with others in the university community, they must assume responsibility for their actions and respect the rights and beliefs of others. A broad statement of aspirational expectations is expressed in Ball State's [\*Beneficence Pledge\*](#) which is found below (approved and published separately from this Code of Student of Student Rights & Responsibilities).

### **The Beneficence Pledge**

Members of the Ball State University Community...

pledge to maintain high standards of scholarship and excellence

*to work with students, faculty, and staff to strengthen teaching and learning on campus.*

pledge to practice academic honesty

*to model and uphold academic integrity, to honor my peers, and earn the trust and respect from all members of the community.*

pledge to act in a socially responsible way

*to treat each person in the Ball State community with civility, courtesy, compassion, and dignity; to respect the property and environment of the campus.*

pledge to value the intrinsic worth of every member of the community

*to respect and learn from differences in people, ideas, and opinions.*

The university community is not a sanctuary from the law and all students of the university are subject to local, state, and federal laws. In addition, each individual is obligated to protect the university as a forum for the free expression of ideas.

The *Code of Student Rights and Responsibilities* outlines behaviors expected of students at Ball State University and methods used to judge student behavior fairly according to these standards. The standards of conduct apply to students while on the campus or off campus, when attending university -sponsored events, or when such conduct involves the security or integrity of the university community.

The resolution of complaints for violation of the *Code of Student Rights and Responsibilities (Code)* may vary according to the location of the alleged violation, the complexity of the circumstances of the complaint, or the relative seriousness of the complaint. Offices and departments will routinely consult to determine the most appropriate venue for adjudication. Regardless of where a complaint is resolved, one purpose of this *Code* is to provide an educational framework for students so that they may make informed, responsible choices regarding their behavior in this academic community.

## **I. BILL OF RIGHTS AND RESPONSIBILITIES**

### **1.1 Preamble**

Students of the university have an obligation to fulfill the responsibilities incumbent upon all citizens, as well as the responsibilities of their particular roles within the academic community. All students share the obligation to respect:

The fundamental rights of others as citizens;

The rights of others based upon the nature of the educational process;

The rights of the institution; and

The rights of students to fair and equitable procedures determining when and upon whom penalties for violation of campus regulations should be imposed.

### **1.2 Student's Relation to Civil Law**

As citizens, students of Ball State University enjoy the same basic rights and are bound by the same responsibilities to respect the rights of others as all other citizens.

Among the basic rights are: freedom of speech; freedom of the press; freedom of peaceful assembly and association; freedom of political beliefs; and freedom from physical force and violence, threats of violence, and abuse.

Freedom of the press guarantees there will be no censorship of students or of any other individuals in the Ball State community. Professional journalistic standards encourage the public's right to know, accepted ethical practices, accuracy, objectivity, and fair play; students and other individuals in the university community are expected to support and follow these standards.

It should be made clear in writings and broadcasts that editorial opinions are not necessarily those of Ball State University or its students.

The campus is not a sanctuary from local, state, and federal law.

Admission to and employment by the university shall be in accordance with the provisions against discrimination in local, state, and federal law.

### **1.3 Student's Relation to Community**

1.3.1 Students attending the university take on responsibilities not only of campus citizenship but also citizenship in the surrounding community. When community standards are not respected and upheld by students, unpleasant and undesirable conflicts between students and other community residents may result. Such conflicts are destructive to human relationships in the community and detrimental to the image of the university and the reputation of the student body. Students are also subject to legal sanctions when they violate local, state, federal laws, or otherwise infringe upon the rights of others.

1.3.2 Students shall conduct themselves responsibly in the community, respecting the personal

and property rights of all residents. It is to the advantage of the student body, as well as in the best interest of the university and the community, for everyone to work together to maintain community standards and to build good relations with the other citizens of Muncie and Delaware County.

#### **1.4 Student's Relation to University**

Ball State University, as an institution of higher education (and any division or agency which exercises direct or delegated authority for the institution), has rights, obligations, and responsibilities of its own, including the:

- 1.4.1 Obligation to provide opportunities for students of the university to present and debate public issues.
- 1.4.2 Obligation not to take a position as an institution in electoral politics.
- 1.4.3 Right to require that persons on the campus identify themselves by name and address and state what connection, if any, they have with the university, when requested by persons identifying themselves as university officials.
- 1.4.4 Right to establish reasonable standards of conduct for all persons on the campus in order to safeguard the educational process and to provide for the safety and welfare of its students, visitors, and university property.
- 1.4.5 Right to prohibit individuals and groups who are not students of the university from using its name, its finances, and its physical and operating facilities for political activities, or for commercial activities, except as specifically agreed to in writing by the proper authorities of the university.
- 1.4.6 Right to prohibit students of the university from using its name, its finances, or its physical and operating facilities for commercial activities, except in cases involving recognized student and faculty groups as stated in policies governing use of the campus facilities and fund-raising activities.
- 1.4.7 Right and obligation to provide, for recognized student groups of the university, the use of campus facilities under the rules of the campus, including use for political purposes such as meeting of political clubs; the right and obligation to prohibit use of its facilities by individual students or student groups on a regular or prolonged basis as free headquarters for political campaigns; and the right and obligation to prohibit use of its name and its finances for any political purpose at any time. Use of other resources for political purposes must comply with existing local, state, and federal laws.

#### **1.5 Academic Freedom**

- 1.5.1 Academic freedom is a foundation of Ball State University. The affirmation of academic freedom of students should be accepted as a reciprocal understanding among the individual student or groups of students and the faculty and administration. The student is

not only privileged to think independently but, in the tradition of a university, is responsible for developing independent thinking. The university seeks to provide and maintain an academic climate which is conducive to learning.

- 1.5.2 Ball State University, as an institution of higher education, reaffirms the following policies to ~~insure~~ ensure the academic freedom of students:
  - a. That students have the right to the best education possible;
  - b. That students have the rights and responsibilities for participation in policy and decision making and implementation in areas affecting student welfare;
  - c. That students have inherent rights to the establishment and practice of representative self-government as set forth in the Constitution of the Student Government Association of Ball State University;
  - d. That students have rights to and means whereby they may communicate their ideas and concerns to responsible authorities in the university;
  - e. That students have the right to ready access to the spoken and printed word; and
  - f. That students have the right to express their thoughts and judgments concerning the professional competency of the faculty and professional personnel.
- 1.5.3 All students are subject to the university policy on intellectual property, as amended from time to time. A copy of the university's *Intellectual Property Policy* is available for review at <https://www.bsu.edu/About/AdministrativeOffices/Commercialization.aspx>.
- 1.5.4 If a student is concerned about any issue in the classroom, including a perceived academic freedom issue, the student should pursue the following course of action:
  - a. The student may meet with the faculty member or instructor to discuss the student's concerns and to come to an understanding about the situation.
  - b. If resolution is not satisfactory or if a meeting with the faculty member or instructor is unsuitable due to a concern about harassment (for example), the student may request a meeting with the individual's department chairperson (or the next-level supervisor) to discuss the concern further. When appropriate, or when dictated by other policies (e.g. *Policy on Sexual Harassment and Misconduct*), the chairperson (or next-level supervisor) may refer the matter for resolution to another campus authority.
  - c. The chairperson, school director, or next-level supervisor (as appropriate), will meet with all parties involved and will determine an appropriate resolution, conclusion or recommendations about the issue. The chairperson or school director will keep a written record of the issue and the conclusions and recommendations.

- d. If the student's concern involves a grade appeal issue, the student may be referred to the grade appeal process outlined in *Grade Appeal Policy*, Appendix U of the *Code of Student Rights and Responsibilities*.

## **1.6 Additional Rights and Responsibilities**

All students of Ball State University have other responsibilities based upon the nature of the educational process and the requirements of the search for truth and its free presentation. These rights and responsibilities include the following:

- 1.6.1 Obligation to respect the freedom to teach, learn, conduct research, and publish findings in the spirit of free inquiry (i.e., without detriment to or denigration of other, especially untried, methods and/or subjects of inquiry).
  - a. Institutional censorship and individual or group intolerance of the opinions of others are inconsistent with this freedom, it being understood that assigning priorities or ranking to programs or other functions may be an administrative necessity.
  - b. Freedom to teach and learn implies that students, faculty, and administrators have the responsibility to respect and consider suggestions without detriment to grade or positions of the persons submitting them.
  - c. Free inquiry implies that faculty and/or faculty-directed student research—the results of which are predestined for classification under the National Security Act—may be conducted only under the conditions imposed by the statements in the *Faculty and Professional Personnel Handbook*, “On preventing conflicts of interest in government sponsored research at universities” and with prior knowledge of the intended restrictions to be placed on the distribution of the results.
- 1.6.2 Obligation not to infringe upon the right of any of the members of the university community to privacy in office, laboratories, and residence and in the keeping of personal papers, confidential records and effects, subject only to the local, state and federal law and to conditions voluntarily entered into. Permanent records will not contain information concerning religion, political, or social beliefs, and membership in any organization other than honorary and professional organizations directly related to the academic processes, except upon expressed written request of the student in question.
- 1.6.3 Obligation not to interfere with the freedom of members of the university community to pursue normal academic and administrative activities, including freedom of movement.
- 1.6.4 Obligation not to interfere with the freedom of any member of the university community to hear and to study unpopular and controversial views on intellectual and public issues.
- 1.6.5 Right to identify oneself as a student of the university and a concurrent obligation not to speak or act on behalf of the institution, or any group of students therein, without authorization.

- 1.6.6 Right to hold public meetings in which students participate, post notices, and engage in peaceful, orderly demonstrations. Reasonable and impartially applied rules, designed to reflect the academic purposes of the institution and to protect the safety of the campus, shall be established regulating time, place, and manner of such activities and allocating the use of facilities in accordance with (1) Policy Concerning Campus Use: [Regulations for Use of Property for Distribution, Solicitation, Fund Raising, Sales, and Commercial Activity](#) – Office of the Vice President for Business Affairs; (2) Policy on Selection and Presentation of Lecturers or Speakers by Student Organizations - [Faculty and Professional Personnel Handbook](#); and (3) Policy on Special Events on Campus – [Faculty and Professional Personnel Handbook](#).
- 1.6.7 Right to recourse if another member of the university community is negligent or irresponsible in performance of his or her responsibilities, or if another member of the university community represents the work of others as his or her own.
- 1.6.8 Obligation to maintain an environment conducive to respect for the rights of others and fulfillment of academic responsibilities.



## II. AUTHORITY

**2.1 Authority**—The Board of Trustees of Ball State University is empowered by the Indiana General Assembly to manage, control, and operate the institution and to promulgate rules and regulations to carry out its responsibilities. The Indiana statutes provide that the Board of Trustees may delegate this authority to its officers, faculty, employees, and others. The statutory authority conferred upon the Board of Trustees includes the specific authority under Indiana Code 21-39-2 to regulate the conduct of students and others as follows:

- a. To govern, by regulation and other means, the conduct of students, faculty, employees, and others while upon the property owned, used, or occupied by the institution.
- b. To govern, by lawful means, the conduct of its students, faculty and employees, **wherever the conduct might occur** [emphasis added], to prevent unlawful or objectionable acts that: (1) seriously threaten the ability of the institution to maintain its facilities; or (2) violate the reasonable rules and standards of the institution designed to protect the academic community from unlawful conduct or conduct presenting a serious threat to person or property of the academic community.
- c. To dismiss, suspend, or otherwise punish any student, faculty member, or employee of the institution who violates the institution's rules or standards of conduct, after determination of guilt by lawful proceedings.

The Board of Trustees has delegated its authority to regulate the conduct of students to the President and to the Vice President for Student Affairs & Enrollment Services, who in turn have further delegated to other personnel the authority to implement and apply Section V Prohibited Conduct and Section VI Conduct Procedures set forth in this *Code of Student Rights and Responsibilities*. Whenever an action is permitted or required to be taken under this *Code of Student Rights and Responsibilities* by a university official or other employee, the action may be taken by that person's designee.

**2.2 Application**—The ~~Code of Conduct~~ Prohibited Conduct section<sup>1</sup> and the Conduct Procedures set forth in this *Code of Student Rights and Responsibilities* may apply to off-campus as well as on-campus conduct, as is clear from the statutory authority described in Section 2.1(b) above allowing for the regulation of the conduct of students "wherever the conduct might occur." The *Code* applies to all conduct of students and student organizations on-campus. It also applies to certain off-campus conduct including:

- a. Conduct that causes or threatens harm to the health or safety to the person or damage or destruction to the property of a member of the university community;
- b. Conduct in connection with an academic course assignment, internship, practicum, field trip, student teaching, research or other university activity;

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<sup>1</sup> The name of this section was changed previously—this reference was missed.

- c. Conduct in connection with any activity sponsored, conducted, or authorized by the university or by a student organization;
- d. Conduct involving serious crimes including all crimes of violence, felonies, and the sale or distribution of illegal drugs or controlled substances, or if a police report has been filed, if a summons or indictment has been issued, or if an arrest has occurred; or
- e. Conduct adversely affecting the university community or indicating that the continued presence of a student on campus poses a threat to the student's well-being or the well-being of other members of the university community.

**2.3 Other Proceedings**—At the discretion of university officials, conduct action under this *Code of Student Rights and Responsibilities* may proceed in advance of or during the pendency of other proceedings. University officials may also pause proceedings at the request of law enforcement agencies so as not to interfere with criminal investigations.

**2.4 Application**—These policies and procedures, as from time to time amended, shall apply to all undergraduate and graduate students of Ball State University and shall be deemed a part of the terms and conditions of admission and enrollment of all students. These policies and procedures shall apply to a student’s conduct even if the student withdraws from the university while a conduct matter is pending. These policies and procedures, and any amendments hereto, shall take effect on the date prescribed by the Board of Trustees and shall remain in effect until rescinded or modified by the Board of Trustees.

**2.5 Interpretation**—Any question of interpretation or application of the *Code of Student Rights and Responsibilities* shall be referred to the Vice President for Student Affairs & Enrollment Services or his or her designee for final determination.

**2.6 Amendments and Review**—Amendments may be proposed by the Ball State Student Government Association, University Senate, administrative personnel, or by the Board of Trustees. In addition, the *Code of Student Rights and Responsibilities* shall be reviewed at least every two years under the direction of the Dean of Students or other university official designated by the Vice President for Student Affairs & Enrollment Services.

a. Changes required to correct typographical errors, reflect changes in organizational structure and position titles changes, and to improve clarity but not change substance of text may be made by the Dean of Students or designee in consultation with the Vice President for Student Affairs & Enrollment Services.

b. Changes deemed substantial by the Vice President of Student Affairs or designee will be reviewed as required through the university’s policy approval process. [Note: Currently through Campus Council, University Senate to President’s Cabinet.]

c. The *Code* was last reviewed and amended in 2018 2019.

**2.7 Notice**—A notice of the *Code of Student Rights and Responsibilities* will be sent at the

beginning of each semester to the university community to university email addresses.

### III. EQUITABLE PROCEDURES

All students at Ball State University have a right to fair and equitable procedures for determining the validity of charges of violating university regulations.

- 3.1 These procedures shall be structured so as to facilitate a reliable determination of the truth or falsity of charges and to meet the fundamental requirements of fairness (i.e., right to notice of charge in advance, right to a hearing, right to examine evidence, right to prepare defense, right to appeal, and right to an advisor of the student's choice but not representation by counsel or other advisor).
- 3.2 Students have the right to know in advance the range of penalties for violations of campus regulations. Upon request students have the right to obtain copies of all specific policies of the university (e.g., routine administrative policies, *Faculty and Professional Personnel Handbook*, etc.).
- 3.3 Charges of minor infractions (those infractions not warranting suspension or expulsion and not repeated) of regulations, for which a student is sanctioned by reprimands, restrictions, or requirements, may be handled efficiently by the appropriate individual or committee. Persons so sanctioned have the right to appeal to the next higher level of administration or to an established appeals committee.
- 3.4 In cases involving charges of infractions of regulations that may result in suspension or expulsion from the university, students have a right to formal procedures which include right of appeal. Any person penalized for a serious infraction of established university regulations or policies has the right to appeal, either to the next higher administrator or to an established appeals committee.
- 3.5 Students charged with or convicted of a violation of federal, state or local law (see Appendix R for policy requiring students to disclose a felony charge or conviction occurring after admission to the university) may be subject to university sanctions for the same conduct, in accord with established policies and procedures, when the conduct is in violation of a university rule which is important to the continuing protection of other members of the university or to the safeguarding of the educational process. At the discretion of university officials, conduct action under this *Code of Student Rights and Responsibilities* may proceed in advance of or during the pendency of criminal proceedings. Determinations made or sanctions imposed under this *Code of Student Rights and Responsibilities* shall not be subject to change because criminal charges arising out of the same set of facts giving rise to university rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

## IV. DEFINITIONS

The following definitions will be used in this *Code*:

- 4.1 **University**<sup>2</sup> means Ball State University.
- 4.2 **University official** means any employee of the university performing administrative, professional, or staff responsibilities.
- 4.3 **Student** is defined as:
- a. any person admitted to the university, registered or enrolled in classes either full-time or part-time, or otherwise associated with the university.
  - b. The university recognizes that a person may be both a student and an employee. In complaints against a person who occupies both roles, whether full-time or part-time, the complaint will be examined carefully to determine how best to proceed. Complaints may proceed under the procedures outlined in this document with the understanding that the circumstances of the case, once resolved, may have repercussions on the student's employment.
  - c. Persons who graduate or withdraw after allegedly violating the *Code of Student Rights and Responsibilities*, or who are not officially enrolled for a given term but in a "continuing relationship" with the university, shall be considered "students." Continuing relationship may include but is not limited to: students enrolled in a previous semester and registered or otherwise indicating intent to register for a future period of enrollment or; a student accepted for admission who has indicated intent to attend in a future period of enrollment.
- 4.4 **School day** means Monday, Tuesday, Wednesday, Thursday, or Friday. It does not include Saturday or Sunday, nor does it include any day on which there are no scheduled university classes.
- 4.5 **Business day** refers to any day, Monday through Friday, in which university offices are open.
- 4.6 **University activity** includes any teaching, research, service, administrative function, proceeding, ceremony, or activity conducted or authorized by students, faculty, staff, or administrators that is held by the authority of the university.
- 4.7 **University property** means property owned, controlled, used, or occupied by the university.
- 4.8 **Written notice** is deemed to be effective on the first business day after the date such notice is mailed by the university, or immediately when the notice is hand delivered,

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<sup>2</sup> Terms have bolded for ease of reading per comment.

delivered to a residence hall mailbox, delivered to a student's university email in-box, or forwarded to an alternative email address as directed by the student's university email.

- 4.9 **Members of the university community** include anyone who belongs to any of the following groups: students, faculty, professional personnel, staff personnel, and service personnel.
- 4.10 **Organization** means any group granted official recognition by the university after meeting established criteria for such recognition.
- 4.11 **Conduct body** (alternatively: case manager, hearing officer, appellate officer, hearing board, hearing panel, etc.) means any person or group of persons authorized by this *Code* to determine whether a student has violated any provision of the *Code*, to administer sanctions, or to review and respond to appeals.

## V. PROHIBITED CONDUCT

Any student found to have committed or to have attempted to commit one or more of the following offenses is subject to the sanctions outlined in sections VI and Section VII (*Student Academic Ethics Policy*).

### 5.1 Offenses Against Persons:

- 5.1.1 Harassment: Conduct towards another person or identifiable group of persons that has the purpose or effect of (a) creating an intimidating or hostile educational environment, work environment, or environment for participation in a university activity; (b) unreasonably interfering with a person's educational environment, living environment, work environment, or environment for participation in a university activity; or (c) unreasonably affecting a person's educational or work opportunities or participation in a university activity. This offense also includes behaviors prohibited in the *Sexual Harassment and Misconduct Policy, Appendix K, and Anti-harassment Policy, Appendix C*.
- 5.1.2 Hazing: Any mental or physical action, requirement, request of, or obligation placed upon any person (including but not limited to a pledge, associate member, affiliate, prospective member, guest, initiate, or team member) which could be harmful to the health, welfare, or academic progress of the person, or which is personally degrading to the individual involved, or which has an adverse effect on the academic progress of the person, or which violates any federal, state, or local laws, or university policy. Individual acceptance of or acquiescence to any activity covered by the foregoing definition in no way validates or excuses the activity. (*See also university Anti-Hazing Policy, Appendix D*)
- 5.1.3 Harm, Threat, or Endangerment: Conduct that causes or threatens physical harm to any person is prohibited, as is any reckless or unauthorized conduct that threatens, endangers or reasonably could threaten or endanger the health or safety of any person. Conduct covered under this rule also includes but is not limited to intimidation, coercion, or impairment of any person's freedom of movement as well as verbal or written threats of any action described above. This prohibition includes consideration of how a reasonable person similarly situated would perceive harm, threat, or endangerment. *Finally, this prohibition also includes some behaviors outlined in the Sexual Harassment and Misconduct Policy, Appendix K.*
- 5.1.4 Privacy Violation: Use of audio, video, or photographic devices to make an image or recording of an individual without that person's prior knowledge, or without that person's effective consent, when such image or recording is likely to cause injury or distress as determined by a reasonable person, and when there is a reasonable expectation of privacy. This includes, but is not limited to, surreptitiously taking **audio recordings, video recordings, or other images**/pictures of another person in a private area such as a residence hall room, a public or private restroom, or a dressing/locker room. *This prohibition also includes some behaviors outlined in the Sexual Harassment and Misconduct Policy, Appendix K.*

- 5.1.5 Sexual Misconduct: Sexual intercourse or sexual touching, however slight, by one person upon another without effective consent or when it involves:
- a. compelling a person to submit to such conduct by force, or threat of force;
  - b. using intoxicants to impair a victim's ability to give consent; or otherwise
  - c. taking advantage of any impairment which might render a person incapable of making a reasonable or rational decision about sexual activity.

As defined by the State of Indiana, sexual misconduct also includes any sexual act when the person is not of legal age. *This prohibition also includes behaviors outlined in the Sexual Harassment and Misconduct Policy, Appendix K.*

- 5.1.6 Stalking: Stalking is a knowing or intentional course of conduct involving repeated or continuing harassment of another person (1) that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, or suffer substantial emotional distress and (2) that causes the person who is the subject or target of the stalking to feel terrorized, frightened, intimidated, threatened, or suffer substantial emotional distress. Such actions could be either implicit or explicit threats against a specific person; an acquaintance, friend, family member, or pet of that person; or that person's property. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

## 5.2 Offenses Related to the Operation of the University

- 5.2.1 Academic Misconduct: Acts—which include but are not limited to cheating, plagiarism, falsely claiming to have completed work, cooperating with another person in academic misconduct, knowingly destroying or altering another student's work, or attempting to commit an act of misconduct—that violate the *Student Academic Ethics Policy*. See also *Student Academic Ethics Policy*, section VII.
- 5.2.2 Aiding and Abetting: Knowingly, recklessly, or willfully encouraging or assisting others to commit acts prohibited by this *Code*.
- 5.2.3 Computer Misuse: Any behavior violating policies governing the use of the university's computer system and related equipment/technology. See also *Information Technology Users' Privileges and Responsibilities Policy, Appendix E*.
- 5.2.4 Disorderly Conduct: Conduct that is disruptive of campus life or university activities, or that is a matter of public indecency, or a breach of the peace.
- 5.2.5 Failure to Comply: Failing to comply with verbal or written instructions of university officials acting in the performance of their duties and made within the scope of their authority, or failing to identify oneself upon request of a university official.

- 5.2.6 False Information: Intentionally submitting false information, verbally or in writing, to a university official or office.
- 5.2.7 Fraudulent Use: Forgery, alteration, taking possession of, or the unauthorized use of university documents, records, keys, or identification without the consent or authorization of appropriate university officials.
- 5.2.8 Interference with a Reprimand: Obstructing or interfering with the reprimand, discipline, or apprehension of another person who is involved in a violation of this *Code* or any other university rule or regulation.
- 5.2.9 Obstruction or Disruption: Obstructing or disrupting the teaching and/or learning process in any campus classroom, building, or meeting area, or any university-sponsored activity, pedestrian or vehicular traffic, classes, lectures, or meetings; obstructing or restricting another person's freedom of movement; or inciting, aiding, or encouraging other persons to do so. *See also Regulations for Use of Property for Expressive Activity, Appendix N and Responding to Disruption in the Academic Setting, Appendix Q.*
- 5.2.10 Residence Hall Policies: Violating residence hall rules and regulations, or the housing contract. *See also Residence Life Policies.*
- 5.2.11 Solicitation: Engaging in solicitation of any type on university property without appropriate authorization. *See also [Use of Property for Expressive Activity, Appendix N](#), and [Use of Property for Distribution, Solicitation, Fund Raising, Sales, and Commercial Activity, Appendix S](#).*
- 5.2.12 Violation of the Law: Committing or attempting to commit any act that would be a violation of local, state, or federal law on or off university property, when such behavior is judged by the Dean of Students or designee to be detrimental to the university's educational process or objectives.
- 5.2.13 Other Policy Violations: Violating any other published university policies not specifically a part of this *Code*.

### **5.3 Violations That Compromise the Health/Safety/Welfare of Others**

- 5.3.1 Alcohol: Using, possessing, or distributing alcoholic beverages except as expressly permitted by law and university policies. *See also Alcohol Policy, Appendix A.*
- 5.3.2 Fire Safety: Setting or attempting to set fires, unauthorized use of fire/open flame, fire/open flame in an unauthorized location, or acting in a manner that disregards fire safety rules and results or could reasonably result in a fire. This prohibition also includes unauthorized use, activation, dismantling, deactivating, or any other unauthorized alteration of fire-fighting equipment, fire safety, or other emergency equipment.
- 5.3.3 Drugs: Using, abusing, possessing, selling, distributing, manufacturing, or transferring



narcotics, illegal drugs as defined by federal, state, or local laws, or any controlled substance (including marijuana, inhalants, and abuse of over-the-counter or prescription drugs), except as expressly permitted by law. Possession of drug paraphernalia which can be demonstrated to be linked to illegal drug activity is also a violation of this policy. *See also Drug Policy, Appendix B.*

- 5.3.4 False Reporting: Falsely reporting an emergency.
- 5.3.5 Gambling: Engaging in gambling, wagering, or other games of chance Risking money or other property for gain, contingent upon lot, chance, or the operation of a gambling device in violation of the law.<sup>3</sup>
- 5.3.6 Smoking and Tobacco Use: Smoking and the use of any other tobacco products (e.g., smokeless tobacco, electronic cigarettes) are prohibited on Ball State campus with limited exceptions. This also prohibits use of devices that mimic tobacco products (e.g., vaporizers) that create smoke or vapor regardless of content. For the complete policy, and exceptions (e.g., use in closed, personal vehicles and tailgating on home football weekends), *see Tobacco-Free Campus Policy, Appendix L.*
- 5.3.7 Weapons: Unauthorized transferring, using, possessing, or manufacturing explosives, fireworks, firearms, dangerous chemicals, or any other weapons (intended for and deemed capable of causing bodily injury or property damage) on university property. *See also Weapons Policy, Appendix O.*

#### **5.4 Offenses Against Property**

- 5.4.1 Misuse of Property: Trespass, occupancy of, unauthorized entry into, possession of, receipt of, or use of the property of another person, of the university, or of university services, facilities, or resources including, but not limited to, the university's name, seal, or insignia. This includes unauthorized use of wheeled vehicles (e.g., skateboards, "hoverboards," bicycles, etc.) inside of any building.
- 5.4.2 Theft: Attempted or actual theft, unauthorized use, or unauthorized possession of public property, university property, or personal property.
- 5.4.3 Vandalism: Attempted or actual vandalism, damage to, or destruction of public property, university property, or personal property.

#### **5.5 Offenses Involving the Conduct Process**

- 5.5.1 Improper Influence: Influencing or attempting to influence the decision of a member of a conduct body or a designated conduct officer, or attempting to discourage that person's participation in a conduct proceeding.

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<sup>3</sup> This is modified to (1) reflect the Indiana definition of gambling and (2) avoid using "gambling" in its definition.

- 5.5.2 Intimidation of Participants: Intimidating, coercing, influencing, or attempting to intimidate, coerce, or influence a witness, complainant, or other persons participating in the conduct process.
- 5.5.3 Providing False Testimony: Providing false testimony or false information in the conduct process, or knowingly making unfounded accusations against another individual.
- 5.5.4 Sanction Non-compliance: Failing to complete or to comply with a sanction.

## VI. CONDUCT PROCEDURES

### 6.1 General Procedures

6.1.1 Reporting an incident/Filing a complaint:<sup>4</sup> Any individual (student, employee of the university, or other person) who believes a student or student organization may have committed a violation of the *Code* published above, may file an incident report or complaint report with one of the following offices:

- Office of **Student Rights and Community Standards**<sup>5</sup>
- Office of Housing and Residence Life or with the Hall Director where a student lives or where the violation occurred
- Office of Recreation Services
- Office of Student Life
- Office of Greek Life
- Associate Dean of Students/Title IX Coordinator (particularly sexual harassment and sexual misconduct)
- Office of the Associate Provost (grade appeals, academic ethics policy violations)
- Multicultural Center ([bias incident reports](#))
- University Police Department (reports of crimes)

6.1.2 Types of adjudication: Adjudication processes for students may vary according to the nature and severity of the case. Adjudication may occur in the administrative area where the violation occurred (e.g., Housing and Residence Life). Proceeding sections (6.2-6.5) outline procedures in administrative areas most likely to adjudicate complaints. Other offices, including but not limited to Rinker Center/Study Abroad, are authorized to act on behalf of the university.

Administrative areas may resolve complaints of policy violations in a manner not addressed specifically by this *Code*. For example, students in study abroad experiences may find concerns addressed by faculty members or other administrators. When the offense is of a more serious nature and may warrant consideration of suspension or expulsion from the university, the case will be referred to the Office of the Dean of Students or designated office.

6.1.3 Good Neighbor Exception: Students are always encouraged and expected to call for

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<sup>4</sup> Em hyphen replaced by colon in 6.1.1 – 6.1.3

<sup>5</sup> We expect the Office of Student Rights and Community Standards to become the Office of Student Conduct in order to better reflect its primary function and in acknowledgment that some of its prior functions are being handled by the new Dean of Students office. If/when the name is officially changed (summer 2019), this document will be updated to reflect that change.

emergency assistance as needed, even at the risk of sanctions for one's own conduct. When another person is in need of critical care or when a situation otherwise warrants emergency response, call 911 immediately. The Good Neighbor Exception provides students the opportunity for university conduct action to be waived for minor drug or alcohol policy violations if he/she risked revealing one's own violation of the *Code of Student Rights and Responsibilities* in order to seek medical or other emergency assistance to another person in distress. The decision to provide the exception shall be the judgment of the designated university official. *NOTE: The exception does not apply to any criminal charges that might be incurred as a result of an offense.* See also [Appendix A—Alcohol Policy](#) and [Appendix B—Drug Policy](#).

#### 6.1.4 Decision-making

- a. Decisions in all hearings shall be based on a preponderance of the evidence.
- b. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in *Code of Student Rights and Responsibilities* proceedings.

#### 6.1.5 Persons with Disabilities

- a. Reasonable accommodations will be provided in conduct procedures for persons with disabilities on an individualized and flexible basis. Persons (including but not limited to parties, witnesses, and advisors) seeking adaptations or accommodations relative to disability should make that request to the designated investigator or conduct body.
- b. Students with disabilities who require an accommodation in order to complete any conduct proceeding, appeal, or sanction should contact the Office of Disability Services for assistance and referral. Students may seek assistance from the Office of Disability Services (765-285-5293 or [dsd@bsu.edu](mailto:dsd@bsu.edu)) in making this request. In cases where a student's request cannot be accommodated or appears to be unreasonable, the designated investigator or conduct body will consult with the Office of Disability Services to determine how best to proceed. In cases where an employee's request cannot be accommodated or appears to be unreasonable, the designated investigator or conduct body will consult with Human Resources (Leave Coordinator) to determine how best to proceed.
- c. Examples of reasonable accommodation include but not are limited to sign language interpretation, real-time communication access during hearings, large print documents, extended time to review documents, or assistance with transcribing questions during interviews or hearings.

## 6.2 Housing and Residence Life Disciplinary Procedures

(See also *Housing and Residence Life Handbook* for a detailed description.)

When a violation occurs within or adjacent to facilities of Housing and Residence Life or in the context of programs sponsored by that office, the disciplinary procedures found at the following web page will apply:

<http://cms.bsue.edu/campuslife/housing/policies/disciplinaryproceedings>

### **6.3 Recreation Services Disciplinary Procedures**

When a violation occurs within or adjacent to facilities of the Office of Recreation Services or in the context of programs sponsored by that Office, the following disciplinary procedures apply.

#### **6.3.1 Preliminary Meeting**

- a. Pending results of an investigative review of an incident, the student's I.D. or Recreation Privilege Card will be "turned off" and the student will not have the privilege of utilizing facilities or programs within Recreation Services.
- b. A preliminary meeting will be convened in a timely manner with the student(s) in question and a designated Recreation Services staff person (Coordinator or Assistant Director of Recreation Services) to discuss the incident.
- c. The student may plead "responsible" for the behavior and the staff member may assign sanctions.
- d. If a student pleads "not responsible" for the behavior, the case will be referred to an Administrative Hearing.
- e. A student who fails to appear for a Preliminary Meeting will have their case referred to an Administrative Hearing.

#### **6.3.2 Recreation Services Administrative Hearing**

- a. Administrative Hearings are conducted by a designated Recreation Services staff person (Assistant Director or Associate Director for Recreation Services). The student(s) will be given the opportunity to present witnesses or other evidence to support their claims. The staff person conducting the hearing will determine responsibility and, if necessary, assign sanctions.
- b. A written notice indicating the findings of the hearing and sanctions will be emailed to the student's Ball State email address.
- c. When a violation is believed to be a team violation, that team may be represented at the Administrative Hearing by the team captain or another designated team member. Sanctions may be administered collectively to the team or individually against team members.

#### **6.3.3 Appeal Process**

- a. Students have an opportunity to appeal any decision of discipline from any member of Recreation Services staff.
- b. All appeals of disciplinary decisions must be directed to the Associate Director of Recreation Services. All appeals of disciplinary decisions must be made in writing within three business days of the receipt of the original decision.
- c. A student may appeal based on the following reasons:<sup>6</sup>
  - 1) A substantial procedural error that unreasonably impaired the student or the hearing body substantially impacted the determination of responsibility or imposed sanctions or both.
  - 2) An unduly harsh sanction against the student organization (appeal by the accused student organization) or an insufficient sanction (appeal by the complainant);
  - 3) New information of a substantive nature not available at sufficient to alter a decision, because such information and/or facts were not known to the student organization appealing or its individual members at the time of the original hearing; and/or
  - 4) Information of substantial bias on the part of the disciplinary conduct body hearing the case.
- d. An appeal may be resolved in one of the following ways:
  - 1) The original decision may be upheld.
  - 2) Modified sanctions, either greater or lesser, may be imposed.
  - 3) The case may be remanded back for a new hearing.
  - 4) All allegations may be dismissed.
- e. Appeal decisions shall be based solely upon the written documentation of the incident and a written statement of appeal from the patron.
- f. The appellate decision shall be final and will not be subject to any further appeal.

#### 6.3.4 Referrals to the Office of the Dean of Students or designated office (typically the Office of Student Rights and Community Standards)

Any case may be referred to the Office of the Dean of Students or designated office for

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<sup>6</sup> Changes in this section made to be consistent across offices (see section 6.6.7)

adjudication or for consideration of additional sanctions when:

- a. Violations are of a more serious nature and may warrant consideration of probation, suspension or expulsion from the university.
- b. The complexity and nature of the violation warrants referral.

#### 6.4 Student Organizations and Activities Disciplinary Procedures

A recognized student organization and/or its members, collectively or individually (when acting as part of the organization), may be held responsible for violations of the *Code* and, when appropriate, be subjected to disciplinary action. When a student organization is accused of committing a violation of University policy, (including but not limited to any violation of published University policies and procedures) or local, state, or federal laws, a complaint may be filed with the Office of Student Life or the Office of Greek Life. ~~When the organization is a fraternity or sorority, a complaint may be filed with the Office of Greek Life. The complainant will be directed to an online complaint form for submission which will be routed through the Office of the Dean of Students for initial review.~~ Upon receipt of such a complaint, the ~~Director of Student Life or the Director of Greek Life (or designee)~~ Dean of Students will designate a staff member to shall conduct an investigation and determine if a hearing will be held regarding the complaint.

- a. When the accused organization is a fraternity or sorority, the Dean of Students or designee ~~Director of Greek Life~~ may choose to refer the case to the appropriate Greek governing Board (IFC, PHC, or NPHC) for investigation and adjudication.
- b. If it is determined that the alleged violations are by individuals but not collectively by the organization, the case will be referred to the Office of Student Conduct<sup>7</sup> ~~the Dean of Students or designated office~~.
- c. If ~~an a student~~ organization, including fraternities and sororities, is accused of a severe policy or risk management violation (including but not limited to hazing, fighting, or other physical violence, or egregious violation involving alcohol or illegal drugs) or has a history of severe policy or risk management violations, the adjudication for the organization can be handled through an administrative hearing by the Dean of Students or designee which may include staff from Greek Life, Student Life, or Recreation Services. ~~Director of Student Life or appropriate Student Life staff members.~~
- d. ~~If a fraternity or sorority is accused of a severe policy or risk management violation (including but not limited to hazing, fighting or other physical violence, or egregious violation involving alcohol or illegal drugs) or has a history of severe policy or risk management violations, the adjudication for the fraternity or sorority can be handled through an administrative hearing by the Director of Greek Life or appropriate Greek~~

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<sup>7</sup> See earliest reference in this document to Student Rights and Community Standards with footnote explaining that the office name will most likely change to Student Conduct summer 2019.

Life staff members.

- e. ~~If the allegation involves club sports, the administrative hearing will be done in consultation with the Director of Recreation Services or his/her designee.~~
- f. All other cases may be referred to the Student Organization Hearing Board for adjudication.

#### 6.4.1 Adjudication Procedures

If a formal hearing is warranted, the following procedures apply for disciplinary cases involving a student organization:

- a. *Selection of Hearing Board.* The Hearing Board will consist of five (5) members, three (3) to be selected from the Judicial Court of the Student Government Association, one (1) member being a current faculty/staff advisor of a recognized student organization and one (1) Student Affairs professional staff member selected in consultation with the Dean of Students Vice President for Student Affairs & Enrollment Services or designee. A chairperson will be selected from within the committee. The ~~Director of Student Life~~ Dean of Students (or designee) will serve as an advisor and ex-officio member to the Board, be responsible for appropriate note taking will take minutes, and will answer procedural questions but will not vote.
- b. *Quorum.* Four (4) of the five (5) voting members of the Hearing Board must be present to constitute a quorum.
- c. *Notice of Hearing.* The President or highest-ranking officer of the student organization shall be notified in writing by the Dean of Students Director of Student Life or designee of the date, time, and place of the hearing at least three (3) business days before the hearing. The notice shall also include a statement of the allegations of policy violations and information regarding the student organization's rights in the hearing.
- d. *Absence of the Accused Organization.* The accused student organization may choose not to attend the hearing and may instead submit a written presentation of its case. The hearing may proceed in the absence of the accused. By such absence, the accused organization forfeits its right to question witnesses.
- e. *Witnesses.* The representative officer of the accused student organization, ~~the complainant~~, and the Dean of Students Director of Student Life or designee may invite persons who have information relevant to the accusation to present testimony at the hearing; however, the chairperson of the Hearing Board may limit the number of witnesses to avoid repetition and cumulative testimony. The Board may also limit the testimony of character witnesses to the sanctioning phase of the hearing. The names of witnesses and written disclosure of the main points of their testimony must be provided to the Convening Official Director of Student Life or designee a minimum



- of twenty-four (24) hours before the hearing. Each **party participant** shall be responsible for insuring the presence of **his/her their** witnesses at the hearing and shall be prohibited from submitting a written statement in lieu of personal testimony, unless otherwise permitted by the Hearing Board to do so as a result of extenuating circumstances. Witnesses invited **by either party** shall be present only while they are testifying.
- f. *Student Organization Assistance.* The officer of the student organization may be accompanied and assisted at the hearing by an advisor of the student organization's choice, provided the advisor is an employee or student of the University. For fraternities or sororities, a chapter advisor and/or chapter representative may also accompany the officer. In the event a student organization faces pending criminal or civil charges based on the incident that has given rise to the University disciplinary proceedings, the organization's attorney may accompany the officer of the student organization. The student organization must provide the name of the advisor to the **Director of Student Life or designee Convening Official** at least twenty-four (24) hours before the hearing. At no time may the advisor or attorney participate directly in the hearing proceedings. The attorney may only consult with the student representing the organization.
- g. *Disqualification and Challenges.* Any Hearing Board member may disqualify themselves if they have a conflict of interest with the case, with the accused student organization, with the complainant, or when the Board member feels a personal bias makes it impossible to render a fair decision. The accused student organization or the complainant may challenge a Hearing Board member on the grounds of conflict of interest or personal bias. The decision whether to disqualify a challenged member shall be made by a majority vote of the remaining members present. If a challenge is upheld, the chairperson may, at their discretion, either appoint another person to fill the vacancy or direct that the vacancy not be filled. In the latter case, a quorum shall thereafter consist of the remaining members of the Hearing Board.
- h. *Conduct of the Hearing.* The hearing shall be conducted in an informal manner and without reference to rules applicable to a court of law concerning the examination of witnesses and admissibility of evidence, but with a view toward providing the Hearing Board with a complete understanding of the facts involved. Irrelevant, immaterial, and unduly repetitious evidence may be excluded. The hearing and the deliberations of the Hearing Board shall be private. The **Convening Official Offices of the Director of Student Life or the Director of Greek Life** shall make a record of the hearing which may be reviewed **in that office** by a designated representative of the accused student organization upon request. Decisions of the Hearing Board shall be made by majority vote.
- i. *Continuances.* The Hearing Board, by majority vote, may continue the hearing to a later time.
- j. *Additional Rules.* Procedural rules not inconsistent with these procedures may be

established by the Hearing Board from time to time to fulfill its functions in an orderly manner.

#### 6.4.3 Decisions

The decision of the Hearing Board shall be submitted as a recommendation to the Dean of Students ~~Director of Student Life~~ or designee who may do one of the following:

- a. Accept the recommendation and direct that the sanctions be implemented;
- b. Lessen or otherwise modify the sanctions imposed by the Hearing Board; or
- c. Refer the case back to the Hearing Board for further consideration of sanctions.

#### 6.4.4 Appeal Process

- a. *Appellate Review.* The appellate review will be based on the information and materials in the case file; a summary of the evidence submitted; findings and recommendations; the student organization's written request for an appellate review; and the record of the hearing.
- b. A student organization may appeal the result of an administrative hearing decision to the next level administrator.
- c. Decisions by the Hearing Board may be appealed to the Vice President for Student Affairs & Enrollment Services or designee.
- d. In both cases, the student organization has five (5) business days from receipt of the original decision in which to submit an appeal in writing.
- e. The organization may appeal based on the following reasons:<sup>8</sup>
  - 1) A substantial procedural error that unreasonably impaired substantially impacted the determination of responsibility or imposed sanctions or both the student organization or the hearing body;
  - 2) An unduly harsh sanction against the student organization (appeal by the accused student organization) or an insufficient sanction (appeal by the complainant);
  - 3) New information of a substantive nature not available at sufficient to alter a decision, because such information and/or facts were not known to the student organization appealing or its individual members at the time of the original hearing; and/or

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<sup>8</sup> This section modified to be consistent across offices (see section 6.5.7)

- 4) Information of substantial bias on the part of the **disciplinary conduct** body hearing the case.
- f. An appeal may be resolved in one of the following ways:
  - 1) The original decision may be upheld;
  - 2) Modified sanctions, either greater or lesser, may be imposed;
  - 3) The case may be remanded back for a new hearing;
  - 4) All allegations may be dismissed;
- g. Appeal decisions shall be based solely upon the written documentation of the incident and a written statement of appeal from the organization.
- h. The appellate decision shall be final and will not be subject to any further appeal.

## **6.5 Student Rights and Community Standards Conduct Procedures**

### 6.5.1 Preliminary Meeting

The preliminary meeting is an initial meeting with a designated Student Rights and Community Standards staff person at which time the accused student<sup>9</sup> is made aware of university conduct procedures, the nature of the complaint and alleged violations, and the range of sanctions possible for that type of offense. The student is also given an opportunity to respond to the complaint. Based on the information available, the Director of Student Rights and Community Standards (Director) or designee may:

- a. dismiss some or all of the alleged violations;
- b. continue an investigation into the complaint to determine if the allegations have merit;
- c. refer the complaint to an alternative resolution process with the mutual consent of the parties involved and if such referral is acceptable to the Director; or
- d. charge the student with one or more violations of the *Code of Student Rights and Responsibilities*, inform the student of recommended sanctions, and request the student choose from the options below.

If charged by the designated staff person with a violation(s) of the *Code*, the student is also informed of his/her options in adjudicating the violation(s), including one of the following:

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<sup>9</sup> In some university policies (e.g., *Sexual Harassment and Misconduct Policy*), the “accused student” is referred to as the “respondent.” “Accused student,” as a more general phrase, is used in this *Code*.

- e. To plead “responsible” for the violation, request an informal resolution in lieu of a hearing, and have the sanctions determined **at that time**<sup>10</sup> by the staff person. The designated staff person conducting the preliminary meeting may choose to refer the determination of sanctions to another administrator or hearing board if the level of offense warrants more serious sanctions than that staff person is authorized to impose. As part of an informal resolution, the Director or designee may impose sanctions indicated in section 6.6.4 up to and including suspension and expulsion from the university but not expulsion or revocation of degree.
- f. To plead “not responsible” for the violation and request a hearing. In the case of minor offenses, the designated staff person may choose to hear the case administratively or to refer the case to another administrative hearing officer or conduct body. Cases that are complicated in nature and scope, or where the violations may result in suspension or expulsion are referred to the University Review Board.

## 6.5.2 Administrative Hearing

The case is heard before a designated hearing officer who will determine if a student is in violation based on information provided and will determine sanctions rising to the level of conduct probation. Students will receive notification of the hearing at least three (3) business days in advance, shall have an opportunity at the hearing to call witnesses, and shall be able to ask questions of witnesses.

### ~~6.5.3 Interim Suspension~~<sup>11</sup>

~~Under certain circumstances, a student accused of a violation of the *Code of Student Rights and Responsibilities* may be subject to interim suspension from the university prior to a hearing. During the interim suspension, the student is subject to trespass from university property and facilities and is denied access to all classes (including online classes and classroom resources), activities and privileges for which the student might be eligible. Interim suspension shall be imposed only when:~~

- ~~a. A student is deemed to be a threat to the safety, well being, or property of any member(s) of the university community, or~~
- ~~b. A student’s presence is deemed to pose a substantial threat of disruption to the university’s educational process.~~

~~The decision to suspend on an interim basis shall be made by the Vice President for Student Affairs and Enrollment Services or designee. The student will be notified in writing of this action and the reasons for the interim suspension. The notice will provide the student the opportunity for a hearing with another of the Vice President’s designees within three (3) business days at which the student may show cause why his or her continued presence on the campus does not~~

<sup>10</sup> In practice, the student is usually informed of sanction prior to accepting responsibility.

<sup>11</sup> See new section 6.7 Interim Restrictions and Interim Suspension

constitute a threat [and at which they may contest whether a violation of the *Code of Student Rights and Responsibilities* took place]. The Vice President's designee may dismiss the complaint, alter the terms of interim suspension (e.g., may allow online test taking), or uphold the suspension in full.

If, during the suspension, the case review reveals that the criteria for the interim suspension no longer applies, the conduct officer managing the case may (a) lift the interim suspension but continue the case review, (b) resolve the matter informally per procedures outlined elsewhere, or (c) dismiss the complaint.

The interim suspension may continue until the entire conduct process including appeal, is completed. Every effort will be made to complete the conduct process in a timely manner (typically no more than 10 school days if the student remains enrolled) so as to limit the interim suspension to the shortest time possible.

#### 6.5.4<sup>12</sup> University Review Board

- a. The University Review Board hears conduct cases referred to it by the Director or designee. Cases heard by the University Review Board (URB) typically involve behavior that warrants suspension, but the Director may refer other student cases to a URB hearing. The University Review Board is composed of students, faculty members, and/or professional employees.
- b. *Student Membership.* The student membership will include the Vice President of the Student Government Association, the Secretary of Justice, and at least ten (10) additional students appointed by the Student Government Association (SGA). A minimum of ten (10) total students are recommended.<sup>13</sup> Students are typically recruited and selected in conjunction with the Office of Student Rights and Community Standards (SRCS) during the fall semester, but are appointed by the Student Government Association by December 1. Student members must participate in an initial orientation just before or after the spring semester begins at which point they are eligible to serve as panelists in a hearing. Student members are appointed to serve on both the University Review Board URB and the SGA Student Judicial Court and are expected to serve through the end of the fall term in the year they are oriented to service. The dates of appointments, and assumption of responsibilities may vary per agreement between the Student Government Association and SRCS. the Office of Student Rights and Community Standards (SRCS). A student member may serve an unlimited number of terms. If insufficient student members have been appointed by the Student Government Association when a hearing is required, the Director has the discretion to utilize non-appointed students in order to provide a timely process.
- c. *Faculty and Professional Staff Membership.* The faculty and professional employees shall be selected by SRCS and confirmed by the Campus Council at any of its

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<sup>12</sup> Numbering will change for this and subsequent sections.

<sup>13</sup> This and change below regarding orientation timing are proposed to increase flexibility in appointments and procedures.

- regularly scheduled meetings. These hearing panelists are eligible to serve immediately after confirmation and serve for one (1) calendar year. Confirmed faculty members and professional employees may serve an unlimited number of terms.
- d. *Quorum.* To conduct a hearing for a student conduct case, a hearing panel composed of a minimum of four (4) members of the **University Review Board URB**, of whom at least two (2) must be students and two (2) must be faculty and/or professional employees, will be designated by the Director or designee. Once convened, a hearing may proceed with a minimum of 3 members present.
  - e. *Hearing Chairperson.* The hearing shall be chaired by one member of the hearing panel designated in advance by SRCS. The chairperson shall be a voting member of the Board. The Director or designee will be present at all hearings as a non-voting Board Advisor to the hearing panel. The Board Advisor may not also have served as the case manager.
  - f. *Hearings during Summer Session and Breaks.* To ~~insure~~ **ensure** the functioning of the hearing panel during **summer terms sessions**<sup>14</sup> and at other times when regular classes are not in session, the Director or designee may convene a **University Review Board URB** hearing with a minimum of three panelists chosen from the pool of the University Review Board members who are available. Should a minimum of three panelists be unavailable from the **University Review Board URB** pool, the Director may select unappointed or unconfirmed faculty, professional employees, or students to serve.
  - g. *Cases That Do Not Warrant Suspension.* The Director may refer cases that do not warrant suspension to URB hearings to resolve complaints against students. However, these hearings may be comprised of three **(3)** panelists, all of whom may be student URB members. The administrator who is designated as Board Advisor will chair the hearing but may not vote in deliberation.

#### 6.5.5 Procedures for Conduct Hearings.

Procedures for disciplinary cases resolved by a hearing shall be as follows:

- a. *Written Notice of Hearing.* In cases where suspension or expulsion will not be considered, the accused student(s) shall be notified by the Office of Student Rights and Community Standards in writing of the date, time, and place of the hearing at least three (3) school days before the hearing. In cases where suspension or expulsion is under consideration, the accused student(s) shall be notified by the Office of Student Rights and Community Standards in writing of the date, time, and place of the hearing at least five (5) school days before the hearing. This notice shall also include a statement of the allegations of policy violations, **and information** about the hearing process. In cases where there are multiple accused students, the Director has the discretion to convene one hearing or separate hearings for the accused students.

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<sup>14</sup> Capitalization remove, “terms” is current usage

- b. *Absence of the Accused Student.* Accused students may choose not to attend the hearing and may instead submit a written presentation of their case. The hearing may proceed in the absence of the accused. By such absence, accused students forfeit their right to question witnesses.
- c. *Witnesses.* The accused student, the complainant, and the Director or designee may invite persons who have information relevant to the accusation to present testimony at the hearing; however, the chairperson of the Board may limit the number of witnesses to avoid repetition and cumulative testimony. The names of witnesses and written disclosure of the main points of their testimony must be provided to the Office of Student Rights and Community Standards a minimum of twenty-four (24) hours before the hearing. Each party shall be responsible for insuring the presence of their witnesses at the hearing or delivery of a written or recorded statement in lieu of personal testimony. Witnesses invited by either party shall be present only while they are testifying. Character witnesses may not provide testimony directly to the Board but may provide written statements to be considered only if a student is found responsible. Character witness statements will be considered for sanctioning purposes only.
- d. *Student Assistance.* The accused student and the complainant may be accompanied and assisted at the hearing by an advisor of their choice. Students must provide the name of their advisor to the Office of Student Rights and Community Standards at least one business day before the hearing. At no time may the advisor participate directly in the hearing proceedings. They may only consult with the student(s).
- e. *Recusals and Challenges.* Board members may recuse themselves if they have a conflict of interest with the case, with the accused student, with the complainant, or when the Board member believes a personal bias makes it impossible to render a fair decision. The accused student or complainant may challenge a Board member on the grounds of conflict of interest or personal bias. The decision whether to disqualify a challenged member shall be made by a majority vote of the remaining members present. If a challenge is upheld, the chairperson is authorized to either appoint another person to fill the vacancy or direct that the vacancy not be filled. In the latter case, a quorum shall thereafter consist of the remaining members of the Board.
- f. *Conduct of the Hearing.* The hearing shall be conducted in an informal manner and without reference to rules applicable to a court of law concerning the examination of witnesses and admissibility of evidence, but with a view toward providing the Hearing Board with a complete understanding of the facts involved. The chairperson may limit questioning deemed to be irrelevant, immaterial, and unduly repetitious. The hearing and the deliberations of the Board shall be private. Decisions of the Board shall be made by majority vote.
- g. *Record of the Hearing.* There shall be a single verbatim record, such as an audio recording, of all University Review Board hearings. Deliberations shall not be recorded. No other recording shall be made. The accused student may review the



recording in the Office of Student Rights and Community Standards upon request, for any reason but typically to prepare for an appeal. The recording shall be the property of Ball State University and shall be maintained by the Office of Student Rights and Community Standards until the conclusion of all appeal proceedings, until the appeal deadline has surpassed, or as required by law. Preliminary meetings, witness and other interviews, or administrative hearings may be recorded.

- h. *Continuances*: The Board, by majority vote, may continue the hearing to a later time.
- i. *Additional Rules*: Procedural rules not inconsistent with this process may be established by the Board from time to time to fulfill its functions in an orderly manner.

#### 6.5.6 The Decision

The Board shall submit its decision regarding responsibility to the Director who shall:

- a. Accept the decision and impose appropriate sanctions.
- c. Refer the case back to the Hearing Board with a written request to reconsider its decision, giving specific reasons for doing so.

#### 6.5.7 Appeal Process

- a. Students may appeal the result (finding and sanctions) of an Administrative Hearing decision to the next level administrator.
- b. Decisions by the Board and subsequent sanctions may be appealed to the Vice President for Student Affairs & Enrollment Services or designee.
- c. In both types of cases, the student has three (3) business days (for cases that do not result in suspension or expulsion) or five (5) business days (for cases that do result in suspension or expulsion) from receipt of the original decision in which to submit an appeal in writing. In cases that involve a crime of violence or sexual misconduct (see Appendix K), the other party will be notified of the appeal, provided the basis on which the appeal is made and a summary of the appeal, and given an opportunity to provide a response in writing within five (5) business days of notice for consideration by the appellate administrator.
- d. Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the University Review Board hearing and supporting documents.
- e. A student may appeal based on the following reasons:
  - 1) A procedural error that substantially impacted the determination of responsibility



or imposed sanctions or both;

- 2) An unduly harsh sanction (appeal by the accused student) or an insufficient sanction (appeal by the complainant); and/or
- 3) New information of a substantive nature sufficient to alter a decision, because such information and/or facts were not known to the person appealing at the time of the original hearing; and/or

4) Information of substantial bias on the part of the conduct body hearing the case.<sup>15</sup>

- f. An appeal may be resolved in one of the following ways:
  - 1) The original decision may be upheld;
  - 2) Modified sanctions, either greater or lesser, may be imposed; or
  - 3) The case may be remanded to the Board reconstituted with new members to allow reconsideration of the original determination and/or sanctions.
- g. The appellate decision shall be final and not subject to any further appeal.

## 6.6 Sanctions

- 6.6.1 Housing and Residence Life administrators may impose sanctions found at the following web page: <http://cms.bsu.edu/campuslife/housing/policies/disciplinaryproceedings> for violations of the *Ball State Code of Student Rights and Responsibilities* or the *Housing and Residence Life Handbook*.
- 6.6.2 Recreational Services administrators may impose one or more of the following sanctions when a student is found responsible for violations of the *Ball State Code of Student Rights and Responsibilities* or *Ball State Recreation Guidelines* found at <http://www.bsu.edu/recreation>:
  - a. Official Reprimand: Statement of warning provided verbally or in writing stating that the continuation of or repetition of unacceptable behavior may lead to further disciplinary action.
  - b. Suspension: Suspension Restriction from use of or participation in Recreation Services facilities or programs for a pre-determined period of time.
  - c. Forfeit: Forfeiture of any Outcomes (e.g., a recorded win) of previous activities are struck from the record.

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<sup>15</sup> This was removed for 2018-2019 and has been reinstated on advice of General Counsel.

- d. Restitution: A student, whose actions cause damage to public or private property or injury to another person, may be required to provide monetary reimbursement for restoration of or replacement of property or for medical bills related to injuries.
  - e. Disciplinary Probation: For a specified period of time during which the student must demonstrate a willingness and ability to conform to all university regulations. Any violation of university policy while on Disciplinary Probation may result in referral to the University Review Board with the possibility of suspension or expulsion from the university.
- 6.6.3 Office of Student or Greek Life Hearing Boards may recommend one or more of the following sanctions when a recognized student organization is found responsible for violations of the Ball State *Code of Student Rights and Responsibilities* or the *Handbook for Student Organizations*:
- a. Official Reprimand: A letter of notification placed in the organization's file and sent to its national organization (if applicable) warning of more severe sanctions in the event of a repeat of the offending behavior.
  - b. Probation: A specific period of probation with or without selected restrictions; the Hearing Board shall determine the length and terms of the probationary period.
  - c. Restitution: An organization, whose actions cause damage to public or private property or injury to another person, may be required to provide monetary reimbursement for restoration of or replacement of property or for medical bills related to injuries. Each member of the organization may be held financially responsible through group billing.
  - d. Service Requirement: Participation in university or community service activities.
  - e. Educational Requirement: Educational programming hosted and/or attended by a percentage of organization membership.
  - f. Suspension of Recognition: suspension of recognition as a student organization and the privileges inherent in that recognition indefinitely or for a specific period of time.
  - g. Withdrawal of Recognition: Withdrawal of university recognition as a student organization.
- 6.6.4 Student Rights and Community Standards administrators may impose any of the sanctions listed above in cases referred by offices listed above and one or more of the following sanctions when a student is found responsible for violations of the Ball State *Code of Student Rights and Responsibilities* or the *Handbook for Student Organizations*:
- a. Official Reprimand: a written warning that the continuation or repetition of unacceptable conduct may lead to further conduct action.

- b. Educational Requirements: student may be required to do interviews, a research project, a reflection paper, university or community service or other type of assignment to provide a learning experience related to the violation.
- c. Restitution: a student whose actions cause damage to, defacing of or destruction of public or private property or injury to another person, may be required to provide monetary reimbursement for restoration of or replacement of property for medical bills related to injuries.
- d. Referral: the student may be referred to an appropriate university service office or to an outside agency to assist that student in achieving personal, social, or emotional growth.
- e. Conduct Probation: a status imposed for a limited, specified period of time (usually no longer than a calendar year) during which the student must demonstrate a willingness and ability to conform to all university regulations. Any violation of university policy while on Conduct Probation is more likely to result in more severe sanctions up to and including suspension or expulsion from the university. Conduct probation does not include any other restrictions but may be combined with restrictions and loss of privileges and other sanctions. Additionally, other university offices and programs may consider conduct probation and restrict/deny participation of students including but not limited to participation in athletics, service as student organization leader, international study abroad, or other off-site programs.
- f. Trespass: a student may be prohibited from entering or being on the premises of specific locations, facilities or buildings or the entire campus.
- g. Restriction and Loss of Privileges: denial or restriction of specified privileges (including contact with a specific person or persons) for a designated period of time.
- h. Suspension: termination of enrollment indefinitely or for a specific period of time. During the period of suspension, the student is issued a trespass notice and may not be present on university property at any time or attend any university-sponsored event or activity without prior authorization by the Office of the Dean of Students or designated office. Conditions of re-enrollment prior to or following a period of suspension may be determined by the Office of Students Rights and Community Standards.
- i. Expulsion: permanent termination of enrollment. Upon expulsion, the student is issued a trespass notice and may not be present on university property at any time or attend any university-sponsored event or activity without prior authorization by the Office of Student Rights and Community Standards.
- j. Revocation of Admission and/or Degree: admission to or a degree awarded from Ball State University may be revoked for fraud, misrepresentation, or other violation of Ball State standards in obtaining the degree, or for other serious violations committed

by a student prior to graduation.

## **6.7 Interim Restrictions and Interim Suspension<sup>16</sup>**

### **6.7.1 Interim Restrictions**

- a. When the alleged actions of a student threaten the safety or operations of the university community, interim measures may be put into place. Interim measures are administrative directives that are intended to ensure the safety and effective operations of the university and prevent a situation from escalating. Interim measures may be made at any point after a referral is received and may include, but are not limited to:
  - i. Administrative directives for no contact;
  - ii. Temporary or permanent re-assignment of university housing;
  - iii. Temporary restriction of access to specific facilities and/or areas of campus (e.g., an academic building or parking lot); and/or
  - iv. Temporary restriction from all campus property and most activities but allowing continued access to specific online activities and resources including, but not limited to, email, online classes, classroom management systems (e.g., Canvas), and library resources.
- b. The Dean of Students or designee will make decisions on interim measures after appropriate consultation. Professional staff in housing and residence life may initiate an immediate residential move in the case of allegations of sexual misconduct, violence, or threats of violence. They may also issue temporary administrative directives for no contact under the same circumstances. Housing and Residence Life personnel will notify Dean of Students or designee in writing of any interim measures they initiate as soon as possible, but no later than the next business day. All interim measures described above will be documented in writing.

### **6.7.2 Interim Suspension**

- a. When the behavior of a student poses a risk to the safety of or disruption to the effective operations of the university community, the university may place the student on an interim suspension. This action immediately suspends the student from all university premises and activities. University Police are notified of this action but the student is not placed on the Ball State public trespass page.
- b. The interim suspension will be decided by the Dean of Students or designee. The interim suspension will be confirmed in writing, and remain in effect until such time as the alleged violations of the Ball State *Code* are resolved. The student will be notified of the interim suspension by the Dean of Students or designee. Within three

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<sup>16</sup> This language borrowed and adapted from Ohio University which updated this section of its *Code* in 2018. The need here is for restrictions requiring a more finely-tuned and flexible response than an interim suspension. This language is partly in response to anticipated federal regulations requiring individualize, case-specific interim measures that may include interim suspension. All interim restrictions noted have been used in the past.

- business days of the notification of the interim suspension, the student may request a review of the interim suspension. The request for review must be submitted in writing and include all relevant documentation the student wishes to be considered as part of the review. The purpose of the review is to determine only if the student poses an on-going threat. After a thorough and comprehensive review of the available information, the Associate Vice President for Student Affairs/Director of Housing and Residence Life or designee will then determine if the interim suspension remains in effect, is modified, or is rescinded. The Associate Vice President for Student Affairs/Director of Housing and Residence Life or designee may make their decision in consultation with other personnel. The decision on the review will be provided to the student in writing and is final.
- c. The student may request an extension of the deadline to submit a request for review in extreme circumstances, such as hospitalization or incarceration. Students may be required to provide documentation related to their request for an extension.
  - d. The outcome of the review will not impact the pending disciplinary process. If the Associate Vice President for Student Affairs/Director of Housing and Residence Life or designee upholds the interim suspension, the decision will remain in effect until the matter has been resolved through formal procedures including investigation and adjudication as needed. The student will be notified of the decision of the Associate Vice President for Student Affairs/Director of Housing and Residence Life or designee in writing within a reasonable time frame.
  - e. If the final decision of the student conduct process is to suspend or expel the student, the sanction will take effect from the date of the interim suspension. If the decision is a reprimand or disciplinary probation, or if the student is found not to be in violation of the charges, for purposes of the record, the interim suspension will be deemed not to have occurred. The student has the right to appeal the final decision in accordance with Part H.