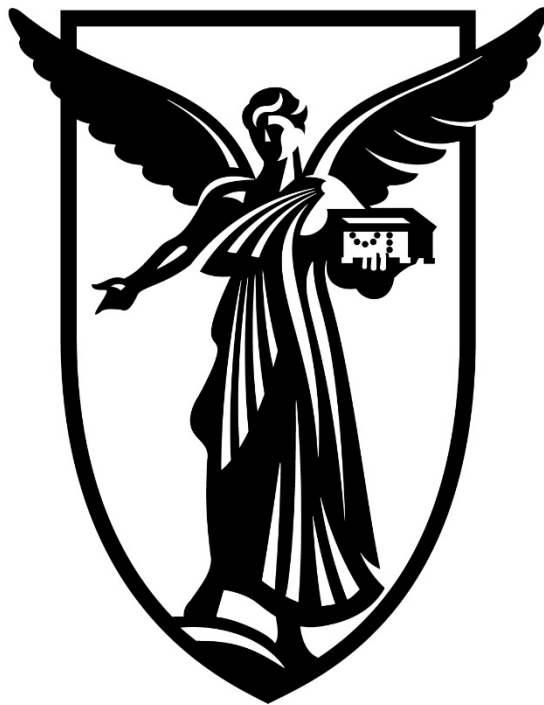


CODE OF STUDENT RIGHTS AND RESPONSIBILITIES

2017-2018



BALL STATE

UNIVERSITY.[®]

published by
Student Rights & Community Standards
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Student Center L-4

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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 those expectations is expressed in Ball State's [*Beneficence Pledge*](#) which is found below (approved and published separately as well):

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 responsible choices regarding their behavior in this academic community.

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 encouraged to 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, as well as, to the reputation of the student body. Students are also subject to legal sanctions when

they violate local, state, or 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 among the citizenry.

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 be willing to identify themselves by name and address and state what connection, if any, they have with the University.
- 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 any university community. 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 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;
 - 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 on the University website at <http://cms.bsu.edu/About/AdministrativeOffices/Commercialization.aspx> or a copy can be obtained from the University Sponsored Programs Office. An excerpt of the Intellectual Property Policy specifically for students is included as Appendix P.
- 1.5.4 If a student is concerned about any issue in the classroom, including a perceived academic freedom issue, this student may:
- a. Consult with the office of the Associate Dean of Students, AD 238, 765-285-1545 to explore options available to the student.
 - b. Options available to the student include:
 - 1) The student may meet with the faculty or staff person to discuss the student's concerns and to come to an understanding about the situation.
 - 2) If resolution is not satisfactory, the student may request a meeting with the individual's department chair or supervisor to discuss the concern further.
 - 3) The chairperson or school director, 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.
 - 4) If the student's concern involves a grade appeal issue, the student may be referred to the grade appeal process outlined in Section 6.7 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, and to 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 investigative programs 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, to post notices, and to 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, 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 & Dean of Students, who in turn have further delegated to other Student Affairs staff the authority to implement and apply the Code of Conduct (section V) and the Disciplinary Procedures (section VI) 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 Officer or other employee, the action may be taken by that person's designee.

2.2 The Code of Conduct and the Disciplinary 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;
- 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 or the sale or distribution of illegal drugs or controlled substances, if a police report has been filed, a

- summons or indictment has been issued, or 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 At the discretion of University officials, disciplinary action under this *Code of Student Rights and Responsibilities* may proceed in advance of or during the pendency of other proceedings.
 - 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 disciplinary 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 and Dean of Students 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 staff, 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 Director of Student Rights and Community Standards or other University official designated by the Vice President for Student Affairs and Dean of Students. The Code was last reviewed and amended in 2015.
 - 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 by email.

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 presence of counsel but not representation by counsel).
- 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 of regulations, for which a student is penalized by fines or reprimands, may be handled expeditiously by the appropriate individual or committee. Persons so penalized 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 conviction occurring after admission to the University) may be subject to the 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, disciplinary 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 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 any person admitted to the University, registered or enrolled in classes either full-time or part-time, or otherwise associated with the University. Persons who 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, and 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 begin running on the first business day after the date such notice is mailed by the University, or immediately when the notice is hand delivered, delivered to a residence hall mailbox, or delivered to a student’s University email in-box or forwarded to an alternative email address as directed by the student.
- 4.9 Members of the University community include anyone who belongs to any of the following groups: students, faculty, professional personnel, staff personnel, service personnel.
- 4.10 Organization means any group granted official recognition by the University after meeting established criteria for such recognition.
- 4.11 Judicial body 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

grant appeals.

V. CODE OF CONDUCT

Any student found to have committed or to have attempted to commit the following offenses is subject to the disciplinary 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 unreasonably affecting a person’s educational or work opportunities or participation in a University activity. This offense also includes behaviors prohibited in *Sexual Harassment Policy, Appendix J, 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 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.
- 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. This includes, but is not limited to, surreptitiously taking pictures of another person in a private area such as a residence hall room, a public or private restroom, or a dressing/locker room.
- 5.1.5 Sexual Misconduct—Sexual intercourse or sexual touching, however slight, by one person upon another without effective consent or when it involves compelling a person to submit to such conduct by force, threat of force, use of intoxicants to impair a victim’s ability to give consent or otherwise 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 that (1) would cause a reasonable person to feel frightened, harassed, intimidated, threatened, or alarmed and (2) that causes the person who is the subject or target of the stalking to feel frightened, harassed, intimidated, threatened, or alarmed. 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 Office of Student Rights and Community Standards 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 Arson – Setting or attempting to set fires, or acting in a manner that disregards fire safety rules and results in a fire.
- 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 drugs and 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 in violation of the law.
- 5.3.6 Smoking and Tobacco Use - Smoking and the use of any other tobacco products (e.g., smokeless tobacco, electric cigarettes) are prohibited on Ball State campus. For the

complete policy, including exceptions for the use in closed, personal vehicles and tailgating on home football weekends, *See Tobacco-Free Campus Policy, Appendix L.*

- 5.3.7 Tampering with Fire Equipment - Unauthorized use, activation, or alteration of fire-fighting equipment, fire safety, or other emergency equipment.
- 5.3.8 Weapons - Transferring, using, possessing, or manufacturing explosives, fireworks, firearms, dangerous chemicals, or any other weapons (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.
 - 5.4.2 Theft — Attempted or actual theft, unauthorized use, or 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 Judicial Process
 - 5.5.1 Improper Influence – Influencing or attempting to influence the decision of a member of a judicial body or a designated judicial officer, or attempting to discourage that person’s participation in a judicial proceeding.
 - 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 judicial process.
 - 5.5.3 Providing False Testimony - Providing false testimony or false information in the judicial process or knowingly making unfounded accusations against another individual.
 - 5.5.4 Sanction Non-compliance - Failing to complete or to comply with a disciplinary sanction.

VI. DISCIPLINARY PROCEDURES

6.1 General Procedures

6.1.1 Reporting an incident/Filing a complaint - 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:

- University Police Department
- 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 Student Rights and Community Standards

Employees of the University shall make reports to the Office of Student Rights and Community Standards of violations of the *Code* in cases where the offense must be reported to state and federal constituencies. That office shall inform University employees of what violations are included.

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 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 Student Rights and Community Standards.

6.1.3 Good Neighbor Exception - Students are always encouraged to call for emergency assistance as needed, even at the risk of disciplinary action 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 disciplinary action to be waived 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 hearing officer. *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.

6.2 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.bsu.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 mailed to the student's known 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:
 - 1) A substantial procedural error that unreasonably impaired the student or the hearing body.
 - 2) An unduly harsh sanction against the accused student.
 - 3) New information of a substantive nature not available at the original hearing.
 - 4) Information of substantial bias on the part of the disciplinary 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 Student Rights and Community Standards

Any case may be referred to the Office of Student Rights and Community Standards for 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 Office of Student Life. Upon receipt of such a complaint, the Assistant Vice President for Student Affairs/Director of Student Life (or his/her designee) 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 Assistant Vice President for Student Affairs/Director of Student 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 Rights and Community Standards for adjudication.
- c. If an organization 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) the adjudication for the organization can be handled through an administrative hearing by the Assistant Vice President for Student

Affairs/Director of Student Life or appropriate Student Life staff members.

- d. If the allegation involves club sports, the administrative hearing will be done in consultation with the Director of Recreation Services or his/her designee.
- e. 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 Vice President for Student Affairs & Dean of Students. A chairperson will be selected from within the committee. The Assistant Vice President for Student Affairs/Director of Student Life (or his/her designee) will serve as an advisor and ex-officio member to the Board, 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 Assistant Vice President for Student Affairs/Director of Student Life 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 Assistant Vice President for Student Affairs/Director of Student Life or his/her 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 Assistant Vice President for Student Affairs/Director of Student Life a minimum of twenty-four (24) hours before the hearing. Each party shall be responsible for insuring the presence of his/her 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 Greek organizations, 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 Assistant Vice President for Student Affairs/Director of Student Life at least twenty-four (24) hours before the hearing. At no time may the advisor or attorney participate directly in the hearing proceedings. He/she may only consult with the student representing the organization.

- g. *Disqualification; Challenges.* Any Hearing Board member may disqualify himself/herself if he or she has 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 his/her 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 Office of the Assistant Vice President for Student Affairs/Director of Student 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 Assistant Vice President for Student Affairs/Director of Student Life 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;
- 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 & Dean of Students or his/her 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:
 - 1) A substantial procedural error that unreasonably impaired the student organization or the hearing body.
 - 2) An unduly harsh sanction against the accused student organization.
 - 3) New information of a substantive nature not available at the original hearing.
 - 4) Information of substantial bias on the part of the disciplinary 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 OFFICE OF STUDENT RIGHTS AND COMMUNITY STANDARDS DISCIPLINARY PROCEDURES

6.5.1 Preliminary Meeting

The preliminary meeting is an initial meeting with a designated Student Rights and Community Standards staff person (Director or a Graduate Assistant) at which time the accused student is made aware of University disciplinary 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 or designee may: dismiss some or all of the alleged violations; continue an investigation into the complaint to determine if the allegations have merit; 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 charge the student with one or more violations of the *Code of Student Rights and Responsibilities*.

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:

- a. To plead “responsible” for the violation, request an informal resolution in lieu of a hearing, and have the sanctions determined at that time by the staff person. The designated staff person conducting the preliminary meeting may choose to refer the determination of sanctions to a 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 of Student Rights and Community Standards may impose sanctions indicated in section 6.6.4 up to and including suspension from the University but not expulsion or revocation of admission or degree.
- b. 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. Cases that are complicated in nature and scope, or where the violations may result in more serious sanctions, 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 disciplinary probation. The student will receive notification of the hearing at least three (3) business days in advance, shall have an opportunity at the hearing to call witnesses on his/her behalf, and shall be able to ask questions of witnesses.

6.5.3 Interim Suspension

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, 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 & Dean of Students or his/her 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 constitute a threat [and at which they may contest whether a violation of the *Code of Student Rights and Responsibilities* took place]. The interim suspension may continue until the entire disciplinary process including appeal, is completed. Every effort will be made to complete the disciplinary process in a timely manner so as to limit the interim suspension to the shortest time possible.

6.5.4 University Review Board

The University Review Board hears disciplinary cases referred to it by the Director of Student Rights and Community Standards or designee. It is composed of students, University faculty members, and/or professional staff members.

- a. *Student Membership*. The student membership will include the Vice President of the Student Government Association, five (5) members of the Judicial Court of Student Government Association and four (4) additional students appointed by the Student Government Association. The Judicial Court members typically are elected by students in the spring, assume their committee responsibilities on the first day of fall semester and shall hold office for one (1) calendar year. Other appointed students also typically assume responsibility at the start of the fall semester and serve for one calendar year. The dates of elections, appointments, and assumption of responsibilities may vary per agreement with

the Student Government Association. 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.

- b. *Faculty and Professional Staff Membership.* The faculty and professional staff members shall be selected by the Office of Student Rights and Community Standards and confirmed by the Campus Council to assume their committee responsibility on the first day of fall semester and serve for one (1) calendar year. A faculty or professional staff member may serve an unlimited number of terms.
- c. *Quorum.* To conduct a hearing for a student disciplinary case, a Hearing Board composed of a minimum of four (4) members of the University Review Board, of whom at least two (2) must be students and two (2) must be faculty and/or professional staff, will be designated by the Director of Student Rights and Community Standards or his/her designee. A hearing may proceed with a minimum of 3 members present.
- d. *Hearing Board Chairperson.* The hearing shall be chaired by one member of the Hearing Board designated in advance by the Office of Student Rights and Community Standards. The chairperson shall be a voting member of the Board. The Director of Student Rights and Community Standards or his/her designee will be present at all hearings as a non-voting consultant to the Hearing Board.
- e. *Hearings During Summer Session and Breaks.* To insure the functioning of the Hearing Board during Summer Session and at other times when regular classes are not in session, the Director of Student Rights and Community Standards or his/her designee may convene a University Review Board hearing with a minimum of three persons chosen from the pool of the University Review Board membership who are available. Should a minimum of three be unavailable from the University Review Board pool, the Director may select additional faculty, staff members, or student members to participate in the hearing process.

6.5.5 Procedures for Disciplinary Hearings.

Procedures for disciplinary cases of the Hearing Board shall be as follows:

- a. *Written Notice of Hearing.* 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. This notice shall also include a statement of the allegations of policy violations, information about the hearing process, and the range of sanctions available. In cases where there are multiple accused students, the Director of the Office of Student Rights and Community Standards has the discretion to convene one hearing or separate hearings for the accused students.
- b. *Absence of the Accused Student.* The accused student may choose not to attend the hearing and may instead submit a written presentation of his/her case. The hearing may proceed in the absence of the accused. By such absence, the accused forfeits his/her right to question witnesses.
- c. *Witnesses.* The accused student, the complainant and the Director of Student Rights and Community Standards or his/her 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 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 his/her 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 disclosed 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. The student must provide the name of his/her 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. He/she may only consult with the student.
- e. *Disqualification, Challenges.* Any Hearing Board member may disqualify himself/herself if he or she has 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 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 his/her 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.
- 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 Hearing Board shall be private. Decisions of the Hearing 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 (not including deliberations). 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. 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 appellate term has surpassed, or as required by law. Preliminary meetings, witness and other interviews, or administrative hearings may be recorded.
- h. *Continuances:* The Hearing 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 Hearing Board from time to time to fulfill its functions in an orderly manner.

6.5.6 The Decision

The decision of the Hearing Board shall be submitted as a recommendation to the Director of

Student Rights and Community Standards 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.
- c. Refer the case back to the Hearing Board for further consideration of sanctions.

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 Hearing Board (including accepted sanctioning recommendations) may be appealed to the Vice President for Student Affairs & Dean of Students or his/her designee.
- c. In both levels of cases, the student has three (3) business days 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 three (3) 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 substantial procedural error that unreasonably impaired the student or the hearing body.
 - 2) An unduly harsh sanction (appeal by the accused student) or an insufficient sanction (appeal by the complainant).
 - 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.
 - 4) Information of substantial bias on the part of the disciplinary 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 to the Hearing 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 from Recreation Services facilities or programs for a pre-determined period of time.
- c. Forfeit - Forfeiture of any outcomes of previous activities.
- 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 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 disciplinary 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. 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.
 - 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 Student Rights and Community Standards. Conditions of re-enrollment following a period of suspension may be determined by the University Review Board and/or 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 Grade Appeals (<http://www.bsu.edu/studentcode/gradeappeal>)

6.7.1 Introduction

- a. This process includes any appeal of a final grade (pass-fail or letter grade) for a course, field experience, clinical, student teaching, practicum, internship, or externship. *Appeal of an involuntary removal from a course in the middle of a term would be subject to departmental or program procedures, not the grade appeal process, unless a failing grade was issued.* A student who is considering an appeal of a final grade is encouraged to meet informally with his/her instructor before submitting a written appeal.

- b.** Grades issued for examinations, individual papers, quizzes, portfolios and other grades that are not final grades are not eligible for consideration for the University Grade Appeal process as discussed in section 6.7.3.
- c.** This appeal procedure is not to be used for a review of the judgment of an instructor in assessing the quality of a student's work or to complain of an instructor's performance.
- d.** Time deadlines in the following procedures are intended to provide a framework for the grade appeal process and may be extended, as circumstances warrant, by the Associate Provost and Dean of University College or designee (Associate Provost).
- e.** This policy will be reviewed by the Ball State Grade Appeals Committee at its meeting each academic year.
- f.** The Office of Student Rights and Community Standards will provide an annual notice by email of the grade appeal policy to students and faculty and will provide a paper copy of the policy to those persons who request one.
- g.** Faculty members are encouraged to note the grade appeal policy and provide the link www.bsu.edu/studentrights/gradeappeal in their syllabi.

6.7.2 Department Grade Appeal Process

- a.** A student who wishes to appeal a final grade must send to the instructor a request for reconsideration of the grade with a rationale for reconsideration. The request shall be in writing (email preferred) and sent to the instructor within five (5) school days (including summer terms, however, see 6.7.1.d above) after the final grade is posted by the Registrar's office.
- b.** The instructor shall respond in writing (email preferred) with a decision regarding the student's grade within five (5) school days after receiving the request.
- c.** If the instructor does not respond within the five day period in (b) above, the student may choose to send the appeal request to the unit head (e.g., department chair or program director) of the department or program that offers the class for a response.
- d.** If the instructor responds within the five (5) school day period with a decision with which the student does not agree and the student wishes to proceed with an appeal, the student shall send written request (email preferred) for review of the grade to the unit head within five (5) days of receiving the response from the instructor. The written communication to the unit head should provide detailed information regarding the disputed grade including the written exchanges with the instructor.
- e.** The unit head shall respond in writing (email preferred) to the student within five (5) school days of receiving the student's request for a review of the grade. The unit head's response should outline the details of the resolution. If the unit head cannot resolve the dispute, his/her communication to the student should refer the student to the University Grade Appeal process (e.g., a link to the Grade Appeal policy at www.bsu.edu/studentrights/gradeappeal and/or the Office of the Associate Provost).
- f.** The student may then choose to proceed with a university-level grade appeal as described below.

6.7.3 University Grade Appeal Process

- a. *Formal appeal.*** If the matter cannot be resolved satisfactorily at the unit level, the student may

request consideration of a University grade appeal hearing. The University grade appeal process consists of the following steps:

- 1) The student must submit a formal appeal of the grade in writing (email preferred) to the Office of the Associate Provost and Dean of University College (Associate Provost) within five (5) school days after notification from the unit head. *Note: answers to frequently asked questions about the grade appeal are and other support is available at www.bsu.edu/studentrights/gradeappeal.*
- 2) The appeal shall clearly include the criterion or criteria on which the appeal is based and a supporting argument for each criterion cited in the appeal with evidence that supports that argument. See 6.7.3.b below for the criteria for appeals.
- 3) The appeal also shall include all written exchanges with the instructor and unit head regarding the grade appeal. The written exchanges must include the original date stamps. Direct forwards of emails to the Associate Provost are acceptable and preferred.
- 4) The appeal also should include the following components:
 - a. The student's full name, email address, telephone number and local mailing address;
 - b. The class name, number, and section number of the class in which the grade was received (e.g., SRCS 100, section 002, Introduction to Grade Appeals);
 - c. The instructor's name;
 - d. The semester in which the class was taken;
 - e. The grade received;
 - f. The grade expected to have been received;
- 5) Once the appeal has been received, the Associate Provost shall review the appeal to determine if the student has complied with grade appeal procedures, met the required deadlines and provided the information noted in 2) and 3) above.
 - a. If the student's appeal does not comply with grade appeal procedures, meet required deadlines, or provide information noted in 2) and 3) above, the student will be informed and the grade appeal process will be terminated.
 - b. If the appeal meets the requirements in 2) through 4), the Associate Provost shall forward the student's appeal to the instructor by email (with copy to unit head) and solicit the following:
 - i. a written response from the instructor;
 - ii. a copy of the syllabus for the appropriate class; and
 - iii. any other materials relevant to the grade appeal (e.g., rubric, class grades, etc.).
- 6) The instructor is expected to provide the requested materials within five (5) school days. Upon receipt of the materials from the instructor, the Associate Provost will convene a screening committee to review the appeal. The screening committee will include the Associate Provost, the Director of Student Rights and Community Standards or designee, and the Vice President of the Student Government Association or designee. The screening committee will review the student's compliance with grade appeal procedures, the written request for appeal, and the criteria cited within the written appeal. Based on these criteria, the screening committee will determine whether or not to refer the appeal to the University Grade Appeal Committee for a hearing.
 - a. If the decision is not to forward the appeal to a hearing, the appeal will be rejected. The Associate Provost shall inform the parties in writing of the decision,

within ten (10) school days after receipt of the formal appeal, and the matter is concluded.

- b. If the appeal is approved for further review, the Associate Provost shall inform the parties in writing of the decision and convene a University Grade Appeal hearing as described below.

b. *Basis for Grade Appeals.* The University Grade Appeal Committee will only address those appeals for which a procedural or fairness issue is in question. The criteria for a grade appeal are:

- 1) An obvious error in the calculation of the grade.
- 2) The assignment of a grade to a particular student by application of more exacting or demanding standards than were applied to other students in the course.
- 3) The assignment of a grade to a particular student on some basis other than performance in the course.
- 4) The assignment of a grade by a substantial departure from the instructor's previously announced standards.

6.7.4 University Grade Appeal Committee

The University Grade Appeal Committee is composed of one (1) undergraduate student, one (1) graduate student, and one (1) faculty member from each college.

- a. *Student Membership.* The student membership will include one undergraduate and graduate student appointed by each of the college deans for a one-year appointment to assume their committee responsibility at the start of the fall semester and serving for a twelve-month term. A student member may serve an unlimited number of terms.
- b. *Faculty Membership.* The faculty members, one from each of the colleges, shall be elected by the faculty of each individual college, assuming responsibility at the start of the fall semester and serving for a twelve-month term. A faculty member may serve an unlimited number of terms.
- c. *Vacancies.* Should a faculty member or student vacancy occur, the appropriate dean shall appoint a member to the committee for the remainder of the twelve-month term.

6.7.5 Hearing Procedures

- a. *Quorum.* To conduct a hearing for a grade appeal, a hearing panel (Panel) composed of five (5) members of the University Grade Appeal Committee, of whom at least two (2) must be students (drawn from either the undergraduate pool or the graduate pool depending on the status of the student appellant) and two must be faculty. The Associate Provost shall assemble the Panel. A hearing may proceed with a minimum of four (4) members present.
- b. *Hearing Moderator and Advisor.* The hearing shall be moderated by the Associate Provost. The Director will be present at all hearings as a non-voting procedural consultant to the Panel and will make a record of the proceedings.
- c. *Notice of Hearing.* If a hearing is to be held, the student and the faculty member who assigned the grade being appealed will be notified in writing of the date, time, and place of the hearing at least five (5) school days in advance. In case of an absent instructor, the unit head, with consent of the absent instructor, shall appoint a faculty member from the

- department or himself or herself to represent the instructor at the hearing. The Panel may delay judgment if neither the faculty member nor a representative is available for the hearing, if such a presence, in the opinion of the Panel, is necessary to the decision.
- d. *Presentation of Case.* The presentation of the case is the responsibility of the student and the burden of proof is on the student. The instructor shall be provided an opportunity to respond to the student's claim and to present evidence in support of his or her original grade decision. Each presentation is not to exceed 15 minutes in length. Both sides will also have an opportunity to call witnesses with information pertaining to the appeal criteria cited by the student.
 - e. *Access to Information.* The Panel will have access to pertinent information in the case and may request additional information from either party or call additional witnesses as needed to render a decision.
 - f. *Multiple Appeals.* If two (2) or more members of a class appeal their grades, the Panel may elect to hear the appeals individually or collectively.
 - g. *Disqualifications; Challenges.* Any Panel member shall disqualify himself or herself if he or she has a personal bias or a conflict of interest with the case or with either party. The student or instructor may challenge a Panel member on the grounds of conflict of interest or personal bias. The burden of proof is on the challenger. The decision regarding disqualifying a challenged member shall be made by a majority vote of the remaining members present. If a challenge is upheld, the Associate Provost has the discretion 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 three-fourths (3/4) of all remaining members of the Panel.
 - h. *Conduct of 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 Panel with a complete understanding of the facts involved. Irrelevant, immaterial, and unduly repetitious evidence may be excluded. The hearing shall be closed to the public; the deliberations of the Panel shall be limited to Panel members only.
 - i. *Advisors.* The student and the faculty member shall each have the right to have one person of his or her choice present as an advisor in the hearing. That person must be a student, faculty or staff person of the University or (in the case of the student) his/her parent. The advisor may not participate directly in the hearing and is only present to consult with or support the student or faculty member involved.
 - j. *Continuances.* The Panel, by majority vote, may continue the hearing to a later time or times.
 - k. *Additional Rules.* Procedural rules not inconsistent with these procedures may be established by the Panel from time to time to ensure that the hearing is conducted in a fair and orderly manner.
 - l. *Confidentiality of Appeal Hearing.* With the exception of the Director for the purposes of maintaining the case record, Panel members shall not retain in their possession any personal files, materials received during the appeal procedure, or notes taken during the meetings of the University Grade Appeal Committee. No party, Panel member, or other participant or observer in the appeal procedure shall reveal any facts, documents, or testimony gained through participating in or observing the hearing to any other person, unless required by a court of law to do so or upon the advice of the University's legal

counsel.

- m. *Hearings during Summer Session and Breaks.* To ensure the functioning of the University Grade Appeal Committee during Summer Session and at other times when regular classes are not in session, the Associate Provost may convene a hearing with a minimum of three persons chosen from the pool of the committee membership who are available. Should a minimum of three be unavailable from the pool, the Associate Provost may select additional faculty members or students to participate in the hearing process.

6.7.6 *Findings.* Decisions of the Hearing Panel shall be made by majority vote which shall not be revealed to either the student or the instructor. Upon completion of the hearing, the Associate Provost will communicate the Panel's decision via letter to the student, the instructor, the Provost and Vice President for Academic Affairs, and the instructor's department chairperson within three (3) school days of completion of the hearing.

- a. *Findings of the Panel.* The Panel may render one of two decisions:
 - 1) That a grade which has been appealed be changed with specific designation of the new grade;
 - 2) That a grade which has been appealed remains the same.If the panel decides to change the grade, the instructor shall have five (5) school days in which to file a grade change with the Office of the Registrar or request a review by the Provost (see 6.7.6b below). In the event the instructor takes no action, the Provost shall process a change of grade form.
- b. *Provost's Determination.* If either party believes that there were procedural errors that substantially affected the decision or that they did not receive a fair hearing, they may request a review by the Provost that shall be limited to an examination of the process and procedures followed. The Provost shall communicate the final decision to all parties in writing.

The review may be resolved in one of the following ways:

- 1) The Provost will determine that there were no procedural errors that had a substantial effect, in which case the original decision is upheld. If that original decision was to change the grade, the Provost shall notify the faculty member that a change of grade form is to be submitted to the Office of the Registrar. The instructor shall have five (5) school days in which to file a grade change with the Office of the Registrar or inform the Provost of intent not to do so. In the event the instructor takes no action or chooses not to change a grade, the Provost shall process a change of grade form.
- 2) The Provost will determine that there were procedural errors that had a substantial effect, in which case the grade appeal may be remanded back to the original Panel for further consideration.
- c. *Transcript notation.* If a grade has been changed by the Provost, the appeal case record shall reflect the following: *Original grade of ___ was overruled by the Provost upon recommendation of the University Grade Appeal Panel.*
- d. *Record.* A record of the case including all materials submitted during the appeal process, written exchanges to and from the student regarding the appeal, the record of the proceedings of the University Grade Appeal Committee hearing (if applicable) and communication to and from the Provost (if applicable) shall be retained on file in the Office of the Associate Provost for a period of one year after the decision. After that year,

unless precluded by a pending legal matter, all materials will be destroyed with the exception of final decisions made by the screening committee, the University Grade Appeal Committee, and the Provost as applicable. These documents may be maintained in digital form.

VII. STUDENT ACADEMIC ETHICS POLICY (www.bsu.edu/studentcode/academicethics)

7.1 Introduction

Honesty, trust, and personal responsibility are fundamental attributes of the University community. Academic dishonesty and other forms of academic misconduct threaten the foundation of an institution dedicated to the pursuit of knowledge and will not be tolerated. To maintain its credibility and reputation, and to equitably assign evaluations of scholastic and creative performance, Ball State University is committed to maintaining a climate that upholds and values the highest standards of academic integrity.

7.2 Academic Misconduct

Academic misconduct involves violations of procedures which protect the integrity of the coursework completed by a student. Academic misconduct includes but is not limited to acts of academic dishonesty, or “intentional acts of fraud” in the academic setting.

“In academic dishonesty cases, a distinction must be made between simple negligence and intentional acts of fraud. The former does not merit subjecting students to the disciplinary process. An example of academic negligence would be the omission of a single footnote due to a typing error.

While the student responsible for such error should not be subject to disciplinary penalties, the instructor is free to award a grade which reflected the student's carelessness.

The issue of ‘intent’ is a question of fact. A student who cites long passages from a book without any acknowledgment cannot expect the decision maker to believe the omission was merely negligent. Requiring a showing of intent should not be confused with excusing students who claim they were unaware of the rules.” (p. 23)¹

Academic misconduct includes, but is not limited to the following:

- 7.2.1 Violations of procedures which protect the integrity of a quiz, examination, or similar evaluation, such as:
- a. Possessing, referring to, or employing open textbooks or notes or other devices not authorized by the faculty member;
 - b. Copying from another person's work;
 - c. Communication with, providing assistance to, or receiving assistance from another person in a manner not authorized by the faculty member;
 - d. Possessing, buying, selling, obtaining, giving, or using a copy of any unauthorized materials intended to be used as or in the preparation of a quiz or examination or similar evaluation;

¹ Gehring, D., & Pavela, G. (1994). *Issues and perspectives on academic integrity* (2nd ed.). Washington, DC: National Association of Student Personnel Administrators.

- e. Taking a quiz or examination or similar evaluation in the place of another person;
- f. Utilizing another person to take a quiz, examination, or similar evaluation in place of oneself;
- g. Changing material on a graded examination and then requesting a re-grading of the examination;
- h. The use of any form of technology capable of originating, storing, receiving or sending alphanumeric data and photographic or other images to accomplish or abet any of the violations listed in parts a through g.

- 7.2.2 Plagiarism—defined as “intentionally or knowingly representing the words or ideas of others as one’s own in any academic exercise”² (also see discussion below) or violations of procedures prescribed to protect the integrity of an assignment, such as:
- a. Submitting an assignment purporting to be the student’s original work which has been wholly or partly created by another person;
 - b. Presenting as one’s own work the ideas, representations or words of another person without customary and proper acknowledgment of sources;
 - c. Submitting as newly executed work, without faculty member’s prior knowledge and consent, one’s own work which has been previously presented for another class at Ball State University or elsewhere;
 - d. Knowingly permitting one’s work to be submitted by another person as if it were the submitter’s original work.

Discussion: Regarding plagiarism, the Council of Writing Program Administrators notes the following:

“Most current discussions of plagiarism fail to distinguish between:

- 1. submitting someone else’s text as one’s own or attempting to blur the line between one’s own ideas or words and those borrowed from another source, and
- 2. carelessly or inadequately citing ideas and words borrowed from another source.

Such discussions conflate *plagiarism* with the *misuse of sources*.

Ethical writers make every effort to acknowledge sources fully and appropriately in accordance with the contexts and genres of their writing. A student who attempts (even if clumsily) to identify and credit his or her source, but who misuses a specific citation format or incorrectly uses quotation marks or other forms of identifying material taken from other sources, has not plagiarized. Instead, such a student should be considered to have failed to cite and document sources appropriately.”³

- 7.2.3 Falsely claiming to have completed work during an internship or class group assignment.
- 7.2.4 Cooperating with another person in academic misconduct, either directly or indirectly as an intermediary agent or broker.

² Pavela, G. (1997). Applying the power of association on campus: a model code of academic integrity, p. 10. Accessed January 14, 2014 from the Center for Academic Integrity website at http://www.academicintegrity.org/icai/assets/model_code.pdf

³ Council of Writing Program Administrators, (2003). *Defining and Avoiding Plagiarism: The WPA Statement on Best Practices*. Accessed January 15, 2015 at <http://wpacouncil.org/positions/WPAplagiarism.pdf>

- 7.2.5 Knowingly destroying or altering another student’s work whether in written form, computer files, art work, or other format.
- 7.2.6 Aiding, abetting, or attempting to commit an act or action that would constitute academic misconduct.
- 7.2.7 Fabrication, or “intentional and unauthorized falsification or invention of any information or citation in an academic exercise.”⁴

7.3 Accusation of Discrimination

If the student believes the accusation of academic misconduct is in whole or in part due to unlawful discrimination relating to race, religion, color, sex, sexual orientation, physical or mental disability, national origin, ancestry, or age, the student must inform the Office of University Compliance in writing of this belief immediately after an accusation has been made. The charge of unlawful discrimination shall be dealt with under the procedures set forth by the Office of University Compliance.

- 7.3.1 When a student involved in an academic misconduct case alleges as a partial or complete defense, discriminatory treatment on the part of the faculty member, then the student must at the first opportunity cite the specific treatment engaged in by the faculty member. When raising such defense, the student must also provide a summary of the constitutionally or statutorily prohibited reasons upon which he or she believes the decision or accusation was based and a detailed summary of the evidence which supports the appellant’s allegation. Discriminatory treatment is defined as decisions based upon constitutionally or statutorily prohibited reasons, including unlawful discrimination.
- 7.3.2 When a student involved in an academic ethics case alleges discriminatory treatment on the part of the faculty member, the University’s Vice President and General Counsel or his or her designee will be consulted on how to best resolve both allegations in a timely and fair manner that meets the University’s statutory compliance and ethical obligations.

7.4 Implementation Procedures

The Provost has designated the Associate Provost to be responsible for overall administration of this policy. Specific responsibilities have been further delegated to other staff members with the Office of the Associate Provost. Unless specifically noted, “Associate Provost” will mean any of these persons.

Throughout this document, *written notice* is defined as Priority United States Mail and/or

⁴ Pavela, G. (1997). *Applying the power of association on campus: a model code of academic integrity*, p. 11. Accessed January 14, 2014 from the Center for Academic Integrity website at http://www.academicintegrity.org/icai/assets/model_code.pdf

university email with a read/receipt request attached to the document.

No statute of limitation shall exist for issues of academic misconduct, including post-graduation situations. In the case of post-graduation issues, the same procedures and timetables as described for current students are applicable. However, before the procedures may begin, the individual in question must be located and contacted. Once located, the Associate Provost will send a certified letter to the individual, containing all required information. When the Associate Provost receives confirmation that the letter has been delivered, the timetable of events begins.

- 7.4.1 *Informal Resolution.* If a faculty member accuses a student of academic misconduct, the faculty member must inform the student, either in person or by written notice, of the alleged violation within five (5) school days after the faculty member becomes aware of the initial circumstances giving rise to the accusation. The faculty member and student will discuss the alleged violation in a private conference⁵ within five (5) school days after the faculty member notifies the student of the accusation. The student's failure to respond to this accusation will be considered an admission of responsibility for the violation.
- a. *Finding of Not Responsible.* If, as the result of the conference, the faculty member thinks that the student is not responsible, the matter will be closed.
 - b. *Finding of Violation.* If, as a result of the initial conference, the student admits his or her academic misconduct, the student will be required to indicate this admission in writing to the faculty member within five (5) school days following the conference.
 - c. *Imposition of Consequences.* If, after receiving the written admission of a violation, an appropriate resolution (including consequences) is found to which faculty member and student agree, written documentation will be sent to the Associate Provost. This written documentation must be signed by both the faculty member and the student.
 - d. *Disagreement as to Violation.* If, as a result of the initial conference, the faculty member thinks a violation has occurred and the student disagrees, the faculty member must notify the student in writing within five (5) school days following the initial conference that the faculty member is proceeding with the formal resolution process. [See *Timing of Grade*, section 7.4.3.]
 - e. *Disagreement as to Consequences.* If the student admits responsibility or fails to respond, and the faculty member subsequently imposes consequences that the student considers too severe, the student may appeal within five (5) school days of being notified of the consequence. This appeal should be filed with the Associate Provost to be considered by the Student Academic Ethics Committee. [See *Timing of Grade*, section 7.4.3.]

7.4.2 *Formal Resolution.* A faculty member's written notification to the student that he or she

⁵ The "private conference" is not required to be a face-to-face meeting; it can be conducted by telephone, email, or Skype for example. Additionally, there may be times when more than one student is accused of being involved which can require a meeting between an instructor and two students, for instance. Finally, there may be times when the support of an advisor for the student or instructor or both is appropriate. The "private conference" may not be a public affair attended by anyone who wishes to do so; this meeting is an opportunity for the student to respond, for the instructor to gather information, and for all parties to clarify what has happened and determine the next step.

is proceeding with the formal resolution process shall include a brief description (no more than five (5) pages) of the circumstances giving rise to the accusation and inform the student of his/her right to appeal. A copy of the written notice shall be given to the faculty member's chairperson. The student must respond in writing to the formal accusation within five (5) school days after receiving the faculty member's written notice.

- a. The student's written response must indicate why he/she denies the accusation and wishes to appeal.
- b. If the student fails to respond in writing within the five (5) school day period, the student shall be deemed to have admitted to the accusation.
- c. If the student denies the accusation, in writing, the faculty member shall refer the matter, in writing, to the Student Academic Ethics Committee within five (5) school days from the date of the student's response. At that same time, the faculty member shall provide copies of the academic misconduct referral to the student, department chairperson, and Associate Provost. The faculty member bears the burden of proof for establishing academic misconduct.
- d. If the matter is not resolved informally, and if the faculty member does not refer the matter to the Student Academic Ethics Committee, the student shall be deemed to be innocent of the accusation of academic misconduct and no consequences may be imposed.

7.4.3 *Timing of Grade.* During the formal resolution process, the student's enrollment and participation in class shall not be affected. If the student's grade in the course has not been resolved by this process and the semester ends, the student shall receive an "Incomplete" in the course until such time as a grade can be determined pursuant to this policy. If the student has already been assigned a grade in the course at the time the student is accused of academic misconduct, the assigned grade shall not be changed unless and until the student is determined to be responsible for the violation of academic misconduct pursuant to this policy.

7.4.4 *Course Withdrawal.* Students who are faced with an accusation of academic misconduct are not allowed to withdraw from the course until the issue has been resolved. If the student withdraws from the course before the Associate Provost learns of the accusation, he or she will be administratively re-enrolled in the course until the adjudication is complete, including imposition of consequences if appropriate.

7.4.5 *Multiple Offense Review.* Upon receipt of a faculty member's written notification of a student academic misconduct accusation Associate Provost shall review all records and determine if the student has prior offenses on record, and if so, what further action is warranted.

- a. *Informal Process Resolution.* After review of past incidents, the Associate Provost may close the matter with no further action, or may choose to impose additional consequences for the most recent violation.
- b. *Referral to Student Academic Ethics Committee.* The Associate Provost may also choose, upon review, to forward the matter to the Student Academic Ethics Committee for consideration of additional penalties.

- c. *Forwarding Cases Resolved at Informal Level.* In cases where the most recent offense has been resolved by agreement of the faculty member and student, the hearing will include only the student and the Hearing Panel. The faculty members involved in student's violations need not appear unless circumstances warrant faculty involvement. The Hearing Panel may recommend no additional consequences or may recommend consequences up to and including suspension or expulsion from the University or revocation of a previously awarded degree.
- d. *Forwarding Cases Resolved at Formal Level.* If the determination of prior violations occurs during the Formal Resolution process (7.4.2), the process and hearing will proceed as outlined for a single offense. The Hearing Panel will include questioning about any other offenses and will consider the issue of multiple offenses as part of a recommendation to the Provost and Vice President for Academic Affairs for the determination of consequences.

7.4.6 *Standing of Alternate Complainants:* This policy is designed to address the typical scenario that a faculty member is alleging academic misconduct by a student under his or her instruction (class, internship, thesis, student teaching, etc.). However, there are times when a student reports academic misconduct or when a student not under a faculty member's instruction assists a student who is under that faculty member's instruction. In these cases, a faculty member who is in the best position to exercise the authority to impose an academic consequence (i.e., a grade) will be sought to review the allegation. If a faculty member who is able to serve in this capacity cannot be found, the Associate Provost may designate the Director of Student Rights and Community Standards (Director) to serve as the complainant. However, in these instances, the Associate Provost or Director may not impose an academic consequence but may impose consequences authorized under section 6.6.4 of this *Code*.

7.5 Student Academic Ethics Committee – Composition

7.5.1 *Membership.* The Student Academic Ethics Committee shall be composed of one (1) faculty member from each college, one (1) undergraduate student from each college, one (1) graduate student from each college, the Associate Provost, and the Director of Student Rights and Community Standards.

- a. Each college dean shall appoint one (1) regular faculty member from his or her college with the academic rank of assistant professor or higher to serve on the committee and one (1) undergraduate and one (1) graduate student from his or her college;
- b. The students must have earned sophomore standing or above, shall not be on academic or disciplinary probation, or have a record of having committed academic misconduct. Each student must consent in writing to the University verifying to the college dean that he or she meets the requirements of the preceding sentence;

7.5.2 *Term.* Faculty and student members of the Student Academic Ethics Committee shall be appointed during spring semester of each year to serve a one (1) year term beginning the following fall semester. A faculty or student member may serve an unlimited number of terms.

7.6 Student Academic Ethics Committee: Procedures

- 7.6.1. *Selection of Hearing Panel; Chairperson.* The Associate Provost shall select a Hearing Panel from among the members of the Student Academic Ethics Committee. The Hearing Panel shall be composed of five (5) voting members: three (3) faculty, two (2) students selected from either the undergraduate or graduate pool of students to match the status of the accused student; and two (2) non-voting members: the Associate Provost, and the Director of Student Rights and Community Standards or his/her designee. The Associate Provost shall serve as chairperson of the Hearing Panel.
- 7.6.2. *Advisors.* The student and faculty member may each be accompanied and assisted at the hearing by one advisor. However, an advisor may not address the Hearing Panel or witnesses directly. The student and faculty member shall each indicate to the Associate Provost who will serve as his or her advisor at least twenty-four (24) hours before the hearing.
- 7.6.3. *Notice of Hearing.* The Associate Provost shall establish the time, date, and place that the academic misconduct referral or appeal will be heard by the Hearing Panel and shall give at least ten (10) school days prior written notice thereof to the student and to the faculty member. The notice shall include the names of the persons who will serve on the Hearing Panel and shall briefly state the nature of the accusation and the circumstances giving rise to the accusation. The date of the hearing should be not more than twenty (20) school days after the faculty member's written notice or the student's appeal was received by the office of the Associate Provost. In the case of an absent faculty member, the department chairperson, with consent of the absent faculty member, shall appoint a faculty member from the department or himself or herself to represent the faculty member at the hearing.
- 7.6.4. *Quorum.* All of the voting members of the Hearing Panel must be present to constitute a quorum, unless a vacancy occurs, as provided in 7.6.5 below. A majority of the voting members present, whether or not a quorum exists, may adjourn any meeting to another time or date.
- 7.6.5. *Disqualification; Challenges.* Any Hearing Panel member shall disqualify himself or herself if he or she has a conflict of interest with the case, the student, a personal bias relevant to the case. The student may challenge a Hearing Panel 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 Associate Provost may, at his or her 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 all remaining voting members of the Hearing Panel.
- 7.6.6. *Witnesses.* The student and the faculty member may invite persons who have information relevant to the accusation to present testimony at the hearing; however, the chairperson of the Hearing Committee may limit the number of witnesses to avoid repetition and cumulative testimony. The witnesses must be affiliated with the University and

knowledgeable about the academic misconduct accusation. Each party shall be responsible for insuring the presence of his or her witnesses at the hearing and shall be prohibited from submitting a written statement in lieu of personal testimony of a witness unless the chairperson of the Hearing Panel permits a written statement. The student and the faculty member must provide the names of all witnesses who may testify at least twenty-four (24) hours before the scheduled time of the hearing to the Office of the Associate Provost. All witnesses who testify, as well as the accused student and the faculty member, may be questioned by any member of the Hearing Panel concerning any matter relevant to the issues before the Hearing Panel. Witnesses invited by either party shall be present only while they are testifying.

7.6.7 *Materials Used in the Hearing.* The student must provide a written statement of no more than five (5) pages outlining the basis of the appeal and provide any supporting documentation. The faculty member will provide the original written notification and any additional supporting materials. All documentation must be received in the Office of the Associate Provost no less than five (5) school days prior to the hearing. All documents shall be distributed to both parties and the Hearing Panel no less than twenty-four (24) hours in advance of the scheduled hearing.

7.6.8 *Conduct of the Hearing.* The hearing shall be conducted without reference to rules applicable to a court of law concerning the examination of witnesses and admissibility of evidence, but with a view to providing the Hearing Panel with a complete understanding of the facts involved. Each party shall be granted up to thirty (30) minutes to present relevant information to the Hearing Panel. Time used by witnesses shall count toward those thirty minutes (excluding time spent questioning the witness by the Hearing Panel). Decisions of the Hearing Panel shall be made by a majority vote. The Hearing Panel may delay judgment.

7.6.9 *Confidentiality of Appeal Hearing.* The Hearing Committee members shall return any personal files, materials received during the appeals procedure, or notes taken during the meetings of the Hearing Committee to the Chairperson of the Hearing Committee, once the process is complete. No member of the Hearing Committee, or other participant or observer in the appeal procedure shall reveal any facts, documents, or testimony gained through participating in or observation of the hearing to any other person unless required by a court of law to do so or upon the advice of the University's legal counsel.

7.7 Hearing Committee: Determination/Recommendations

7.7.1 *Determination and Recommendation of the Hearing Panel.* The Hearing Panel's determinations shall be based solely on the evidence presented or summarized at the hearing, as well as the testimony provided by the student, faculty member, and witnesses; however, the Hearing Panel may take official notice of matters which would be within the general experience or knowledge of faculty or students of the University. The Hearing Panel shall complete the following tasks:

- a. determine the responsibility of the student (if not previously determined);
- b. determine the recommendation for consequences if the student is determined to be

responsible for the violation or the student admitted responsibility for the violation in writing, or the only issue before the Hearing Panel is the consequence to be imposed. The Hearing Panel may consider any prior instances of academic misconduct by the student in determining its recommendation for consequences;

- c. meet in one or more private sessions after the conclusion of the hearing for the purpose of preparing the written summary of the evidence presented, findings, and recommendation for consequences for delivery to the Provost and Vice President for Academic Affairs.

7.7.2 *Determination of Not Responsible.* If the Hearing Panel determines that the student is not responsible for the alleged violation, the accusation shall be dismissed and the Hearing Panel shall request the faculty member involved to assign a grade to the student based upon the student's academic performance. If the student thereafter disagrees with the grade assigned, the student may appeal the grade through the University's grade appeal procedure. The Hearing Panel shall give its written summary of evidence presented and its written finding of "not responsible" to the Provost and Vice President for Academic Affairs. A copy of the summary and finding of "not responsible" shall at the same time be given to the student, faculty member, the faculty member's department chairperson, and the faculty member's dean.

7.7.3 *Determination of Responsibility for the Violation: Findings and Recommendation to Provost and Vice President for Academic Affairs.* If the Hearing Panel determines that the student is responsible for the violation of the accusation, if the student has admitted responsibility for the violation in writing, or if the only issue before the Hearing Panel is the consequences to be imposed, the Hearing Panel shall give its written summary of the evidence presented, its written findings, and its recommendation for consequences to the Provost and Vice President for Academic Affairs. A copy of the summary, findings, and recommendation for consequences shall at the same time be given to the student, the faculty member, the faculty member's department chairperson, and the faculty member's dean.

7.7.4 *Appeal to the Provost and Vice President for Academic Affairs.* The faculty member or the student may appeal the Hearing Panel's decision to the Provost and Vice President for Academic Affairs. To be considered by the Provost and Vice President for Academic Affairs, such appeals must be received by the Office of the Provost and Vice President for Academic Affairs within five (5) school days after the date the Hearing Panel's summary, findings, and recommendations are given to the student, the faculty member, the faculty member's department chairperson, and the faculty member's dean. The decision of the Provost and Vice President for Academic Affairs is final.

7.7.5 *Action by Provost and Vice President for Academic Affairs.* After receipt of the Hearing Panel's summary, findings, and recommendation and any written comments promptly submitted by the faculty member or student, the Provost and Vice President for Academic Affairs may: (1) approve the determination and recommendation of the Hearing Panel; (2) overrule or modify the Hearing Panel's recommendation for consequences; or (3) refer the matter back (remand) to the Hearing Panel for such action as the Provost and Vice President for Academic Affairs may direct. If the Provost and Vice President for

Academic Affairs remands the matter to the Hearing Panel, the results of the Hearing Panel's further actions shall be communicated to the Provost and Vice President for Academic Affairs for final decision.

7.8 Consequences

7.8.1 *By Faculty Member.* A faculty member may impose consequences for academic misconduct up to and including failure in the course.

7.8.2 *By Provost and Vice President for Academic Affairs.* After receipt of the Hearing Panel's summary, findings and recommendation, the Provost and Vice President for Academic Affairs may impose consequences up to and including suspension or expulsion from the University or revocation of a previously awarded degree.

7.9 Records of Academic Misconduct

7.9.1 *Records in Case with No Adverse Finding.* If a student is determined or deemed to be innocent of an accusation of academic misconduct, and any appeal of that decision has been concluded with no change in judgment, all materials concerning the accusation that are in the possession of the University or any University faculty or staff member shall be destroyed, except that any student work product involved in the dispute shall be evaluated, retained, returned to the student or otherwise handled as required by the original assignment.

7.9.2 *Records in Case with Adverse Finding.* If an academic misconduct proceeding concludes, after any available appeals, in a finding that there was academic misconduct of any type in any degree, or if a case is resolved by informal resolution under 7.4.1., with a stipulation by the student that there was academic misconduct of any type in any degree, the records of the proceedings shall be maintained in accordance with Subsection 7.9.3.

7.9.3 *Maintenance of Records.* Records of any proceeding described in Section 7.9.2 shall be maintained in a separate file, identified by the name of the student. The records shall include all materials used in the hearing, as well as findings of violation and imposition of consequences as a result of informal resolution under Section 7.4.1. All materials in a student's academic misconduct file will be destroyed five (5) years after the case is resolved or when the student graduates from Ball State University, whichever date comes later. However, if at the conclusion of this holding period, the materials are relevant to pending or threatened litigation, the Provost and Vice President for Academic Affairs may direct that destruction of the materials be delayed until such litigation is concluded. Access to or release of the materials will occur only with the prior written consent of the student or in accordance with the Registrar's policies for the release of student records, in accordance with federal and state law and university policy.

7.9.4 *Transcripts.* Other than the grade finally assigned in a course, a student's academic misconduct shall not be recorded on the student's transcript unless the student is expelled from the University or a previously awarded degree is revoked. In these cases the transcript has a notation but which does not specify expulsion or revocation of degree.

7.10 Miscellaneous

7.10.1 *Action by Designee.* Whenever an action may be or is required to be taken under this policy by the Provost and Vice President for Academic Affairs, the Associate Provost, or the Director of Student Rights and Community Standards, the action may be taken by that person's designee.

APPENDIX A - Alcohol Policy

www.bsu.edu/studentcode/alcoholpolicy

When students choose to consume alcoholic beverages, Ball State University encourages responsible practices and behavior in accordance with campus policies, the laws of the State of Indiana, and the City of Muncie. On and off campus violations of University policy and local and state laws related to alcohol will result in disciplinary action.

A. General Guidelines

1. *University Sponsored Events* - Illegal purchase, service, consumption, or possession of alcoholic beverages at any University-sponsored event on or off campus is prohibited. Upholding applicable local, state, and federal laws in connection with this policy is the joint responsibility of the persons in attendance at the activity, the sponsoring organization, and the management of the establishment in which the activity is held.
2. Illegal purchase, consumption, or possession of alcoholic beverages by any student under 21 years of age is prohibited wherever it may occur.
3. Providing alcoholic beverages at any time to an individual who is under 21 years of age is strictly prohibited.
4. Adverse behavior—as a result of alcohol consumption and regardless of age—including but not limited to, disruption, disorderly conduct, public intoxication, and sexual misconduct shall be a violation of the *Code of Student Rights and Responsibilities (Code)*.
5. The sale of alcoholic beverages by any person, group, or organization without a license is strictly prohibited.
6. Students, groups, or organizations found responsible for providing alcohol to minors and selling or distributing alcohol in violation of state law shall be in violation of the *Code*.
7. Students hosting events (including but not limited to parties, “pre-gaming,” “socials,” etc.) where (a) minors consume alcohol, (b) alcohol is provided to minors, or (c) alcohol is otherwise distributed in violation of local ordinances or state laws are subject to sanctions outlined in the *Code of Student Rights and Responsibilities* up to and including suspension or expulsion from the University. Groups and organizations are subject to sanctions up to and including suspension of recognition or withdrawal of recognition.

B. On Campus: With respect to the service, possession, or consumption of alcoholic beverages on the Ball State University campus, state statutes and city ordinances will be enforced in addition to the following regulations:

1. Residents who are of legal age to possess or consume alcoholic beverages and who reside in University-operated employee apartments or University Apartment units may possess and consume such alcoholic beverages in the privacy of their residences.
2. Consumption and possession of alcohol may be permitted on some residence hall floors where all residents are of legal age to possess or consume alcoholic beverages. Such use of alcoholic beverages will not be permitted in the public lounges, study lounges, recreation areas, dining rooms, or any area other than the student rooms.

C. Parental Notice: The University will notify parents/guardians of students under 21 years of age when a student is found responsible for (1) a violation of the drug policy, (2) a *second* violation of the alcohol policy, and (3) on the *first* violation of the alcohol policy when one or more of the following occurs:

- the student demonstrates a reckless disregard for his or her personal safety or the safety of others;
- medical attention to any person, including the student, is required as a result of the student's alcohol-related behavior;
- there is property damage;
- the student operates a motor vehicle under the influence of alcohol;
- the incident involves another serious violation;
- the student's alcohol-related behavior negatively impacts the learning environment.

D. Good Neighbor Exception - Students are always encouraged to call for emergency assistance as needed, even at the risk of disciplinary action 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 university officials the opportunity to waive University disciplinary action regarding alcohol or other drugs for a student if he/she risked revealing one's own violation in order to seek medical or other emergency assistance for another person. The Good Neighbor Exception typically applies only to individuals committing minor offenses and shall be the judgment of the designated university official. *NOTE: The exception does not apply to any criminal charges.*

APPENDIX B - Drug Policy

www.bsu.edu/studentcode/drugpolicy

The use, abuse, possession, sale, distribution, manufacture, or transfer of narcotics, illegal drugs as defined by state or federal law, or any controlled substance is prohibited at all times, except as expressly permitted by law. Controlled substances include, but are not limited to, marijuana, hash oil, hashish, inhalants, and abuse of over-the-counter drugs and prescription drugs, and/or the use of over-the-counter drugs or prescription drugs, or any other immediate precursor to be used to manufacture any other illegal drug, including without limitation, methamphetamine, except as expressly permitted by law.

Possession or manufacture of drug paraphernalia which is to be used for any one of the following purposes (a) to introduce into a person's body a drug, marijuana or any controlled substance, (b) to test the strength, effectiveness or purity of a drug, marijuana or any controlled substance, or (c) enhances, or is perceived to enhance, the physiological effect of a drug, marijuana or any controlled substance, is also a violation of this policy.

Violation of this policy, on or off campus, will result in disciplinary action by the University. Those found responsible may face sanctions up to and including consideration of suspension or expulsion, depending on prior disciplinary record and severity of the violation.

Students who reside in University housing facilities, will be subject to immediate contract termination if found responsible for any violation of this policy.

Student need to be aware that any student convicted of a state or federal drug violation that occurred while enrolled and while receiving federal financial aid may be declared ineligible for future federal student aid for up to a year. Individuals convicted of both possession and selling may face a longer period of ineligibility.

The University will notify parents/guardians of students under 21 years of age when a student is found responsible for (1) a violation of the drug policy, (2) a *second* violation of the alcohol policy, and (3) on the *first* violation of the alcohol policy when one or more of the following occurs:

- the student demonstrates a reckless disregard for his or her personal safety or the safety of others;
- medical attention to any person, including the student, is required as a result of the student's alcohol related behavior;
- there is property damage;
- the student operates a motor vehicle under the influence of alcohol;
- the incident involves another serious violation;
- the student's alcohol-related behavior negatively impacts the learning environment.

Good Neighbor Exception - Students are always encouraged to call for emergency assistance as needed, even at the risk of disciplinary action 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 university officials the opportunity to waive University disciplinary action regarding alcohol or other drugs for a student if he/she risked revealing one's own violation in order to seek medical or other emergency assistance for another person. The Good Neighbor Exception typically applies only to individuals committing minor offenses and shall be the judgment of the designated university official. *NOTE: The exception does not apply to any criminal charges.*

APPENDIX C - Harassment Policy – University Anti-Harassment Policy

Note: The Anti-Harassment policy is maintained by the Office of University Compliance and was last revised in July, 2013. The most current and accurate version of this policy may be found at <http://cms.bsu.edu/about/administrativeoffices/legal/anti-harassment-policy>. Students accused of violating the University's Anti-Harassment policy may, depending on the seriousness of the allegation, be referred to Student Rights and Community Standards for adjudication and consideration of sanctions up to and including suspension or expulsion.

APPENDIX D - Hazing Policy

- A. Hazing by students, student organizations, groups, or teams of Ball State University is prohibited. Hazing is defined as follows: Any mental or physical requirement, request, 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 and/or welfare 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. Student groups may be required to certify in writing that they are in compliance with this policy.

- B. Individual members of organizations, groups, or teams who violate this policy are subject to disciplinary action as provided in Section V, of the *Code of Student Rights and Responsibilities*. Any organization which violates this policy is subject to sanctions which may be imposed by the coordinating body of which the organization is a constituent member, the Vice President for Student Affairs & Dean of Students or his/her designee, and/or the Student Activities Committee.

APPENDIX E - Information Technology Users' Privileges and Responsibilities

The Information Technology Users' Privileges and Responsibilities policy is maintained by the Office of Information Security Services. Students should check www.bsu.edu/security/itpolicy (see first link under Policies) for a copy of the most current policy.

APPENDIX F - Involuntary Withdrawal Policy

A. Introduction

A student will be subject to administrative involuntary withdrawal from the University when, in the judgment of the Associate Vice President for Student Affairs & Director of Housing & Residence Life (hereafter referred to as the Associate Vice President), the Director of Counseling and Health Services, and the Medical Director of the University Health Center, there is a substantial possibility that the student, as a result of a physical or psychological condition;

1. Will harm others, or
2. Will cause significant property damage, or causes significant interference with the educational environment of others, or
3. Will be substantially unable, even with the help of auxiliary aids, to meet his or her responsibilities as a student, or
4. Demonstrates the inability to care for his or her daily physical or mental health needs without assistance and has failed to secure such assistance.

The Associate Vice President will initiate a review through either this process or the University's student disciplinary process. If the student has engaged in an activity which subjects him or her to University disciplinary action, the matter will be handled through the University's student disciplinary process unless the Associate Vice President determines that the student, as a result of psychological conditions:

1. Lacks the capacity to respond to pending disciplinary charges against him or her, or
2. Did not know the nature or wrongfulness of the conduct at the time of the offense.

B. Interim Withdrawal

An Interim Withdrawal may be implemented immediately by the Associate Vice President if he/she determines, based upon a qualified medical or psychological opinion, that the student may be suffering from a mental or psychological disorder and the student's behavior poses an imminent danger of causing physical harm to others, of causing significant property damage, or of substantially impeding the lawful activities of others. A student withdrawn on an interim basis shall be given an opportunity to appear personally before the Associate Vice President within two (2) school days from the effective date of the interim withdrawal in order to review the following issues only:

1. The reliability of the information concerning the student's behavior and
2. Whether or not the student's behavior poses a danger of causing imminent physical harm to others, causing significant property damage, or substantially impeding the lawful activities of others. Unless the Associate Vice President determines otherwise, the student will remain withdrawn on an interim basis pending completion of the procedures described below.

C. Procedures

1. *Meeting with the Associate Vice President.* A student may be requested in writing and/or orally (depending on the urgency of the situation) to attend an informal meeting with the Associate Vice President for the purpose of determining whether the student, as a result of a physical or psychological condition, falls within one of the four categories described in Section A., “Introduction,” above, and, if so, the necessity for withdrawal. Such a request will include a statement of the reasons for the University’s concern. The Director of Counseling and Health Services and the Medical Director of the University Health Center will attend the meeting. Other appropriate personnel may be present and/or consulted. Parents, spouse, or any person who would be of support to the student may, with the consent of the Associate Vice President, and of the student, participate in the informal meeting. At the meeting the reasons for the University’s concern regarding the student will be stated and the student will be given an opportunity to respond to these concerns. If, after the meeting, the student is found not to fall within one of the four categories described in the “Introduction” above, he or she will be so informed in writing by the Associate Vice President and allowed to continue as a student.
2. *Associate Vice President’s Withdrawal Decision.* If, after the informal meeting, the Associate Vice President, the Medical Director of the University Health Center, and the Director of Counseling and Health Services, decide that the student should withdraw from the University and be permitted to re-enter the University only with their approval, the student shall be informed in writing of such decision and the basis for the decision within five (5) school days of the informal meeting. Notification may be made to the person listed as the student’s Emergency Contact.
3. *Voluntary Withdrawal.* If the student agrees to withdraw voluntarily from the University, regular withdrawal procedures will be followed. The student may be permitted to withdraw voluntarily without grades if, in the judgment of the Associate Vice President (after consultation with the approval by the student’s instructors), the circumstances warrant such action.
4. *Notice of Refusal to Withdraw Voluntarily.* If the student fails to accept the decision of the withdrawal and refuses to withdraw from the University voluntarily, the student shall notify the Associate Vice President of such refusal within five (5) school days of receipt of the written decision. If the student fails to notify the Associate Vice President of such refusal within five (5) school days of receipt of the written decision, the student will be deemed to have waived his or her right to appeal the withdrawal decision.
5. *Appeal.* The student may appeal the withdrawal decision to the Vice President for Student Affairs and Dean of Students within five (5) school days of receipt of the written decision. The Vice President shall hear the matter after notice to the student, the Associate Vice President, the Director of Counseling and Health Services, and the Medical Director of the University Health Center. The student may be accompanied and assisted at the hearing by an advisor of the student’s choice, provided the advisor is an employee or student of the University or a member of the student’s immediate family and the advisor agrees to act as the student’s advisor. The student, the student’s advisor, the Associate Vice President, the Director of Counseling and Health Services, and the Medical Director of the University Health Center may attend the hearing and present evidence. In addition, the Vice President for Student Affairs and Dean of Students may require the student, at his or her expense, to obtain a psychiatric/medical evaluation from

sources external to the University to be entered as evidence. The hearing shall be conversational and non-adversarial. Formal rules of evidence will not apply. The issues or concerns to be resolved by the Vice President shall be as follows:

- a) Whether the student, as a result of a physical or psychological condition, falls within one of the four categories described in Section A., Introduction, above; and
 - b) If so, whether the student should be involuntarily withdrawn from the University.
6. *Findings; Decisions.* The Vice President for Student Affairs and Dean of Students shall prepare a written decision containing findings and conclusions. Copies of the decision shall be furnished to the student, the Associate Vice President, the student's advisor, the Director of Counseling and Health Services, and the Medical Director of the University Health Center. The decision of the Vice President for Student Affairs and Dean of Students shall be final, conclusive, and not subject to appeal.
 7. *Action by Designee.* Whenever an action may be or is required to be taken under this policy by the Vice President for Student Affairs & Dean of Students, the Associate Vice President for Student Affairs & Director of Housing & Residence Life, the Director of Counseling and Health Services, or the Medical Director of the University Health Center, the action may be taken by the person's designee.
 8. *Deviations from Established Procedures.* Reasonable deviations from these procedures will not invalidate a decision or proceeding unless significant prejudice to a student may result.

APPENDIX G – Pet Policy

1. General - The pet is any domesticated or tamed animal that would normally be expected to belong to someone whether or not there is any acknowledged ownership.
2. University Buildings - (Except Residence Halls and University Apartments) Written authorization is to be obtained from the appropriate Department Chairperson, Dean or Administrative Head involved before a pet may be brought into University buildings. Such authorization is to state the purpose and duration of the activity involving the pet. The authorization is to be in the possession of the owner or person in control of the pet during the time the pet is in a University building.
3. Residence Halls - Pets are not permitted in the residence halls except for marine life in fresh water aquariums. Contact Housing and Residence Life for specific information.
4. University Grounds - Pets are not permitted on University grounds unless they are appropriately leashed or caged and under the control of and accompanied by their owners or others designated by their owners as having responsibility for the control and care of the pet.
5. University Apartments - Pets are not permitted in University Apartments with the exception of marine life in fresh water aquariums. Contact University Apartments for specific information.
6. Enforcement - Violations of the University Pet Policy will be dealt with in accordance with University rules governing the conduct of faculty, staff, and students. In addition, violations in the Residence Halls and University Apartments, will have action taken in accordance with "Conditions of Occupancy" for University Apartments, and "Policies of University Residence Halls" for the Residence Halls.
7. Limitations - Provisions of this policy do not apply to service dogs or to police or K9 dogs while such animals are performing their duties under supervision.
8. Additional Laws - This Pet Policy is in addition to applicable ordinances of the City of Muncie and statutes of the state of Indiana.

APPENDIX H - Records Policy

The university's policy regarding educational records is maintained the Registrar and the Office of Registration and Academic progress. A brief, informal statement of that policy is below. The complete, formal, and most up-to-date educational records policy can be found at the link <http://cms.bsu.edu/about/administrativeoffices/registrar/privacyofrecords/educationalrecordspolicy>.

The University policies related to educational information are based upon the Family Educational Rights and Privacy Act of 1974 (aka *FERPA*). In general, *FERPA* provides the student the opportunity to review his or her records and also limits disclosure of his or her student information to others without permission. There are some exceptions that are detailed in the policy. Students have the right to challenge information in their records that they believe to be inaccurate, misleading, or otherwise in violation of his or her rights of privacy. If the student wishes to review his or her educational records and he or she is or has been enrolled as a student at Ball State, the student may simply contact the area within the University that stores the records in which he or she is interested. A student may also request that some or all of his or her information be withheld from normal disclosure but should consider very carefully the consequences for doing so.

APPENDIX I – Self-Harm Protocol

Reviewed/modified July 2016.

Questions about this policy should be directed to the Ball State Counseling Center at (765) 285-1736 or the Associate Vice President for Student Affairs/Director of Housing and Residence Life at (765) 285-8011.

Student Responsibility

In the event that the University is presented with a credible report that a student has threatened or attempted suicide, engaged in efforts to prepare to commit suicide, or expressed a preoccupation with suicide, that student will be required to meet with an authorized university administrator (e.g., Residence Hall Director for an on-campus student or Director of Student Rights and Community Standards/designee for a student living off-campus). The purpose of that meeting will be to review the report and refer the student to attend two required risk assessment sessions in the Counseling Center.

Response Protocol

Ball State operates with a self-harm protocol, the primary goals of which are to:

- assist in responding to at-risk students;
- provide them the care/treatment needed to effectively and safely manage their risk; and
- succeed in the campus learning/living environment.

The protocol includes procedures for responding to incidents of suicide, suicidal attempts and/or threats, and other self-harm ideation, as well as guidelines for when and how to contact students' family and/or friends during an emergency.

Immediate Response Protocol

In cases where a student is not responsive, students and university employees shall upon notice call 911 immediately.

In cases where a student has attempted suicide or other serious act of self-harm (e.g., interrupted attempts, rehearsal of suicide), students and university employees shall upon notice call 911 for EMS/police response.

Risk Assessment Protocol

In cases where a student exhibits suicide ideation or other less imminent and urgent self-harm behavior [suicide ideation can range from fleeting thoughts to extensive planning] students and university employees shall assess the situation once notified and take appropriate action. Appropriate action will at a minimum include notifying an employee authorized to implement the remaining protocol and may include calling 911 for EMS/police response or the Counseling Center for assistance. Employees authorized to implement the remaining protocol include:

On-campus students—Residence Hall Directors, Assistant Residence Hall Directors, Resident Managers (University Apartments), Assistant Directors of Housing and Residence Life, their professional supervisors, and Counseling Center professional staff.

Off-campus students—Director and Assistant Director of Student Rights and Community Standards, Associate and Assistant Deans of Student Affairs, their professional supervisors, and Counseling Center professional staff.

The remaining protocol consists of the authorized employee contacting the student after the incident to schedule a meeting to review the report and to conduct a referral to the Counseling Center for a minimum of two required risk assessment sessions. A Counseling Center psychologist will conduct the risk assessment and provide a status report to the Vice President for Student Affairs and Enrollment Services & Dean of Students or designee.

Contact with Family

The Vice President for Student Affairs and Enrollment Services & Dean of Students or designee is authorized to contact designated emergency contacts or family members directly on behalf of the university in cases involving student death, serious suicide attempts, and hospitalization for emotional distress. Faculty and other employees should not contact family members directly on behalf of the University in these cases.

APPENDIX J – Statement on Sexual Harassment

Note: The Sexual Harassment policy is maintained by the Office of University Compliance. Last revised in August, 2002, the most current and accurate version of this policy may be found at <http://cms.bsu.edu/about/administrativeoffices/legal/anti-harassment-policy>.

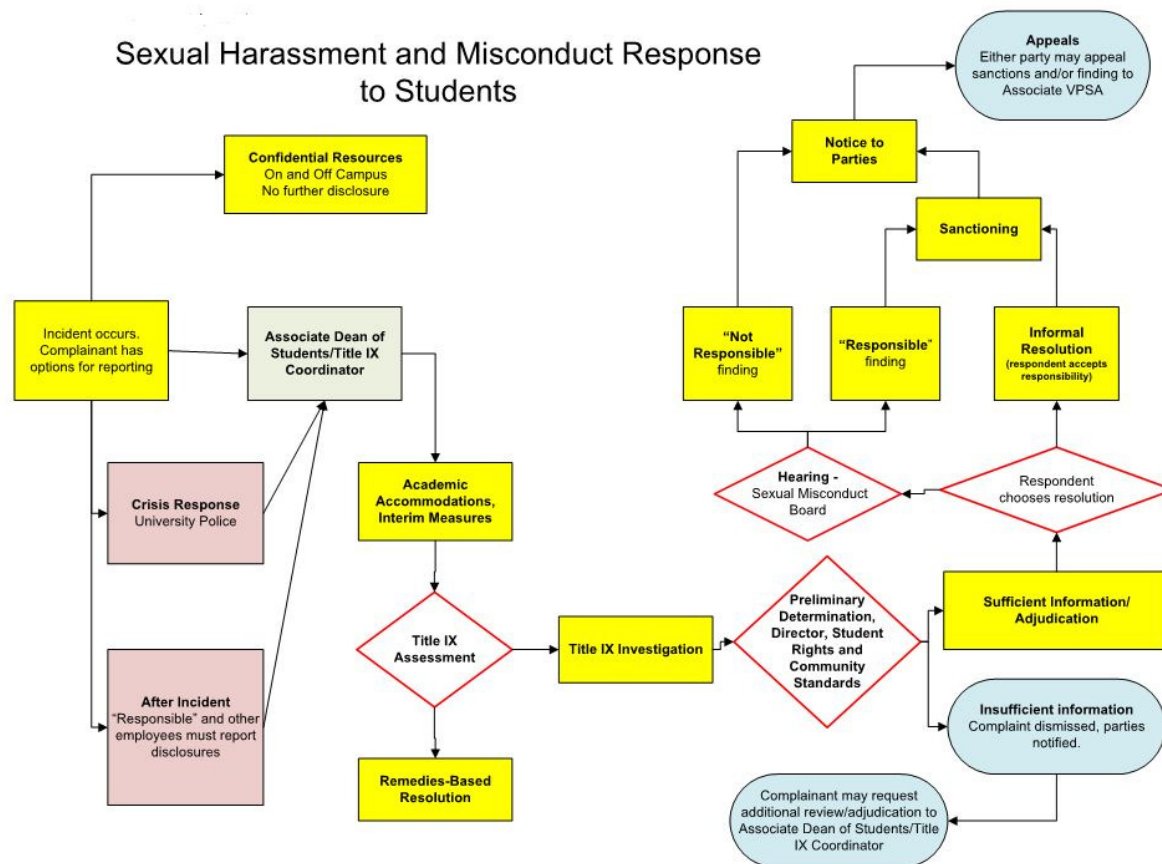
Students accused of sexual harassment or sexual misconduct will be referred to another office for investigation, adjudication, and consideration of sanctions up to and including suspension or expulsion via policy Appendix K.

APPENDIX K - Sexual Harassment and Misconduct Policy

Revised June 2017

This policy applies to all forms of sexual and gender-based discrimination, sexual harassment, sexual violence, stalking, and intimate partner violence. [Stand-alone policy as PDF with table of contents.](#)

Overview of the Reporting/Complaint Process



Introduction

Ball State University is committed to establishing and maintaining an effective, safe, and nondiscriminatory educational environment in which all individuals are treated with respect and dignity. The University prohibits discrimination or harassment in its programs and activities on the basis of race, religion, color, sex (except where sex is a bona fide qualification), sexual orientation, gender identity/gender expression, physical or mental disability, national origin, ancestry, age, or any other characteristic protected by institutional policy or state, local, or federal law.

Discrimination on the basis of sex or gender is also specifically prohibited by federal laws, including Title VII and Title IX. This policy governs the University's response to complaints of discrimination based on sex or gender, and all forms of sexual misconduct (which includes

sexual harassment, sexual assault, other forms of sexual violence, dating violence, domestic violence, sexual exploitation and stalking) made against any Ball State University student or student organizations, including off-campus conduct. Sexual misconduct complaints made against faculty, staff and other parties are handled pursuant to other policies.

The University will respond promptly to all reports of sexual misconduct and will take appropriate steps to eliminate such misconduct, prevent its recurrence, and address its effects through clear and effective policies, a coordinated education and prevention program, and prompt and equitable complaint resolution processes and procedures.

Title IX Coordinator

For the purposes of implementing this policy, Ball State has designated Ms. **Katie Slabaugh** to serve as the institution's Title IX Coordinator. The Title IX Coordinator will be informed of all reports of sexual harassment and misconduct involving students, and will oversee the university's centralized review, investigation, and resolution of those reports to ensure the university's compliance with Title IX and the effective implementation of this policy.

The Title IX Coordinator is:

1. Responsible for oversight of the investigation and resolution of all reports of sexual harassment, sexual violence, stalking, and intimate partner violence involving students;
2. Knowledgeable and trained in university policies and procedures and relevant state and federal laws;
3. Available to advise any individual, including a complainant, a respondent, or a third party, about the courses of action available at the university, both informally and formally, and in the community;
4. Available to provide assistance to any university employee regarding how to respond appropriately to a report of sexual harassment, sexual violence, intimate partner violence, or stalking;
5. Responsible for monitoring full compliance with all procedural requirements, record-keeping, and timeframes outlined in this policy;
6. Responsible for overseeing training, prevention, and education efforts, and periodic reviews of climate and culture; and
7. Authorized to designate other university employees to implement procedures outlined in this policy.

Inquiries or complaints concerning the application of Title IX may be referred to any of the following:

Ms. Katie Slabaugh
Associate Dean of
Students/Title IX Coordinator
Administration Building 238
2000 W. University Ave
Muncie, IN 47306

Office of the General Counsel
Administration Building 335
2000 W. University Ave.
Muncie IN 47306
Phone: (765) 285-5162

U.S. Department of Education:
Office for Civil Rights,
Chicago Office
Citigroup Center
500 W. Madison Street
Suite 1475

Phone: (765) 285-1545
Email: kslabough@bsu.edu

Chicago, IL 60661-4544
Telephone: 312-730-1560
FAX: 312-730-1576; TDD:
800-877-8339
Email: OCR.Chicago@ed.gov

A list of persons designated as Deputy Title IX Coordinators and who may provide information and receive reports and complaints is provided in Appendix 1.

Application

Complaints against Students or Student Organizations

This policy and these procedures apply to alleged violations by Ball State students and student organizations as defined in the *Code of Student Rights and Responsibilities (Code)* which may be found at www.bsu.edu/studentcode. Any person (student, university employee, or third party including those persons not affiliated with the university) may file a complaint against a student under this policy. All complaints against students regarding sexual misconduct should be made to the Associate Dean of Students/Title IX Coordinator [Administration Building (AD) 238, (765) 285-1545]. Complaints against a student for sexual misconduct also may be filed with the University Police Department by calling (765) 285-1111.

Complaints against Graduate Assistants

The university recognizes that graduate assistants occupy roles as students and as employees with teaching, administrative, and/or research functions. When a complaint is made against a graduate assistant that alleges sexual harassment or misconduct, the allegation will be carefully examined to determine how best to proceed. However, complaints typically will 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. See section above for information on making a complaint.

Complaints against Employees

The [Statement on Sexual Harassment](#) applies to complaints against employees. Complaints of sexual harassment or misconduct against an employee should be filed with the Office of the General Counsel [AD 335, (765) 285-5162] or with the University Police Department [200 N. McKinley Avenue or (765) 285-1111.] A student filing a complaint against an employee may also have rights outlined in this policy, including but not limited to support and assistance from campus resources (e.g., Office of Victim Services, Counseling Center) and assistance from the Associate Dean of Students/Title IX Coordinator for academic accommodations and other appropriate interim measures.

Complaints against Other Individuals

Complaints of sexual harassment or misconduct against an individual who is not a student or employee (e.g., a guest of or visitor to the university) should be filed with the University Police Department located at 200 N. McKinley Avenue [(765) 285-1111]. Students bringing complaints of sexual harassment or misconduct against an individual who is not a student, or in instances

when the alleged offender is unknown to the complainant, may request support and assistance from campus resources (Office of Victim Services, Counseling Center) and may request assistance from the Associate Dean of Students/Title IX Coordinator for academic accommodations and other appropriate interim measures.

On and Off Campus Behaviors

This policy applies to conduct that occurs on campus or in the context of any university program or activity, including off-campus conduct in the context of a university program or activity. This policy also applies to conduct that has a continuing adverse effect or creates a hostile environment on campus or in any university program or activity whether on or off campus. Prohibited conduct that takes place off campus is covered in this policy when it is (from [Code section 2.2 Authority](#)):

- a. Conduct that causes or threatens harm to the health or safety of a 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;
- 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, or the sale or distribution of illegal drugs or controlled substances, if a police report has been filed, a summons or indictment has been issued, or 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.

Privacy and Confidentiality

The university is committed to protecting the privacy of all individuals involved in a report of sexual harassment, sexual violence, stalking, or intimate partner violence. In any report made under this policy, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and any necessary steps to eliminate the harassment, prevent its recurrence, and address its effects.

The privacy of the parties will be respected and safeguarded at all times. All university employees who are involved in the university's Title IX response receive specific training and guidance about safeguarding private information.

Privacy and confidentiality have distinct meanings under this policy:

Privacy: Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those university employees who "need to know" in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process. Information will be handled consistent with the requirements of the Family Educational Rights and Privacy Act (FERPA).

Confidentiality: Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without express permission of the individual. Those campus and community professionals include medical providers, mental health providers, ordained clergy, victim advocates, and rape crisis counselors, all of whom have privileged confidentiality that has been recognized by federal or Indiana law. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others, or the conduct involves suspected abuse of a minor under the age of 18.

Students seeking confidential assistance on campus may speak with counselors in the Ball State Counseling Center, the Victim Advocate in the Office of Victim Services, the Health Educator in the Office of Health, Alcohol, and Drug Education, and health service providers in the Health Center.

Students also may seek confidential assistance from off-campus providers and resources. These are listed in Appendix 2.

Reporting on Campus: Any Ball State employee who is not designated as a confidential resource under this policy is **required to share promptly** a report of sexual harassment, sexual violence, stalking, or intimate partner violence involving university students with the Associate Dean of Students/Title IX Coordinator. In addition, there are a number of university personnel who are designated as “responsible employees.” Responsible employees have the additional authority and obligation to take action to redress the harassment in addition to their reporting duties. These employees include but are not limited to vice presidents, deans and associate deans, directors, and department chairpersons. Student resident assistants are also considered responsible employees. All employees, including responsible employees, are required to forward all known details of the reports they receive (including the identity of parties, time, date, location, and description of the alleged behavior) to the Associate Dean of Students/Title IX Coordinator.

Release of Information: If a report of misconduct discloses a serious and continuing threat to the safety of the campus community, the university will issue a timely warning (a.k.a. Public Safety Advisory) to the community to protect the health or safety of the community. The university may also share non-identifying information about the reports received; when the university does share this information, information (such as data about outcomes and sanction) is typically combined. The university will not release the names of students who are parties to a complaint to the general public without the express consent of the students or as otherwise permitted or required by law.

No information shall be released from proceedings under this policy except as required or permitted by law and university policy. For example, information will be shared with the University Police Department or the Office of Student Rights and Community Standards as needed to comply with the Clery Campus Safety and Security Act (a.k.a. “Clery Act”).

Prohibited Conduct

The university prohibits a variety of behaviors under this policy, including but not limited to sexual harassment, sexual violence, and intimate partner violence. Sexual harassment and sexual violence generally refer to verbal or physical acts that are unwelcome or without consent. Intimate partner violence—also referred to as dating violence, domestic violence, or relationship

violence—includes any act of violence or threatened act of violence against a person who is or has been involved in a sexual, dating, domestic, or other intimate relationship with that person. Intimate partner violence can encompass a broad range of behavior including, but not limited to, physical violence, sexual violence, emotional violence, and economic abuse. Domestic violence and dating violence are further defined as crimes by the state of Indiana; those definitions are included here as reports of these crimes can be found in Ball State’s annual security report:

Domestic violence is defined as violence committed by a current or former spouse or intimate partner of the complainant; by a person with whom the complainant shares a child in common; by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the state of Indiana; or by any other person against an adult or youth who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Dating violence is defined as violence committed by a person who is or has been in a relationship of a romantic or intimate nature with the complainant—characterized by the expectation of affection or sexual involvement between the parties—but not including acts covered by domestic violence as defined above.

The following conduct is specifically prohibited under this policy and may form the basis of specific charges under the [*Code of Student Rights and Responsibilities*](#) as modified by this policy:

Sexual Harassment

Sexual harassment is defined as any unwelcome sexual advance, request for sexual favor or other unwelcome verbal or physical conduct of a sexual nature, when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment or participation in a university-sponsored education program or activity;
2. Submission to or rejection of such conduct by an individual is used as the basis or threatened to be used as the basis for employment decisions or academic decisions or assessments affecting an individual;
3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance, i.e., it is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, or offensive living, working, or educational environment; or
4. The behavior persists despite objection by the person to/at whom the conduct is directed.

Sexual harassment also includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

Sexual harassment can take many forms. Sexual harassment:

1. May be blatant and intentional and involve an overt action, a threat, or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.

2. Does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.
3. May be committed by anyone, regardless of gender, age, position, or authority. When there is a power differential between two persons—perhaps due to differences in age or their relative positions in social, educational, or employment relationships—harassment can occur in any context.
4. May be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship.
5. May be committed by or against an individual or may be a result of the actions of an organization or group.
6. May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
7. May occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting.
8. May be a one-time event or part of a pattern of behavior.
9. May be committed in the presence of others or when the parties are alone.
10. May affect the complainant and/or third parties who witness or observe harassment.
11. May take the form of unwanted sexual statements, e.g., sexual or “dirty” jokes, comments on physical attributes, spreading rumors about others, rating others as to sexual activity or performance, talking about one’s sexual activity in front of others, or displaying/distributing sexually explicit images or text.
12. May be unwanted personal attention in the form of letters, calls, messaging (e.g., texts, social media) visits, or pressure for sexual favors, dates, or unnecessary personal interaction.
13. May create a hostile environment. A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical. A hostile environment occurs when unwelcome conduct of a sexual nature is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, or abusive educational environment. A hostile environment can be created by another student, an employee, or a visitor to the university. Generally, a statement that is a mere utterance of an epithet which offends, or which offends by mere discourtesy or rudeness, does not create a hostile environment. The determination of whether an environment is “hostile” must be based on all the circumstances. These circumstances could include, but are not limited to:
 - a) The frequency of the speech or conduct;
 - b) The nature and severity of the speech or conduct;
 - c) Whether the conduct was physically threatening;
 - d) Whether the speech or conduct was humiliating;

- e) The effect of the speech or conduct on the complainant's mental and/or emotional state;
- f) Whether the speech or conduct was directed at more than one person;
- g) Whether the speech or conduct arose in the context of other discriminatory conduct;
- h) Whether the speech or conduct unreasonably interfered with the complainant's educational opportunities or performance (including study abroad), university-controlled living environment, or university-controlled work opportunities or performance;
- i) Whether the speech or conduct is constitutionally protected or deserves the protections of academic freedom.

14. May take the form of exclusion, separation, or otherwise differential treatment on the basis of sexual orientation, gender identity, transgender status, or gender transition.

Sexually harassing behaviors differ in type and severity and can range from subtle verbal harassment to unwelcome physical contact. There is a wide range of behaviors that fall within the general definition of sexual harassment and many differing notions about what behaviors are and are not acceptable. Key determining factors are that the behavior is unwelcome, is based on sex or gender, and is reasonably perceived as offensive and objectionable under both a subjective and objective assessment of the conduct.

Non-consensual Sexual Intercourse

Non-consensual sexual intercourse is having or attempting to have sexual intercourse with another individual without effective consent. See discussion of consent in a following section. *Sexual intercourse* includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth-to-genital contact.

Non-consensual Sexual Contact

Non-consensual sexual contact is having sexual contact with another individual without effective consent. See discussion of consent in a following section. *Sexual contact* includes any intentional touching of the intimate parts of another, causing another person to touch one's own intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner.

Sexual Exploitation

Sexual exploitation is taking advantage of the sexuality of another person without consent or in a manner that extends the bounds of consensual sexual activity without the knowledge of the other individual for any purpose, including sexual gratification, financial gain, personal benefit, or any other non-legitimate purpose. Examples of sexual exploitation include, but are not limited to:

1. Exposing one's genitals without consent;
2. Non-consensual streaming, audio- or video-recording, photographing, or transmitting intimate or sexual utterances, sounds, or images without consent of all parties involved;

3. Allowing others to view sexual acts (whether in person or via a video camera or other recording device) without the consent of all parties involved;
4. Engaging in any form of voyeurism (e.g., “peeping”);
5. Prostituting another individual;
6. Compelling another individual to touch his or her own or another person’s (third party) intimate parts without consent;
7. Knowingly exposing another individual to a sexually transmitted disease or virus without that individual’s knowledge; and
8. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

Harm, Threat, or Endangerment

Harm, threat, or endangerment is prohibited separately in the [Code](#) as follows: “conduct that causes 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.”

When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under this policy.

Harassment, Bullying, or Cyber-bullying

Harassment, bullying, or cyber-bullying, are defined as repeated and/or severe aggressive behavior likely to or intended to intimidate, hurt, coerce, or control another person whether physically or emotionally. These behaviors include but are not limited to: creating web pages; posting photos on social networking sites; and/or spreading rumors. When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under this policy.

Stalking

Stalking is a knowing or intentional course of conduct that (1) would cause a reasonable person to feel frightened, harassed, intimidated, threatened, or alarmed and (2) that causes the person who is the subject or target of the stalking to feel frightened, harassed, intimidated, threatened, or alarmed. 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.

Examples of stalking include:

1. Unwelcome and repeated visual or physical proximity to a person;

2. Repeated oral or written threats;
3. Extortion of money or valuables;
4. Unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on on-line bulletin boards;
5. Unwelcome/unsolicited communications about a person, their family, friends, or co-workers; or
6. Sending/posting unwelcome and/or unsolicited messages with another username;
7. Implicitly threatening physical conduct or any combination of these behaviors directed toward an individual person.

Retaliation

Retaliation is any adverse action, including but not limited to:

- reprisal;
- interference;
- restraint;
- penalty;
- discrimination;
- intimidation; or
- harassment

taken against any person or group for making a good faith report of prohibited conduct or participating in any proceeding under this policy. This policy also prohibits retaliation against individuals who oppose, in a reasonable manner, an act or policy believed to constitute sex or gender-based discrimination (e.g., a student who steps in or speaks up to prevent a potential sexual assault at a party).

Retaliation can take many forms, including but not limited to, continued abuse or violence, threats, intimidation, coercion, disregard of or non-adherence to university instructions, or any other conduct that would discourage or interfere with a reasonable person similarly situated from engaging in activity protected addressed in this policy, e.g., making a complaint or participating as a witness in an investigation. Any individual or group of individuals, including a complainant or respondent, can engage in retaliation and will be held accountable under this policy. Retaliation may be present even where there is a finding of “not responsible” for alleged violations of policy.

A good-faith pursuit by either party of civil, criminal, or other legal action does not constitute retaliation.

Behavior that may be retaliation should be reported immediately to the Ball State police by calling (765) 285-1111, or the Associate Dean of Students/Title IX Coordinator at (765) 285-1545.

Intimidation or Threats to Inhibit Reporting

Intimidation is any threatened retaliation or other adverse action to prevent or otherwise obstruct the reporting of sexual harassment or misconduct or the participation in an investigation or

adjudication related to sexual harassment or misconduct. Intimidation includes acts by the respondent, a third party, agents of Ball State, or any other individual.

Behavior that may be intimidation should be reported immediately to the Ball State police by calling (765) 285-1111 or the Associate Dean of Students/Title IX Coordinator at (765) 285-1545.

Aiding and Abetting

Aiding and abetting are prohibited separately in the [Code](#) as follows: “Knowingly, recklessly, or willfully encouraging or assisting others to commit acts prohibited by this *Code*.”

When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under this policy.

Understanding Consent

Consent is a knowing, voluntary, and clear mutual agreement to engage in sexual activity. Consent is effective when it is informed, freely and actively given, and communicated by clearly and mutually understandable words or actions to participate in each form of sexual activity. This includes the following concepts:

1. Consent cannot be given by someone who is incapacitated. Engaging in sexual activity with someone who one knows to be, or reasonably should know to be, incapacitated is a violation of this policy. [Incapacitation is addressed below.] Where alcohol or other drugs are involved, incapacitation is assessed with respect as to how the alcohol or other drugs consumed affects a person’s ability to understand fully the "who, what, when, where, why, and/or how" of his/her sexual interaction with someone else. An individual accused of sexual harassment or misconduct is not excused if he or she was intoxicated and, therefore, did not realize the incapacity of the other person;
2. Indiana law provides that a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old is a crime, as well as violation of this policy, even if the minor wanted to engage in the act;
3. Consent cannot be inferred from silence, passivity, or lack of active resistance;
4. Consent to one form of sexual activity does not imply consent to other or additional forms of sexual activity;
5. Consent can be withdrawn at any time;
6. Consent does not exist when there is force, a threat of force, violence, or any other form of coercion or intimidation whether of a physical, psychological, or, financial nature. [See discussions on force and intimidation below.] A person who is the object of sexual aggression is not required to physically or otherwise resist the aggressor;
7. A current or previous dating or sexual relationship is not sufficient to constitute consent; past consent does not imply future consent; and
8. Consent to engage in sexual activity with one person does not imply or confer consent to engage in sexual activity with another person.

Incapacitation

Incapacitation is a state where someone cannot make informed, rational judgments and cannot consent to sexual activity. States of incapacitation can be temporary or permanent and include, but are not limited to unconsciousness, sleep, mental disability, or any other state in which a person is unaware that sexual activity is occurring.

Where alcohol or other drugs are involved, incapacitation is defined with respect to how the alcohol or other drugs consumed affected a person's decision-making capacity, awareness of consequences, ability to make fully informed judgments, the capacity to appreciate the nature and quality of the act, or level of consciousness. In other words, a person may be considered unable to give effective consent due to incapacitation if the person cannot appreciate or understand the "who, what, when, where, why, and/or how" of a sexual interaction.

Incapacitation is a state beyond "under the influence," drunkenness, or intoxication. The impact of alcohol and other drugs varies from person to person. However, warning signs that a person is approaching or has become incapacitated may include slurred speech, vomiting, walking with difficulty or with assistance, falling/stumbling, odor of alcohol, combativeness, or emotional volatility. Evaluating incapacitation also requires an assessment of whether a respondent should have been aware of the complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the respondent's position.

In determining whether consent has been given, the university will consider both (1) the extent to which a complainant affirmatively gives words or performs actions indicating a willingness to engage in sexual activity, and (2) whether the respondent was aware of or reasonably should have known the complainant's level of alcohol consumption and/or level of impairment. A respondent is not excused from responsibility if he or she was intoxicated and, therefore, did not realize the incapacity of the other person.

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is in violation of this policy.

Force

Force is the use or threat of physical violence (including but not limited to strong-arming, physical action, trapping, isolating, or intimidation) to overcome an individual's freedom of will to choose whether or not to participate in sexual activity. There is no requirement for a party to resist physically or verbally the sexual advance or other behaviors, but resistance will be viewed as a clear demonstration of non-consent.

Coercion

Coercion is the use of unreasonable and persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. Coercion may be emotional, intellectual, psychological, or moral. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include, but are not limited to, (1) threatening to disclose another individual's sexual history or private information

related to sex, sexual orientation, gender identity, or gender expression and (2) threatening to harm oneself if the other party does not engage in the sexual activity. Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

Assistance Following an Incident of Sexual Harassment or Misconduct

Information about these resources can be found in Appendix 2 of this policy.

Reporting Sexual Harassment and Misconduct

Students may contact Ms. **Katie Slabaugh**, Associate Dean of Students/Title IX Coordinator, directly to make a formal complaint during business hours. They may contact her or her designee at (765) 285-1545 or by email at kslabaugh@bsu.edu. The Associate Dean of Students/Title IX Coordinator will ensure consistent application of the policy to all individuals and that the university responds promptly and equitably to eliminate harassment, prevent its recurrence, and eliminate its effects. Reports and complaints also may be directed to Deputy Title IX Coordinators (see Appendix 1). The administrative response provided by the Associate Dean of Students/Title IX Coordinator or her designee is separate from any criminal investigation.

Students can report an incident of sexual harassment or misconduct to the University Police Department by calling (765) 285-1111; Ball State police officers are available 24 hours a day, seven days a week. Incidents of sexual harassment or misconduct involving students that are reported to the University Police Department also will be referred to the Associate Dean of Students/Title IX Coordinator for follow-up and possible administrative investigation. The university places no time limits on reporting, but persons are advised that delays in reporting may cause difficulties in investigating reports.

The university is committed to ensuring that all reports alleging sexual harassment or misconduct by a student are referred for to the Associate Dean of Students/Title IX Coordinator for prompt and equitable response. Ball State employees who are not designated as a confidential resource under this policy are required to report promptly sexual harassment or misconduct of or by a student with the Associate Dean of Students/Title IX Coordinator. In addition, there are a number of university personnel who are designated as “responsible employees.” Responsible employees have the additional authority and obligation to take action to redress the harassment in addition to their reporting duties. These employees include but are not limited to vice presidents, deans and associate deans, directors, and department chairpersons. Student resident assistants also are considered responsible employees. All employees, including responsible employees, are required to forward all known details of the reports they receive (including the identity of parties, time, date, location, and description of the alleged behavior) to the Associate Dean of Students/Title IX Coordinator.

Timeframe for Reporting

The university encourages persons—and requires all employees not designated as “confidential”— to promptly report all incidents of sexual harassment or misconduct, involving students regardless of when or where the incident occurred. There is no time limit for reporting. Regardless of when the incident occurred, the university will provide support and assistance, and will respond consistent with the procedural options available at the time of the report. Even when a matter does not fall under the jurisdiction of the university, university employees will act

to provide support and assist a complainant in contacting the appropriate law enforcement or external agency.

Anonymous Reports

Persons who wish to submit anonymous reports (which are examined to determine Clery Act timely warning and crime reporting requirements) can do so at www.bsu.edu/silentwitness, a service of the University Police Department.

Amnesty for Violations of Other Policies

Ball State strongly encourages reporting of sexual harassment or misconduct but also recognizes that these incidents can occur in conjunction with other policy violations, such as underage drinking or illicit drug use. The university's priority is to address sexual harassment and misconduct. Therefore, individual students, including but not limited to the complainant and respondent, who provide information regarding incidents of sexual harassment and misconduct will not be disciplined for behavior (a) that violated the university's alcohol or drug policies and (b) that is connected with the reported incident of possible sexual harassment or misconduct. However, in circumstances where students engaged in behavior that placed any person's (including their own) safety or health at risk, the university may provide those individuals appropriate educational or therapeutic support.

Academic Accommodations and Interim Measures

When a student reports an incident of sexual harassment or misconduct to the university, there are a number of immediate and interim measures that can be provided—in addition to the emergency and other support services detailed in Appendix 2—to ensure the safety and well-being of all parties and prevent retaliation by any party. The university will provide appropriate interim measures and accommodations regardless of the chosen course of action under this policy. A request for interim measures may be made to the Associate Dean of Students/Title IX Coordinator. The Associate Dean of Students/Title IX Coordinator will work to ensure the implementation of appropriate interim steps and coordinate the university's response with the appropriate offices on campus. Additional measures can be taken during and/or following the investigation and resolution of a complaint.

These include but are not limited to:

1. Housing relocation (for students living in university housing);
2. Alternative instructional or on-campus work arrangements (e.g., changing academic schedule, withdrawing from a class or retaking a class without penalty, etc.);
3. Academic support, such as tutoring, rescheduling exams or assignments, or providing alternative course completion options;
4. Access to counseling services;
5. Providing information about available medical services;
6. Providing information to parties about visa and immigration assistance, and other available victim services; and
7. Issuing written, administrative “no-contact instruction”

8. Limiting a party's access to certain university facilities or activities pending resolution of the matter;
9. Assisting a party in identifying options regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court; and
10. Imposing an interim suspension (see below).
11. Providing any other remedy that can be tailored to the parties to achieve the goals of this policy.

Interim Suspension

The following information about interim suspension is excerpted from section 6.5.3 of the [Code](#) and is provided here for convenience:

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, 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 and well-being of the university community or property, 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/Dean of Students or her designee. The student will be notified in writing of this action and the reasons for the interim suspension. The notice will provide the student an opportunity for a hearing with another of the Vice President's designees within three business days at which the student may show cause why his or her continued presence on the campus does not constitute a threat [and at which they may contest whether a violation of the [Code](#) took place]. The interim suspension may continue until the entire disciplinary process including appeal, is completed. Every effort will be made to complete the disciplinary process in a timely manner so as to limit the interim suspension to the shortest time possible.

Title IX Review and Investigation

Overview of Procedural Options

Upon receipt of a report of a behavior prohibited by this policy, the Associate Dean of Students/Title IX Coordinator will notify University police if required to comply with the Clery Act and assign a Title IX investigator to conduct an initial Title IX assessment. The goals of this assessment are to determine if the complaint falls under this policy and provide an integrated and coordinated response. The assessment will consider the nature of the report, the safety of the individual and of the campus community, the complainant's expressed preference for resolution, and the necessity for any interim remedies or accommodations to protect the safety of the complainant or the community.

Each resolution process is guided by the principles of fairness and respect for all parties. The resolution process outlined in this policy to resolve complaints is designed to protect the rights of both the complainant and the respondent. Resources are available for both parties (see previous section on Academic Accommodations and Interim Measures). In addition, both parties may use an advisor of their choice throughout the investigation and resolution of the complaint.

Title IX Assessment

A designated, trained Title IX investigator will conduct an initial Title IX assessment. In the course of this assessment, the investigator will consider the interest of the complainant and the complainant's expressed preference for manner of resolution. Where possible and as warranted by an assessment of the facts and circumstances, action will be taken consistent with the complainant's request.

During the assessment, the investigator will:

1. Assess the nature and circumstances of the allegation;
2. Address immediate physical safety and emotional well-being;
3. Notify the complainant of the right to contact, or decline to contact, law enforcement and seek medical treatment;
4. Notify the complainant of the importance of preservation of evidence;
5. Ensure the University Police Department has been notified so that it may assess the need to issue a timely warning under the Clery Act;
6. Request the University Police Department to enter a report into the university's daily crime log;
7. Provide the complainant with information about on and off-campus resources;
8. Notify the complainant of the range of interim accommodations and remedies;
9. Provide the complainant with an explanation of the procedural options to resolve the complaint, including remedies-based resolution and resolution through adjudication procedures;
10. Inform the complainant and as appropriate, respondent of the right to have an adviser or support person for all subsequent meetings and proceedings;
11. Assess for pattern evidence or other similar conduct by respondent;
12. Discuss the complainant's expressed preference for manner of resolution and any barriers to proceeding;
13. Explain the university's policy prohibiting retaliation; and
14. Assess complainant's request not to proceed: The university will seek action consistent with the complainant's request where possible. Where a complainant makes a report but requests that a name or other identifiable information not be shared with the respondent or that no formal action be taken, the Associate Dean of Students/Title IX Coordinator will balance this request with the university's dual obligation to provide a safe and non-discriminatory environment for all Ball State community members and to ensure fundamental fairness through due process which requires notice and an opportunity to

respond before action is taken against a respondent. In the event that a complainant does not wish to proceed with an investigation or adjudication, the Associate Dean of Students/Title IX Coordinator will determine, based on the available information, including any investigative report, whether the investigation or judicial resolution proceedings should nonetheless go forward. In making this determination, the university will consider, among other factors:

- a. Whether the complainant has requested confidentiality;
- b. Whether the complainant wants to participate in an investigation or conduct hearing;
- c. The severity and impact of the conduct;
- d. Whether the reported misconduct was perpetrated with a weapon;
- e. The respective ages of the parties;
- f. Whether the complainant is a minor under the age of 18;
- g. Whether the respondent has admitted to the conduct;
- h. Whether the respondent has demonstrated a pattern of similar conduct;
- i. The extent of prior remedial methods taken with the respondent;
- j. The rights of the respondent to receive notice and relevant information before disciplinary action is initiated;
- k. Whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group; and
- l. The existence of independent evidence.

The initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made and the university has sufficient information to determine the best course of action.

The university will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so effectively may be limited based on the nature of the request by the complainant. The university will assess any barriers to proceeding, including retaliation, and will inform the complainant that Title IX prohibits retaliation and the university will take strong responsive action to protect the complainant. Where the university is unable to take action consistent with the request of the complainant, the Associate Dean of Students/Title IX Coordinator or designee will communicate with the complainant about the university's chosen course of action, which may include the university choosing to pursue action against a respondent on its own behalf. Alternatively, the course of action may also include steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve formal disciplinary action against a respondent or revealing the identity of the complainant.

At the conclusion of the Title IX assessment, and in consultation with the complainant, the investigator will recommend the appropriate manner of resolution, which may include:

1. Remedies-based actions that do not involve disciplinary action against a respondent;

2. The initiation of an investigation to determine if adjudication is warranted; or
3. Dismissal of the complaint.

The Title IX investigator will communicate the decision and next steps to the complainant; that communication will be kept on file. Depending on the circumstances and requested resolution, the respondent may or may not be notified of the report or resolution. A respondent will be notified when the university seeks action that would impact a respondent, such as protective measures that restrict the respondent's movement on campus, the initiation of an investigation, or the decision to involve the respondent in remedies-based resolution.

The complainant may appeal the decision of the investigator in writing to the Associate Dean of Students/Title IX Coordinator within three (3) business days of receiving the notice of the Title IX investigator's decision. It is at the discretion of the Associate Dean of Students/Title IX Coordinator to determine which method of resolution is appropriate. Any individual wishing to explore alternative dispute resolution methods is encouraged to discuss these options with the Associate Dean of Students/Title IX Coordinator.

Remedies-Based Resolution

A remedies-based resolution is designed to resolve a complaint without or in addition to taking disciplinary action. Where the Title IX assessment concludes that a remedies-based resolution may be appropriate, the university will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the complainant's access to the educational, extracurricular, and employment activities at the university and to eliminate a hostile environment. Examples of protective remedies are provided in the earlier section *Academic Accommodations and Interim Measures*. Other potential remedies include increased monitoring, supervision, or security at activities or locations where the alleged misconduct occurred; targeted or broad-based educational programming or training; supported direct confrontation of the respondent; and/or indirect action by the Associate Dean of Students/Title IX Coordinator, her designee or the university. Depending on the form of remedies-based resolution used, it may be possible to maintain the complainant's anonymity.

The university will offer the opportunity for informal resolution between parties when appropriate, but will not compel parties to engage in mediation or to directly confront each other. Mediation, even if voluntary, will not be used in cases involving sexual assault. The decision to pursue remedies-based resolution will be made when the university has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in remedies-based resolution is voluntary, and either party can request to end remedies-based resolution at any time.

The Title IX Coordinator will maintain records of all reports and conduct referred for the remedies-based resolution.

Timeframe for Completing an Investigation

Ball State will resolve allegations of sexual harassment and misconduct in a reasonable, prompt, and equitable manner.

Ball State endeavors to issue a determination and, if applicable, any sanctions within sixty (60) days of written notification to the respondent that an investigation of an alleged violation of this policy has begun. However, all timeframes expressed in this policy and its procedures are meant

to be guidelines and not rigid requirements.

Factors that may affect the length of time necessary to resolve completely an allegation of sexual harassment and misconduct include, but are not limited to:

- a. The complexity of the allegations, including the number of witnesses and volume of information provided by the parties;
- b. The need to ensure the integrity and completeness of an investigation
- c. Availability of the parties and evidence;
- d. The reluctance of the complainant to file a complaint;
- e. The need to delay temporarily an investigation to support law enforcement's need to gather evidence in a concurrent criminal investigation;
- f. Intervening closures of Ball State;
- g. Any other unforeseeable circumstances.

In the event a Ball State unit determines it requires additional time beyond the time frames set forth in this policy or its procedures to fully and properly carry out its responsibilities under this policy or its procedures, it will provide simultaneous written notice to the complainant, the respondent, and the Title IX Coordinator or designee, notifying them of the:

- a) Anticipated length of the delay; and
- b) General nature of the circumstances causing the delay.

Investigation Procedures and Protocols

Where the Title IX assessment concludes that further investigation and disciplinary action may be appropriate, the Associate Dean of Students/Title IX Coordinator will initiate an investigation by designating one or more investigators who have specific training and experience investigating allegations of sexual harassment, sexual violence, stalking, and intimate partner violence. Any investigator chosen to conduct an investigation must be impartial and free of any actual conflict of interest.

Briefly, during an investigation, both the complainant and respondent have an equal right to:

1. Protection under applicable privacy laws (e.g., FERPA);
2. Be informed of the university's student conduct process;
3. Have an advisor of their choice (this person may be a friend, instructor, parent, or attorney) accompany and assist them during interviews, meetings or hearings. An advisor serves as a non-participant who is present to assist the party or parties by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or delay the meeting. The advisor cannot be a fact witness or provide any statements as part of any process under these procedures. The advisor will not be allowed to provide testimony or statements on behalf of the individual they are assisting. Additionally the university's representatives will communicate only with the complainant or respondent and consider only the complainant and respondent's schedules when providing timelines for responses;

4. Receive reports of the investigation's status;
5. Present witnesses and evidence they believe to be relevant to the investigator; and
6. Review the investigator's report, request additional information (e.g., a witness) be considered, and be given an opportunity to provide a written response.

The investigator will conduct the investigation in a manner appropriate given the case's circumstances. The investigator will coordinate the gathering of information from the complainant, the respondent, and any other individuals who may have information relevant to the complaint. Information gathering from parties may take the form of face-to-face interviews or through other means, will usually be recorded by the investigator (no other parties may record interviews or hearings), and may include follow-up after an initial interview. Initial interviews with the complainant and respondent are typically conducted face-to-face. The investigator will also gather and review any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. Technical rules of evidence regarding handling and preservation of information, such as are applied in a criminal proceeding, are not used in the university's administrative investigations.

The complainant and respondent will have an equal opportunity to be heard, to submit information and corroborating evidence, and to identify witnesses who may have relevant information. Witnesses must have information relevant to the incident; speaking solely about an individual's character will not be permitted. In gathering the facts, the investigator may consider prior allegations of, or findings of responsibility for, similar conduct by the respondent to the extent such information is relevant.

While the parties are not restricted from discussing and sharing information relating to their complaints with others that may support them or assist them, the university expects that the parties will respect the privacy of other parties and the integrity of the process.

The university may defer its Title IX fact-gathering until after the initial stages of a criminal investigation have been completed. The university will nevertheless communicate with the complainant regarding Title IX rights, procedural options and the implementation of interim measures to assure the safety and well-being of all affected individuals. The university will promptly resume its Title IX fact-gathering as soon as law enforcement has released the case for review following the initial criminal investigation.

Information gathered during the review or investigation will be used to evaluate the responsibility of the respondent, provide for the safety of the complainant and the university campus community, and take appropriate measures designed to end the misconduct, prevent its recurrence, and address its effects.

The Associate Dean of Students/Title IX Coordinator or her designee will document each report or request for assistance in resolving a report under this policy and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law.

Review of Investigation Report

At the conclusion of the investigation, the investigator will prepare a written report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. In preparing the report, the

investigator will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation. In general, the investigator may redact information that is irrelevant, more prejudicial than informative, or immaterial. The investigator may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty.

The parties will be given the opportunity to review a preliminary report. The parties will have three (3) business days to offer comment, clarify information, suggest additional witnesses or identify other relevant information or evidence to support a thorough and sufficient investigation.

Upon receipt of any additional information by the complainant or respondent, or after the three (3) day comment period has lapsed without comment, the investigator will finalize the report and submit it to the parties and the Director of Student Rights and Community Standards or his designee (Director).

Initial Determination

The Director, in consultation with the Title IX investigator(s), will make a determination, using the preponderance of the evidence, as to whether further adjudication is warranted. Both parties will be notified within five (5) business days after this determination.

Insufficient Information to Warrant Subsequent Adjudication

If the Director determines that there is insufficient information to move forward to the adjudication phase of the investigation, the Director will notify the parties as noted above. The complainant will have the opportunity to seek review by the Associate Dean of Students/Title IX Coordinator or designee by submitting a written request (including a rationale) for additional review within three (3) business days. The respondent will be notified if a request is received and have the opportunity to respond within three (3) business days. The Associate Dean of Students/Title IX Coordinator or designee may:

- (1) agree with the initial determination,
- (2) reverse the finding and refer the case for adjudication, or
- (3) request the parties provide additional information as appropriate.

The Associate Dean of Students/Title IX Coordinator or designee will render a decision in writing to both parties within ten (10) business days of receipt of the request for review. The decision of the Associate Dean of Students/Title IX Coordinator or designee is final.

Sufficient Information to Warrant Subsequent Adjudication

If the Director determines that further adjudication is warranted, the Director will notify the parties as described below.

University Adjudication Procedures

Where there is a determination that a policy violation occurred, and further adjudication is warranted, adjudication will be governed by the Ball State [*Code of Student Rights and Responsibilities*](#) and as modified below.

Following the determination, the Director will prepare a determination notice. The notice will include charged violations, recommended sanctions and/or remedies, options for resolving the complaint, and a request for a meeting with the recipient. This notice will be sent to the parties within five (5) business days of the determination

The Director will request separate meetings with the parties to review the determination and subsequent procedures including options for the respondent to (a) accept responsibility for the charged violation and seek an informal resolution or (b) contest the charged violation and request a hearing.

1. As specified elsewhere, parties may be accompanied at this meeting by an advisor of their choice;
2. If the respondent accepts responsibility in writing and seeks an informal resolution, the Director may impose sanctions up to and including suspension but not expulsion from the university;
3. If the respondent requests a hearing, the Director will convene the Sexual Misconduct Board to conduct a hearing and determine if a violation has occurred. The determination in the hearing will be made using a preponderance of evidence standard.

Hearings

1. The Sexual Misconduct Board (SMB) is comprised of faculty and professional employees who undergo annual, comprehensive, and specialized training in order to hear sexual harassment or misconduct cases. For a hearing, three SMB members will comprise a hearing panel; one member will serve as a chairperson. Prior to the hearing, the SMB panel members will review the investigative report, witness statements, and relevant documentary evidence.
2. The parties will be notified in writing of: the date, time, and location of the hearing; their opportunity to attend and participate; their rights at the hearing; the names of the panelists; and information on how to raise issues about potential conflicts of interest on the part of any panelist. The notice will be delivered by university email no less than five (5) business days prior to the hearing.

Alleged violations of related conduct (other than sexual harassment or misconduct) that may have been committed by the respondent as part of the same incident may be addressed in the same adjudication procedure. The decision to do so will be at the sole discretion of the Director. The inclusion of related matters, however, will not delay the prompt resolution of a report of sexual harassment or misconduct.

3. Normally, the SMB panel will expect to hear testimony from the following persons: complainant, respondent, and the designated investigator(s). The Director will be responsible for compiling documentation for the SMB panel's review and will present his determination.
4. The parties' rights at the hearing include being present at the entire hearing, presenting evidence and testimony, being allowed equal and timely access to information to be presented at the hearing, and being allowed the presence of an advisor of their choice. [The role of the advisor is to consult directly with the

relevant party. The advisor may not disrupt or delay the meeting, act as a fact witness or provide any statements.]

5. The Director normally will make arrangements to convene hearings in such a manner to limit direct contact between the complainant and respondent but allows effective participation by both parties (e.g., conducting the hearing in separate rooms connected by teleconferencing). The Director will consider but retain the final decision regarding an arrangement where all parties are in the same room for the hearing if requested by either party and if both parties agree to such an arrangement.
6. The complainant and respondent may ask questions of each other by submitting those questions in writing to the hearing chairperson (direct or face-to-face “cross-examination” is not permitted). The chairperson may exercise discretion to limit questioning in order to manage the hearing effectively.
7. In order to meet Ball State’s obligations to investigate and address patterns of sexual harassment and misconduct, the university may admit previous accusations of sexual harassment or misconduct and violations of law and policy regarding sexual harassment misconduct as evidence in hearings on current complaints.
8. Questioning or presentation of evidence about the complainant’s prior sexual conduct with anyone other than the alleged perpetrator will be prohibited, unless the information is relevant to explain a physical finding or motive.
9. While evidence of a prior consensual dating or sexual relationship between the parties may be presented, the SMB and the parties are advised that the prior relationship by itself does not imply consent or preclude a finding of sexual harassment or misconduct.
10. After conducting the hearing, the SMB panel will excuse all parties and deliberate with a professional staff member designated by the Student Rights and Community Standards office to serve as advisor and secretary to the panel. The SMB panel members will determine which facts they will rely on for their decision and then determine (a) that the respondent is responsible for a violation of the sexual harassment and misconduct policy or (b) that there is insufficient information to find the respondent responsible for a violation of this policy. If the SMB panel finds the respondent responsible for violating the sexual harassment and misconduct policy, it will make a recommendation for sanctioning to the Director. The panel’s decision, rationale, and recommended sanctions (including rationale) if appropriate will be delivered to the Director in writing within two (2) business days of the decision.
11. In cases where a student is found responsible for non-consensual sexual intercourse, the SMB panel is required to consider suspension or expulsion but may recommend any lesser sanctions it believes to be fair and proportionate to the violation and its impact on the complainant. Considerations for sanctioning include but are not limited to the following:
 - a. The nature and severity of the violation;
 - b. The violating student’s prior conduct record (if applicable);
 - c. Precedent for sanctioning past, similar violations by other students; and

- d. Remedying harm experienced by the complainant;
 - e. Deterring the violating student from future, similar behavior; and
 - f. Remedying harm caused to the Ball State community, whether that harm be physical, emotional, operational, or reputational in nature.
12. The Director will be responsible for finalizing the board's finding regarding responsibility for the violation as well as sanctions as appropriate, and notifying the parties of the hearing's final outcome.
13. Any procedural right or accommodation given to the respondent will be extended to the complainant and vice versa.
14. Any procedures for the hearing not specifically addressed above will be guided by section 6.5.5 *Procedures for Disciplinary Hearings* of the [Code](#).

Notice of Outcome

Both the complainant and the respondent will be notified simultaneously in writing of the outcome of the informal resolution or hearing (that is, whether the sexual harassment and misconduct policy was found to have been violated) including a rationale for the decision and a statement of the parties' options to appeal. The respondent also will be notified of all sanctions that have been imposed. In cases of sexual assault, the complainant will be notified of the same information; in cases of sexual misconduct violations less than assault, the complainant will be notified of the outcome and sanctions imposed against the respondent that are related directly to the complainant. Both the complainant and the respondent will also receive simultaneous written notification of any changes to the outcome before it becomes final and will be informed when the outcome is final.

Ball State neither encourages nor discourages the subsequent disclosure of the written notification by either party. Ball State will not require any party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent subsequent disclosure of information related to the outcome of the proceedings.

Sanctions, Remedies, and Other Accommodations

After the final determination of a disciplinary proceeding against a student for sexual harassment or misconduct, sanctions may be imposed including, but not limited to: disciplinary probation, mandated assessments, other educational sanctions, suspension, and expulsion (see the Ball State [Code of Student Rights and Responsibilities](#) section 6.6 *Sanctions* for a complete list of sanctions). The Director may also continue remedies and accommodations for the complainant already in place (e.g., continued restrictions on contact by the respondent or altered living, instructional, or work arrangements) and work with the Associate Dean of Students/Title IX Coordinator to ensure additional needed remedies for the complainant, or the university community, or both are implemented.

Appeals

Either party may appeal the outcome of the proceedings. In cases where the respondent has accepted responsibility and sought an informal resolution in lieu of a formal hearing, the respondent and complainant may only appeal on the basis of the severity/insufficiency of

sanctions (see 2 below). Appeals must be submitted in writing to the Office of Student Rights and Community Standards; receipt will be acknowledged promptly and the appeal will be forwarded to the appellate administrator for review. Sexual Misconduct Board panel hearing procedures and outcomes may be appealed on multiple bases that are limited to:

1. Substantial procedural error that unreasonably impaired the student or the hearing body;
2. An unduly harsh sanction (appeal by the respondent) or an insufficient sanction (appeal by the complainant);
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
4. Information of substantial bias on the part of the disciplinary body hearing the case.

The appeal must clearly designate which of the above bases are being referenced and provide a rationale for each basis referenced.

The appealing party has five (5) business days from receipt of the original decision in which to submit an appeal in writing. The other party will be notified of the appeal, provided a redacted copy of the appeal, and given an opportunity to provide a response in writing for consideration by the appellate administrator within five (5) business days of notice. The appellant will be provided a redacted copy of the other party's response; however, no further information from either party will be accepted or considered by the appellate administrator.

Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the hearing and supporting documents.

Appeals 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 to the Sexual Misconduct Board reconstituted with new members to allow reconsideration of the original determination and/or sanctions.

The appellate decision shall be final and not subject to any further appeal.

Communication with Parties

University-issued email is the primary means of communication used by the university. The Associate Dean of Students/Title IX Coordinator, designated investigators, and the Director of Student Rights and Community Standards may deliver notice to parties by one or more of the following methods:

1. In person by the designated university administrator;
2. Mailed to the local or permanent address of the individual as indicated in official university records; or
3. Emailed to the individual's university-issued email account.

Notices sent via email will be presumed to have been received by parties. In all other circumstances (e.g., voicemail, letters), the party is expected to confirm receipt of the

communication to the Associate Dean of Students/Title IX Coordinator, designated investigators, or Director within three (3) business days.

Ball State's Clery Act/Annual Security Report Obligations

Ball State is obligated to report the incidence of certain crimes that occur on and around Ball State property to the public and the U.S. Department of Education in an annual security report. Information from these incidents—when reported to Ball State police, the Associate Dean of Students/Title IX Coordinator, other responsible employees, and Campus Security Authorities—is included in an aggregated statistical report that does not disclose any information that identifies complainants. The report includes the number of certain criminal offenses that have been reported on or near campus. The information contained in the annual security report tracks the number of reportable offenses occurring at designated locations but does not include the names or any other identifying information about the persons involved in the incident. Information about reported incidents of sexual misconduct is also examined to determine if timely warnings must be issued to Ball State community members. Likewise, timely warnings do not include any information that identifies complainants. More information about Ball State's Clery Act/Annual Security Report obligations, including crime reports and information about campus security authorities, can be found at www.bsu.edu/fireandsafetyreports.

Prevention and Education

Ball State employs a comprehensive, harm reduction approach to prevention of sexual harassment, sexual violence, stalking and intimate partner violence as well as related alcohol abuse and other drug use. All new students to the university will be provided an educational program that addresses sexual assault, consent, the role of alcohol and other drugs, stalking, intimate partner violence, risk reduction, and effective bystander intervention. The program also will introduce Ball State's policies on sexual harassment and misconduct, alcohol, and other drugs.

In addition to the program described above, a number of offices (e.g., Office of Victim Services, Counseling Center, University Police Department, and the Office of Health, Alcohol and Drug Education) provide regular programming for residence halls, classrooms, and student organizations. Programming is designed to meet the needs of the audience and campus wide social marketing campaigns are utilized annually. Targeted programming occurs during specific awareness campaigns such as National Collegiate Alcohol Awareness Week and Sexual Assault Awareness Month.

Training

All new Ball State employees will be trained on policies, prevention, response, and reporting obligations regarding sexual harassment and misconduct. Training will be coordinated by University Human Resources.

Faculty and staff members who are designated responsible employees, Title IX coordinators and designated investigators, members of the University Police Department, victim advocates, faculty, and staff members involved with adjudicating sexual harassment or misconduct cases are provided annual, comprehensive, and specific training on to how to respond appropriately to

reports of sexual harassment, sexual violence, stalking, or intimate partner violence. Training also addresses reporting obligations, the extent to which they may keep reports confidential, how to identify and respond to sexual violence, bystander intervention, victimization and re-victimization, trauma-informed support, and to whom reports must be made.

Maintenance of Records

The university will maintain records of sexual harassment and misconduct complaints, including audio recordings of hearings, in a manner and for a period of time that complies with federal law including Title IX and the Clery Campus Safety and Security Act.

Policy and Implementation Modifications

This policy may be modified as needed, with published notice, and minor deviations may be made with notice to the parties in any complaint, when the deviation will not substantially affect the fairness of the process or the outcome of the complaint. Further, to the extent that any of the provisions of this policy are found to be inconsistent with state or federal law or regulations, those laws and regulations will be applied.

Revised 07/2014, 08/2015, 08/2016, 07/2017

Appendix 1

The following persons have been designated as Deputy Title IX Coordinators for specific areas or functions and may receive reports and complaints:

Dr. Tiffany Peters
Assistant Dean of Students
Student Affairs and Enrollment Services
(765) 285-1545
tmpeters@bsu.edu

Mr. John Bowers
Director of Institutional Equity and Internal Investigations
Office of General Counsel
(765) 285-5162
jwbowers@bsu.edu

Dr. Karin Lee
Senior Associate Athletic Director/Senior Woman Administrator
Ball State Athletics
(765) 285-5127
kalee2@bsu.edu

Ms. Dawn Miller
Principal and Chairperson and Title IX Coordinator
Burriss Laboratory School
(765) 285-8600
demiller4@bsu.edu

Dr. Vickie Barton
Executive Director
Indiana Academy for Science, Mathematics, and Humanities
(765) 285-8126
vbarton@bsu.edu

Appendix 2—Resources for Assistance

A first step for any complainant or third party witness may be choosing how to proceed following an incident of sexual harassment, sexual violence, stalking, or intimate partner violence. The university provides two distinct institutional resources:

Confidential Resources, which do not involve notifying the university of the incident unless the complainant requests such action; and

Reporting Options, which provide notice of the incident to the university and begin the Title IX assessment and resolution of the report.

It is also important to note that emergency medical and campus safety/law enforcement assistance are available both on and off campus, and all individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident which poses a threat to safety or physical well-being.

The university is committed to treating all members of the community with dignity, care, and respect. Any individual affected by sexual harassment, sexual violence, stalking, or intimate partner violence, whether as a complainant, a respondent, or a third party, will have equal access to support consistent with their needs and available university resources.

The following sections outlines assistance from advocates, medical professionals, mental health professionals, law enforcement, and university officials that may be accessed immediately or on an ongoing basis. Assistance is further noted as to its location—on or off campus—and whether or not the agency is a confidential resource or a reporting option. See the next page for specific resources:

Ball State Resources	Type	Services	Location	Contact
Office of Victim Services	Confidential	24-hour free victim advocacy; ongoing support.	Health Center, room 205	(765) 285-7844. After hours, call the Ball State University Police dispatch at (765) 285-1111 and request the on-call victim advocate be paged.
Counseling Center	Confidential	Comprehensive and free psychological services to students.	Lucina Hall, room 320	(765) 285-1736 or visit Lucina Hall, Room 320.
University Health Center	Confidential	Medical care, treatment for injuries, assistance, and support. If requested, forensic examinations (rape kits) will be referred, and transportation provided to IU-BMH, but this examination is not a requirement for students to receive comprehensive care at the Health Center	1500 Neely Ave.	(765) 285-8431
Ball State Police Department	Non-confidential	Incidents reported to the University Police Department will be investigated, as requested, and will be referred to the Associate Dean of Students/Title IX Coordinator for follow-up and administrative response.	200 N. McKinley Ave.	(765) 285-1111
Associate Dean of Students/Title IX Coordinator	Non-confidential	Responds to reports of sex or gender-based discrimination, sexual harassment or misconduct by or against a student, employee, or others. All complaints receive prompt, equitable, and comprehensive response.	Administration Building, room 238	(765) 285-1545
Office of General Counsel	Non-confidential	Responds to reports of unlawful harassment and discrimination by an employee or other persons encountered on campus.	Administration Building, room 216	(765) 285-5162
		<i>Community resources off-campus are found on the next page</i>		

Community Resources	Type	Services	Location	Contact
Muncie Police Department	Non-confidential	Incidents reported to the Muncie Police Department will be investigated; depending on caller location, a call to 911 may result in the dispatch of BSU police.	300 N. High St.	911 or (765) 747-4838
Muncie PD Victim Advocates	Confidential in many circumstances	MPD victim advocates are professionals trained to support victims of crime. Advocates offer victims information, emotional support, and help finding resources and filling out paperwork. Sometimes, advocates go to court with victims. http://www.munciepolice.org/victim-advocates/		
A Better Way	Confidential	A Delaware County/Muncie advocacy service and shelter for victims of domestic violence and sexual assault; a 24-hour crisis line for persons in any type of crisis; a participating member of the Delaware County Sexual Assault Response Team (SART). https://abetterwaymuncie.org/	806 W. Jackson St.	(765) 747-9107
Indiana University Ball Memorial Hospital	Confidential	Comprehensive, emergency medical care; specially trained sexual assault team available 24 hours every day. Forensic exams (rape kits) are provided. Under Indiana law, the tests and procedures here are free of charge if treatment is sought within 96 hours of the assault. ER staff may ask if the patient wishes to speak to the police; this decision is up to the patient. Persons undergoing an exam do not have to report to the police for the rape kit to be completed. However, patients should know they can make a statement to a police officer at this time and request that a criminal investigation be deferred. A person may file a police report up to a year after the rape kit is completed, which allows time to consider options and preferences, while still having critical information, as well as physical evidence, collected and preserved.	2401 W. University Ave.	911 or (765) 747-3241. ER staff will inform Ball State students of OVS support and contact the OVS upon request.

Other community resources may be available depending on circumstances.

APPENDIX L – Tobacco-Free Campus Policy

Note: The text below is provided for convenience. The most current and accurate version of this policy may be found at <http://www.bsu.edu/tobaccofree>.

Ball State University is committed to providing a healthy working and learning environment for the entire campus community. The purpose of this policy is to reduce harm from tobacco use and secondhand smoke, provide an environment that encourages persons to be tobacco-free, reduce health insurance and health care costs, and promote a campus culture of wellness. Therefore, Ball State University establishes the following smoking policy for all facilities, campus areas, and vehicles in which university functions or services are carried out or offered. All university students, employees, contractors, and visitors are subject to these regulations.

1. As used herein, tobacco includes but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff, chewing tobacco, and any non-FDA approved nicotine delivery device.
2. Tobacco use is prohibited on the Ball State University campus.
3. Tobacco use is prohibited in all university vehicles, including maintenance vehicles, automobiles, and public carriers.
4. Tobacco use is prohibited in all university housing units.
5. Tobacco use will be permitted in the tailgating areas on home football game days only; otherwise the area is to be tobacco free.
6. University regulated parking areas are included in the ban. Tobacco use in enclosed personal vehicles will be permitted as long as users contain smoke and tobacco products inside the vehicle (e.g. windows must be closed). Failure to do so is a violation of this policy.
7. Adherence to this policy is the responsibility of all members of the University community. It is expected that students, faculty, staff, University affiliates, contractors, and visitors to campus will comply with this policy. Members of the University community are empowered to respectfully inform others about the policy to ensure compliance. Primary enforcement of this smoking policy will be the responsibility of those persons who head individual units, departments, buildings, student housing units, those who supervise personnel, Public Safety personnel, and other designees.
 - A. Failure to comply with this policy shall result in a fine of \$100 per occurrence.
 - B. The Office of Bursar will be responsible for fine collection and account maintenance. Monies collected from fine assessments will be used to fund smoking cessation initiatives, health education, and other relevant health and wellness related programs.
 - C. Citations may be appealed through the University Traffic Appeals Subcommittee. All appeals will be handled in a manner consistent with traffic appeal procedures.

D. Failure of a student or employee to pay a fine shall be subject to existing policies and procedures for collecting delinquent accounts owed the university.

8. This tobacco policy shall be effective August 1, 2013.

APPENDIX M – Student Leaves for Funerals, Bereavement, Jury Duty, and Pregnancy

Revised June, 2016

A. Funeral and Bereavement Leave

1. Students will be excused from class for funeral leave in the event of the death of a close friend or member of the student's family or household. The number of excused absences allowed is determined by the distance of funeral services from Muncie, Indiana, as follows:

Three school days - Within 150 miles radius of Muncie

Four school days - Between 150-300 miles radius of Muncie

Five school days - Beyond 300 miles radius of Muncie

Seven school days - Outside of North America

2. If the student is unable to attend the funeral services, the student will be allowed three school days for bereavement.
3. Given proper documentation, the instructor will excuse the student from class and provide the opportunity to earn equivalent credit for assignments missed. If the student is not satisfied with the outcome, he or she may appeal as outlined in this policy.

B. Jury Duty Leave

1. Ball State supports the responsibilities of citizens and encourages students to engage in the Muncie and home communities. One expectation of citizenship is jury duty.
2. Ball State University advises students summoned for jury duty to contact the court as soon as possible and to request a deferral if jury duty will interfere with classes. Many jurisdictions allow college students to defer service to a later date, or may even exempt college students from serving on juries.
3. Absences will be excused for students who are summoned to report for jury duty or to serve as a witness in court during class time. Official documentation of jury service dates or a copy of the subpoena to be a witness must be submitted to instructors in order for absences to be excused. Students are expected to make up academic work.

C. Pregnancy Leave

Ball State does not discriminate against any student on the basis of pregnancy or related conditions. Absences due to medical conditions relating to pregnancy will be excused for as long as deemed medically necessary by a student's doctor and students will be given the opportunity to make up missed work. Students needing assistance may contact the Associate Dean of Students/Title IX Coordinator (Mrs. Katie Slabaugh, 765.285.1545).

D. Absence Notification to Faculty

Students should review each instructor's course syllabus regarding absence guidelines and follow those guidelines. In general, students are expected to notify all of their instructors once they anticipate being absent for any reason (e.g., funeral) or as soon as possible after the absence

begins (e.g. unexpected injury or illness). The student will provide documentation to each instructor if requested.

Procedures for Appeals Regarding Leaves

- A. To initiate an appeal regarding a leave, the student must request a review of the dispute by contacting (in person, by phone, or by letter) the faculty member, or in his or her absence the department chairperson. Students are strongly encouraged to request the review as soon as the conflict becomes apparent, but must request the review no later than ten (10) school days after the start of the next academic (fall, spring, or summer) semester following the semester or summer session in which the funeral and bereavement conflict occurred. The faculty member, or in his or her absence the department chairperson, must respond to the student's request within ten (10) school days after receipt of the request.
- B. If the matter cannot be resolved with the faculty member, the student must inform the department chairperson of the disagreement with the faculty member and present the student's side of the dispute. The department chairperson will then attempt to resolve the dispute by consulting all affected parties.
- C. If the department chairperson cannot resolve the dispute to the student's satisfaction, the student may continue with the appeals process by contacting the Dean of the College in which the department resides. The Dean will then attempt to resolve the dispute by consulting all affected parties. If the Dean of the College cannot resolve the dispute to the student's satisfaction, the student may appeal to the Provost and Vice President for Academic Affairs, who will consult all affected parties. The decision of the Provost and Vice President for Academic Affairs is final.
- D. In the case that the faculty member involved in the appeal is the administrator next in the line of the appeal process, then the appeal will move directly to the next level.

APPENDIX N - Use of University Property for Expressive Activities

*Please direct questions about this policy to Business and Auxiliary Services at 765-285-1104
Revised October 31, 2012*

Ball State University property is intended to be used by its students, employees and others to further the University's educational mission, goals and programs. In fulfilling its educational mission, the University recognizes the importance of free speech, which includes the right to engage in "expressive activities" such as assembling, demonstrating, marching, constructing temporary structures and signs, distributing or posting materials, and other similar means of expressing thoughts and ideas, so long as such expressions are conducted in an orderly manner that respects the rights of others in the campus community.

This policy sets forth rules and procedures governing the time, place and manner for engaging in expressive activities on University property, to ensure they do not endanger the health, safety and welfare of individuals or disrupt the University's academic programs. It applies to all students, employees, visitors and other individuals while on the Ball State University campus. This policy does not replace, but supplements, applicable federal, state and local laws and regulations.

All events involving expressive activities must be scheduled and approved in advance of the event with the following exceptions: (1) an out-of-doors demonstration or assembly that is not reasonably expected to involve more than fifty (50) people; and (2) a distribution of materials by hand out-of-doors in designated areas not involving the use of tables, booths or other similar set-ups. Persons or groups desiring to hold or sponsor an event involving expressive activities that must be scheduled and approved in advance should contact the Campus Reservationist at least three (3) business days prior to the event and complete the required forms. The decision whether to approve the event will be made by the Assistant Vice President of Student Affairs/Director of Student Life on a content-neutral basis, after consulting in appropriate cases with the Associate Vice President for Facilities Planning and Management, the Director of Public Safety and/or General Counsel. Events sponsored by students, employees, or recognized student organizations will have priority over other events. In the event that multiple events with equal priority are scheduled and approved, the event that is scheduled first will be held in the approved location. If possible, an alternate location for the second event will be identified.

Definitions

Unless expressly defined in this policy, the definitions in Ball State's "Policy Concerning Campus Use" apply to this policy also.

Restrictions Applicable to all Expressive Activities

The following restrictions apply to all expressive activities covered by this policy:

- 1) Permission for any activity covered by this Policy may be denied or revoked if:
 - a. The proposed activity would interfere with the free flow of vehicular or pedestrian traffic on or in the vicinity of the campus or in any University building or property, or obstruct exit from or entrance to a University building;
 - b. The proposed activity would be a danger to the safety or welfare of individuals or property;
 - c. The proposed activity would interfere with University classes, instruction, research, or administration, or conflict with other programs, events, activities;

- d. The proposed activity would involve the display or distribution of obscene material; or
 - e. The proposed activity would violate another University policy.
- 2) Restrictions on amplification:
- a. The use of amplification equipment on University property is by permission only. Permission will not be granted under circumstances where amplification may interfere with other scheduled events or activities on or off campus or violate the local noise ordinance;
 - b. Amplification equipment is not permitted in the vicinity of classrooms during scheduled class hours; and
 - c. Persons or groups desiring to use amplification equipment must obtain the prior approval of the Assistant Vice President of Student Affairs/Director of Student Life. Requests should be initiated through the Campus Reservationist at least three (3) business days prior to the event, as part of the procedure for scheduling and obtaining approval of the event itself. If the use of amplification equipment is desired, the exceptions to the requirement for advance scheduling and approval of the event or activity do not apply.
- 3) Prohibition of obscenity:
- a. Obscene speech, materials, or activity is not protected by the constitution of the United States or the State of Indiana and is prohibited by University policy. Obscene materials share the following elements:
 - 1. The average person, applying contemporary community standards, finds that the dominant theme of the matter or performance, taken as a whole, appeals to the prurient interest in sex;
 - 2. The matter depicts or describes, in a patently offensive way, sexual conduct; and
 - 3. The matter or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value.
 - b. Under Indiana law (I. C. 35-49-3-1), a person who knowingly or intentionally exhibits or distributes obscene material commits a Class A misdemeanor. However, the offense is a Class D felony if the matter depicts or describes sexual conduct involving a person who is or appears to be under sixteen years of age.

Demonstrations and Assemblies

- 1) Indoors. Students, employees, and recognized student organizations may be granted permission to assemble or hold a demonstration or assembly within a specified area of the following buildings, subject to availability and the payment of any fees uniformly required: Student Center, Emens Auditorium, and Pruis Hall.
- 2) Out-of-Doors. Demonstrations and assemblies are permitted out-of-doors (subject to prior approval, as noted above, for those reasonably expected to involve more than fifty (50) people). Demonstrations or assemblies that are reasonably expected to involve more than fifty (50) people must be held on the Quad, University Green or LaFollette Field. The following rules also apply:

- a. They may not take place within sixty (60) feet of any window of any classroom or office, or any door of any classroom building, office building or residence hall.
- b. They are generally approved as a one-time event; provided, however, multiple approvals for recurring events may be approved on a content-neutral basis manner depending on relevant factors such as whether other events are already scheduled for the area.
- c. Overnight demonstrations and assemblies are prohibited unless approved in advance as part of the procedure for scheduling and obtaining approval of the event itself.

Marches

- 1) Students, employees, and recognized student organizations are permitted to march out-of-doors on University property.
- 2) Marches that are expected to involve a large number of people and thus may not be contained to the sidewalk may have additional restrictions based on local ordinances and/or safety considerations. The Campus Reservationist will notify the student, employee, or recognized student organization if such restrictions apply.

Temporary Structures and Signs

- 1) Students, employees, and recognized student organizations are permitted to construct temporary structures and signs out-of-doors in a designated area, where the structure or sign is designed to express the individual's or group's views, or to raise public consciousness and awareness of an issue.
- 2) The designated areas for structures and signs are the Quad, University Green or LaFollette Field.
- 3) Structures and signs are permitted for a period of up to ten (10) calendar days, which includes the time used to set up and tear down the structure or sign.
- 4) Approval for a structure or sign may be denied or revoked if weather conditions are such as to pose a substantial threat to health, safety or welfare, if the conditions of the structure or sign become unsanitary, or if the structure or sign otherwise threatens the health, safety or welfare of any individual.
- 5) Any structure or sign not in compliance with this policy shall be subject to immediate removal. The students, employees or student organization which sponsored, constructed or participated in the construction or use of the unauthorized structure or sign may be subject to disciplinary action and will be responsible for any costs associated with its removal.

Distribution and Posting of Materials

- 1) Distribution of Materials:
 - a. Any person may distribute printed materials by hand directly to other persons, at any time, in an out-of-doors area if such distribution is done without tables, booths, or other similar set-ups. Printed material may not be placed on motor vehicles on University property.
 - b. In addition to the information above, University entities (recognized student organizations, academic departments, etc.) may reserve tables based on availability for distribution both in-and out-of-doors through the Campus Reservationist.

- 2) Posting Materials: Materials may be posted on bulletin boards based on the posting policy for each particular building. Materials that are out-of-date, that cover the entire bulletin board, or that violate any University policy may be subject to immediate removal.
- 3) Chalking: Chalking is prohibited on University property.

Sanctions

In no event will the University sanction any individual or group based on the content of an expressive activity. However, the University may sanction individuals or groups for violations of the time, place and manner restrictions set forth in this policy. Possible sanctions may include:

- 1) Immediate cessation of the expressive activity;
- 2) Suspension of the sponsoring individual or group from holding future events or participating in future events on campus;
- 3) Placing a recognized student organization on probation or withdrawing recognition; and/or
- 4) Disciplinary action against individual student(s) up to and including dismissal from the University.

Any questions concerning the interpretation or application of this policy shall be submitted to the Assistant Vice President of Student Affairs/Director of Student Life for resolution. The question shall be submitted in writing by the person affected and must set forth all facts and arguments which the person believes to be relevant to the resolution of the question. The Assistant Vice President of Student Affairs/Director of Student Life may conduct such investigation of the circumstances involved as deemed desirable and shall render a decision in writing. Any person who is informed that the person's conduct is in violation of this policy shall immediately cease the conduct involved. An appeal may be taken from the decision made under this paragraph.

Appeals

If a request for approval of an event involving an expressive activity is denied or approved with restrictions, the individual(s) or group(s) that filed the request may submit an appeal to the Vice President for Student Affairs. The Vice President for Student Affairs or his/her designee will review the appeal and render a decision. The process for an appeal is as follows:

- 1) The appeal must be submitted in writing within ten (10) business days after the Assistant Vice President of Student Affairs/Director of Student Life's decision to deny the request or approve it with restrictions.
- 2) The appeal must include the name(s) and address(es) of the individual(s) or group(s) that submitted the original request, the nature of the action being appealed, and the grounds for the appeal.
- 3) The Vice President for Student Affairs or his/her designee's review will include the following:
 - a. The original request;
 - b. The basis for the denial or restriction of the request, and any related information;
 - c. The basis for the appeal and any supporting information submitted with the appeal; and
 - d. Any additional information requested or obtained by the Vice President for Student Affairs or his/her designee from the Assistant Vice President of Student

Affairs/Director of Student Life or the individual(s) or group(s) that submitted the appeal.

- 4) The decision of the Vice President for Student Affairs or his/her designee is final.
- 5) The event that is the subject of the appeal shall not be held until after the decision on appeal is made.

Amendment

This policy may be amended, added to, or revoked, in whole or in part, by the President of the University as the President from time to time may deem to be appropriate. Any such amendment, addition, or revocation, shall be effective as determined by the President and does not require approval by the Board of Trustees unless the action is inconsistent with any then existing policy of the Board of Trustees.

APPENDIX O- Weapons Policy

Reviewed and Revised August 2016

Ball State University recognizes the importance of providing a climate which is conducive to the safety of all members of the University community. To aid in the accomplishment of this objective:

- A. Faculty, Professional Personnel, and Staff employees of Ball State University, students, visitors, guests, and all other individuals are prohibited from possessing or carrying weapons of any kind while on University property or at University activities, regardless of whether they are licensed to carry the weapon or not. Such prohibition extends to such individuals having such weapons in briefcases, purses, tool boxes, personal vehicles, or other personal property or effects.
- B. The only exceptions to this policy are: (a) firearms in the possession of University police officers and other individuals who have written authorization from the University's Director of Public Safety to carry such weapons; (b) firearms in the possession of sheriffs, police officers, law enforcement officers, and correctional officers, who are duly authorized by law to carry such firearms; (c) equipment, tools, devices, and materials which are prescribed for use by authorized University employees as a condition of employment or class enrollment; and (d) legal chemical-dispensing devices, such as pepper sprays, that are sold commercially for personal protection.
- C. University property includes all University owned, leased, or otherwise controlled building and lands. University vehicles are covered by this policy at all times whether or not they are on University property or at University activities.
- D. University sanctions will be imposed on offenders as appropriate and, in addition, criminal charges may be filed.
- E. For the purposes of this policy, "weapons" include but are not limited to (a) firearms, such as handguns, shotguns, rifles, pellet guns, machine guns, stun guns, tazers, or electronic stun weapons; (b) explosives, such as bombs, grenades, blasting caps, or other containers containing explosive substances; and (c) other equipment, material, and devices that, in the manner they are used ordinarily could cause harm, or are readily capable of causing serious bodily injury. The items described in clause (c) include, but are not limited to, knives (except small personal pocket knives with folding blades that are less than three (3) inches long.), tear gas, chemical substances, brass knuckles, clubs, or chains.

APPENDIX P - Policy Concerning the Ownership, Distribution and Commercial Development of Ball State University Intellectual Property and Technology

This policy appendix was added to the *Code of Student Rights and Responsibilities* in 2011 to supplement the statement in section 1.5.3 of the Code. The excerpt here applies to students. Students should familiarize themselves with the entire policy which may be found at <http://cms.bsu.edu/About/AdministrativeOffices/Commercialization.aspx> [see Intellectual Property Policy (PDF) in navigation bar].

This policy excerpt includes the introduction, Ball State policy statements, and a section on student theses and dissertations.

Persons with questions about this policy should contact the Ball State Sponsored Programs Office at 765-285-1600.

PART 1. INTRODUCTION AND SELECTED DEFINITIONS

1.0 INTELLECTUAL PROPERTY AND RELATED RIGHTS

The material set forth in this document addresses the ownership, distribution, and commercial development of technology developed by Ball State University (“Ball State”) faculty, staff, and students and others participating in Ball State programs. The term “technology” is broadly defined in this document to include technical innovations, inventions, and discoveries, as well as writings, audiovisual or digital or other creative works, and other information in various forms, including computer software.

The principal rights governing the ownership and disposition of technology are known as “intellectual property” rights, which are derived primarily from federal and state legislation granting patent, copyright, trademark, trade secret and integrated circuit mask work protection.

In some instances, distribution and commercialization of technology may be accomplished by the transfer/assignment or licensing of the intellectual property rights, such as the licensing of patents or copyrights. In other instances, distribution and commercialization of technology may be aided by or depend upon access to the physical or tangible embodiment of the technology, as in the case of biological organisms, plant varieties or computer software through a material transfer arrangement.

Therefore, this policy will define not only the ownership, distribution, and commercialization rights associated with the technology in the form of intellectual property, but will also define policies and procedures which govern use and distribution of the technology in its tangible form.

6 The following overview of intellectual property rights is limited in scope. The Ball State Technology Transfer Officer (“TTO”) at the Ball State Technology Transfer Office should be contacted for further information regarding any of these rights.

...section removed for space reasons. See entire policy at <http://cms.bsu.edu/About/AdministrativeOffices/Commercialization.aspx>

PART 2. BALL STATE’S POLICY STATEMENTS

2.0 GENERAL POLICY STATEMENT

The prompt and open dissemination of the results of Ball State research and the free exchange of information among scholars are essential to the fulfillment of Ball State's obligations as an institution committed to excellence in education and research. Matters of ownership, distribution, and commercial development, nonetheless, arise in the context of technology transfer, which is an important aspect of Ball State's commitment to public service. Technology transfer is, however, subordinate to education and research; and the dissemination of information must, therefore, not be delayed beyond the minimal period necessary to define and protect the rights of the parties.

2.1 INTELLECTUAL PROPERTY OWNERSHIP POLICY STATEMENT

With the exception of the *written content* of student theses, dissertations and research reports as addressed more fully in Section 2.1.5, intellectual property rights in inventions, mask works, trade secrets, tangible research property and copyright ownership of materials made or created by Ball State faculty, students, staff, and others participating in Ball State programs, including visitors, are as follows:

BALL STATE OWNED

(a) Patents, copyrights (including copyrights on software), maskworks, trade secrets, and tangible research property and trademarks developed by faculty, students, staff and others, including visitors participating in Ball State programs or using Ball State funds, resources or facilities, are owned by Ball State when either of the following applies:

(1) The intellectual property was developed within the scope of employment and/ or by students as part of the student's participation and receipt of instruction in any Ball State class, funded project or independent study, internship or practicum under the supervision and direction of a faculty or staff member as outlined in the discussion below regarding Student Ownership and/or in the course of, or pursuant to, a sponsored research agreement with Ball State; or

(2) The intellectual property was developed with significant use of funds, other resources or facilities administered by Ball State, as defined in Section 2.1.2.

(b) Except as set forth herein, all copyrights, including copyrighted software, will be owned by Ball State when it is created as (1) a "work for hire" as defined by copyright law, (see Section 2.1.3), or (2) it is "specially commissioned" by Ball State pursuant to a written agreement whereby Ball State retains copyright ownership, (see Section 2.1.3), or (3) it is created pursuant to a written agreement with Ball State providing for transfer or assignment of copyright or ownership to Ball State.

INVENTOR/AUTHOR OWNED

Inventors/Authors, including students, will own patents/copyrights/other intellectual property when none of the situations defined above for Ball State ownership of intellectual property applies.

STUDENT OWNERSHIP

Except as set forth herein and in Section 2.1.5, under ordinary circumstances, students who independently develop intellectual property as part of, or arising outside, of their participation in programs of study at Ball State retain ownership rights to that intellectual property unless any of the conditions set forth in this section on Student Ownership and outlined above in Section 2.1(a) or Section 2.1(b) regarding Ball State owned intellectual property are applicable.

In this regard, any student engaging in research or development of intellectual property subject to Ball State ownership under Sections 2.1(a) (2), 2.1(b), or 2.1(a) (1) under a sponsored research agreement or under the supervision and direction of a faculty or staff member in connection with a class, funded project or independent study, internship, practicum or other program or activity subject to this Policy shall have no ownership interest in the resulting intellectual property. By way of illustration, this may include without limitation, patentable processes or inventions, computer aided designs, digital designs, models or fabrications, or student produced films, videos or digital productions. This paragraph is not determinative of appropriate academic credit for authorship of any resulting work product in which students are supervised or directed by Ball State faculty or staff. In instances where the intellectual property may be subject to Ball State ownership, a Disclosure outlined in Part 3 of this Policy shall be made for purposes of determining ownership, cost recovery and royalty distribution.

Where copyright ownership arising out of the student's participation in programs of study at Ball State is retained by the student in intellectual property, however, the student shall grant to Ball State a royalty-free perpetual non-exclusive license and consent to reproduce, use and publicly distribute the intellectual property for the following limited purposes of Ball State: (1) institutional promotion and marketing; (2) educational and instructional; and (3) entries into appropriate competitions.

...section removed for space reasons. See entire policy at <http://cms.bsu.edu/About/AdministrativeOffices/Commercialization.aspx>

2.1.5 STUDENT THESES AND DISSERTATIONS

Students will own copyright in theses and dissertations, however, where significant use is made of Ball State equipment or facilities provided to Ball State without copyright or other related restrictions, students own copyright in theses or dissertations, but any software code, patentable subject matter and/or any other intellectual property contained in, or produced as part of, the theses or dissertations remain subject to Ball State ownership pursuant to Section 2.1.2 above.

Moreover, where copyright ownership is retained by the student in the theses, dissertations and/or research reports, the student shall grant to Ball State a perpetual royalty-free, non-exclusive limited license and consent to reproduce, use and publicly distribute the thesis, dissertation and/or research report for the following limited purposes of Ball State: (1) institutional promotion and marketing; (2) educational and instructional; and (3) entries into appropriate competitions.

...section removed for space reasons. See entire policy at <http://cms.bsu.edu/About/AdministrativeOffices/Commercialization.aspx>

APPENDIX Q—Responding to Disruption in the Academic Setting

www.bsu.edu/studentcode/disruption

Persons with questions about this policy should contact Student Rights and Community Standards at 765-285-5036.

1. Purpose: This document is designed to provide faculty and other University personnel guidance in responding to disruption in the academic setting. Disruption by a student in a Ball State classroom or other academic setting is a violation of the *Code of Student Rights and Responsibilities*, specifically

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 Conduct in the Academic Setting, Appendix P.*

2. Definitions

- 2.1 Disruption is defined as any "behavior a reasonable person would view as being likely to substantially or repeatedly interfere with the conduct of" an academic setting.

2.1.2 Some behaviors or single incidents of some behaviors are not the focus of these guidelines. These include but are not limited to coming late to or leaving early from class, tapping fingers, chewing gum, reading a newspaper, and using electronic devices without authorization. While annoying and distracting, these usually can be addressed effectively through conventional classroom management techniques that include addressing behavior expectations in the syllabus and during the first class period, in-class intervention, and speaking to a student after class.

2.1.2 However, students who exhibit behaviors listed above and who do not respond to reasonable intervention, who exhibit more severe behaviors, or who violate another University policy in an academic setting (e.g., intoxication, weapons policy violation) should be referred for adjudication through procedures outlined in the *Code of Student Rights and Community Standards*. Such behaviors include but are not limited to

- a. repeated and unauthorized use of cell phones, pagers or other technical devices
- b. persistent speaking without being called upon or disregarding instructor's requests
- c. making loud or distracting noises
- d. making physical or verbal threats
- e. engaging in behaviors reasonable people consider intimidating

- 2.2 Academic Setting is defined to be a classroom, office, laboratory, library, field experience site, online forums, or other venues where instruction, advising, or service occurs.

3. Guidelines for Intervening When Disruption Occurs

- 3.1 Faculty members and administrators have the authority to instruct the student to leave temporarily the academic setting where disruption is taking place. For instance, in the case of a classroom setting, the faculty member may instruct the student to leave for the remainder of a class period. The student should be told the reason for this request and instructed to meet with the instructor, administrator, or a staff member from the Office of Student Rights and Community Standards prior to returning to the next class. The instructor should consult promptly with the department chair or designee and the Office of Student Rights and Community Standards. If the student refuses to leave, University Police should be called and requested to remove the student from the academic setting.
- 3.2 Suspensions for more than one class period or restrictions from entering a service office require disciplinary procedures outlined in the *Code of Student Rights and Responsibilities*.
 - 3.2.1 These procedures, conducted by the Office of Student Rights and Community Standards, include notifying the student of the complaint, providing the student with an opportunity in a hearing to defend against the complaint, and ensuring the decision is made based on substantial information.
 - 3.2.2 Outcomes of disciplinary procedures can include finding the student not responsible or finding the student responsible for a violation of the *Code of Student Rights and Responsibilities*. Sanctions imposed can range from official reprimand to suspension or expulsion in the most severe cases.
 - 3.2.3 A student may also be restricted from returning to a specific classroom or to using an alternative method of accessing services. In the case of restriction from a specific class, the student may be withdrawn administratively from the class with transcript notation (i.e., W, WP, WF, etc.) to be determined by nature and severity of disruption, timing of withdrawal, and other relevant circumstances.
- 3.3. This policy does not replace or modify facility usage policies already in place (e.g., University Libraries, Student Recreation and Wellness Center, residence halls).

APPENDIX R – Requirement to Disclose Felony Conviction or Charge after Admission

Ball State University is concerned with the safety and achievement of its students and employees. Out of that concern, the University requires students who have been charged with or convicted of a felony after being admitted to report immediately that felony charge or conviction to the Office of Student Rights and Community Standards (located in Student Center L-4; phone 765-285-5036; email stdtrights@bsu.edu).

As noted in section 3.5 of the *Code of Student Rights and Responsibilities*, persons “may be subject to the 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, disciplinary 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.”

Disclosing a felony charge or conviction will not result in an automatic separation from the University. Any disciplinary action that is taken will take place according to procedures noted in section 6.5 of the *Code of Student Rights and Responsibilities*.

Discovery of a student’s failure to immediately report a felony charge or conviction as required in this policy may result in an interim suspension (outlined in section 6.5.4 of the *Code of Student Rights and Responsibilities*) from the University pending a formal hearing.

APPENDIX S – Policy Concerning Campus Use: Regulations for Use of Property for Distribution, Solicitation, Fund Raising, Sales, and Commercial Activity

Please direct questions about this policy to Business and Auxiliary Services at 765-285-1104.

Revised October 30, 2012

1. INTRODUCTION.

- 1.1. The property and facilities of Ball State University (“BSU” or “University”) are dedicated to the fulfillment of the University’s educational goals and mission and are provided for the purpose of fostering and accommodating the total educational program of the University.

The property and facilities of BSU are for the use of the University, its employees and agents, and its students. BSU may from time to time permit certain portions of its property or facilities to be used by certain persons for particular purposes, but this does not mean that such persons may conduct any activity they desire upon the same or any other University property. Nor does it mean that other types of persons may conduct any activity they desire upon that same or any other University property. Nor does the fact that the public may be permitted to come and go without restriction upon particular University property mean that the public may use the property and facilities of the University for whatever purpose or in whatever matter they may choose.

The purpose of this policy is to provide the framework for the use of BSU facilities, including uses that are not directly related to the instructional, research, administrative or service activities of the University, but which enhance the educational environment and provide a service to members of the University community.

2. APPLICABILITY.

- 2.1. This policy, except as stated in paragraph 2.2 below, and as amended from time to time, applies to and governs any and all distribution, solicitation, fund raising, sales, and commercial activity on or using facilities, property, and equipment of the University and applies to all students and employees of the University and to all visitors entering upon University property.
- 2.2. This policy, as amended from time to time and except as provided in paragraph 7.3, does not apply to or govern in any way, activities of the University itself, of University employees or agents acting within the scope of their employment or agency, or of persons acting pursuant to a contract, lease or license with the University.
- 2.3. Nothing in this policy is intended to authorize sales of goods or services on or using facilities, property, and equipment of the University in conflict with existing exclusive contracts, or solicitation of the same.

3. DEFINITIONS.

- 3.1. The following definitions apply for purposes of this policy:

3.1.1. Action Group - means an organization where a substantial part of its activities is attempting to influence legislation by propaganda or otherwise, or an organization that participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

- 3.1.2. Building - means all buildings or other structures (e.g., parking garages, stadium) owned, leased or under the control of BSU.
- 3.1.3. Campus Reservationist – means the BSU employee who reserves space in a particular building or outdoor space (student organizations typically will go through the Student Center Facilities Coordinator regardless of the venue; other organizations typically will reserve space through a different employee for various venues (e.g., the Director of Emens Auditorium and Pruis Hall, Special Events Manager for Sports Facilities Management, and Facilities Accounting/Space Coordinator for buildings and/or outdoor space not served with an assigned reservationist).
- 3.1.4. Chalking – means using chalk on sidewalks or other surfaces to write messages or draw pictures.
- 3.1.5. Commercial – means activity which is conducted essentially for the direct or indirect advertisement, promotion or sale of goods or services for the economic gain of the person conducting the activity.
- 3.1.6. Distribution – means the giving out of printed materials or of goods or services without requesting, directly or indirectly, a donation or other consideration in return for the materials, goods or services. Distribution does not include sales.
- 3.1.7. Facilities – means all buildings, land, and property owned, leased or under the control of BSU.
- 3.1.8. Fronting – means permitting a non-university individual or organization to use University facilities and services under the guise that the activity is a University-sponsored program or event.
- 3.1.9. Fund Raising – means solicitation conducted by or for the benefit of a non-profit organization, where the funds raised are not for the purpose of, or result in, the pecuniary gain of the organization’s members.
- 3.1.10. Non-Affiliated Person or Group – means individuals, partnerships, corporations, associations, and other legal entities, profit or not-for-profit, with no established connection to the University.
- 3.1.11. Non-Profit Organization – means a corporation or association which does not engage in any activities for the profit of its members and which is organized and conducts its affairs for purposes other than the pecuniary gain of its members.
- 3.1.12. Outdoor Space – means all University property which is not located in a Building, including but not limited to, sidewalks, kiosks, railings, walls, light poles, trees, fences, benches, bridges, bodies of water, streets, plazas, fields, parking lots, patios or terraces.
- 3.1.13. Person – includes individuals, partnerships, corporations, associations and other legal entities.
- 3.1.14. Recognized Student Organization – means a group properly registered and recognized by the Office of Student Life.
- 3.1.15. Sales – means the sale of or taking of orders for goods or services for cash, credit or other consideration. It includes work intended for commerce.
- 3.1.16. Solicitation – Solicitation means the request, directly or indirectly, by any person to another person:

- a) For donations;
- b) For the sale to the other person of any printed material, goods or services;
- c) Any other request of a similar nature.

Provided, however, such requests that are contained in printed material given out within the definition of “distribution” shall not constitute solicitation.

- 3.1.17. Property – means all buildings, facilities, equipment, outdoor space, and real property owned, occupied or under the control of BSU.
- 3.1.18. University Department – means a Ball State University school, college, department, unit, institute, center or recognized affiliated entity.
- 3.1.19. Visitor – means any person who is neither a student, employee, nor agent of the University.

4. DISTRIBUTION ACTIVITIES.

- 4.1. Any person may distribute printed materials by hand directly to other persons, at any time, outdoors if such distribution is done without tables, booths or other similar apparatus. Printed material may not be placed on motor vehicles on University property.
- 4.2. University departments may reserve tables based on availability for distribution both in- and out-of doors through the Campus Reservationist.
- 4.3. Except as otherwise permitted by University policy, printed materials may not be posted or otherwise attached to any University property. Materials may be posted on bulletin boards based on the posting policy for each particular building or other outlets provided and designated by the University for that purpose. Such designations may limit the use to a particular manner, or manners, of distribution and particular areas may be restricted to use by particular types of entities (e.g., recognized student organizations). Materials that are out-of-date, that cover the entire surface of the bulletin board or other posting location, or that violate any University policies are subject to removal.
- 4.4. Chalking is prohibited on University property.

5. FUND RAISING ACTIVITIES.

- 5.1. Employees and students should be free from undue solicitations and distractions; therefore, solicitations and organized fund raising for charitable non-university entities directed to the entire campus community on University property is restricted to those approved by the President and the Executive Cabinet. The only University-sponsored charitable organization approved to conduct a fund raising campaign across the campus among the University employees at this time is the United Way. However, for the purpose of raising funds for their treasury or to fulfill a civic social obligation as required by their organization, recognized student organizations may request approval from the Office of Student Life to engage in fund raising activities on University property and, subject to this policy, these activities can occur across the campus. All approved fund raising solicitation must be in accordance with the following:
 - 5.1.1. Recognized student organizations must notify the Campus Reservationist when reserving space that the reservation will include solicitation for fund raising purposes. Depending on the scope of the activity, the Campus Reservationist will direct the student organization as to when and where the solicitation can occur.

- 5.1.2. Passive solicitation for fund raising purposes (e.g., unattended drop box, but no cash contributions), is permitted only in designated “common” areas. No active solicitation for donations of money or property with the use of containers is permitted on University property under this policy.
- 5.1.3. Fund raising activities or events must be conducted in such a manner that campus pedestrian, bicycle, and vehicular traffic are not unreasonably impeded and that faculty, staff and visitors to the campus who are not participating in the activity or event may proceed with their normal activities without undue interference.
- 5.1.4. No solicitation will be permitted at University events such as convocations, athletic events, or performances at Ball Gymnasium, Emens Auditorium, John E. Worthen Arena, Pruis Hall, Scheumann Stadium, Student Recreation and Wellness Center or Sursa Hall, except when part of an approved University contract signed by an authorized University signatory as set forth in paragraph 9.2.1. Additionally, recognized student organizations may request in writing approval to conduct a fund-raising event in one of these facilities. Such request must be submitted to the Vice President for Student Affairs and Dean of Students and the Vice President for Business Affairs and Treasurer, or their designee, prior to any solicitation or advertising of the event and must include the following: sponsoring organization, name and address of benefactor, type of solicitation, statement of purpose or need, and other information as needed to determine appropriate time, manner and place considerations.
- 5.1.5. All proceeds from such solicitations must be given for the charitable purpose advertised.
- 5.1.6. A solicitation may be publicized on the University’s Communication Center (or any subsequent university-wide electronic communication platform) only during the week preceding and during the active period and in accordance with other university policies.
- 5.1.7. Approval will not be given for solicitation of funds for use by action groups or political organizations, candidates, or causes.
- 5.1.8. A recognized student organization cannot be used by a commercial firm or company as a way to sell a good or service. To illustrate, this means that XYZ company cannot ask an individual or student group to reserve space simply for the company to sell an item or service, even if the student organization receives a portion of the profits. Refer to the definition of ‘fronting’ in paragraph 3.1.8. The following activities may be allowed:
 - a) The commercial activity involved is merely incidental to a larger scheduled event of a recognized student organization and is provided under contract with the recognized student organization merely for the convenience of those attending the event (e.g., food sales at a philanthropic event). The food sales, however, cannot conflict with other university policies, including paragraph 2.3 above.
 - b) The sale by the recognized student organization of goods or services of the commercial entity is conducted in the name of the recognized student organization without promotion of the name of the commercial entity or trade names of the commercial entity’s goods or services. Such fundraising shall not

be used to evade the restrictions of this policy which would otherwise be applicable to a commercial firm.

- c) Sales arranged for by the University and approved in a contract signed by an authorized University signatory as discussed in paragraph 9.2.1.

5.1.9. Approval will not be given when proposed sales or programs will compete with other University programs or contracts.

6. ALL ACTIVITIES PERMITTED DURING LIMITED PERIOD.

6.1. Non-affiliated persons or groups may engage in distribution, solicitation, fund raising, sales or commercial activity, including the use of tables, booths or other apparatus between 7:00 a.m. and 11:00 p.m. in an area designated by the University for such purpose during the seven (7) calendar days preceding the fall and spring semesters and first summer session, as well as the first day of the fall and spring semesters and first summer session. The space during that period is on a first-come, first-served basis by registering with the Student Center Campus Reservationist at any time during the eight (8) week period preceding the desired use.

6.2. The University may impose restrictions and rental fees in a content-neutral manner.

7. LIMITATIONS ON ACTIVITIES INSIDE BUILDINGS.

7.1. No door-to-door distribution, solicitation, fund raising, sales, commercial activity or door-to-door visits for any other purpose are permitted within offices, residence halls, or family housing apartments.

7.1.1. Occupants of offices, residence hall rooms, and family apartments may invite a person to the occupant's office, residence hall room, or apartment for distribution, solicitation, fund raising, sales or other commercial activity within the privacy of the occupant's office, residence hall room or apartment, provided however, that there is no distraction or other interference with an employee's performance of job duties where applicable.

7.1.2. Other distribution, solicitation, fund raising, sales and commercial activity in family housing common facilities are subject to the rules and limitations set forth by Housing and Residence Life.

7.2. Sales of merchandise for profit by a non-affiliated person or group connected to a performance or special event must be under a contract reviewed and/or drafted by the Director of Contracts and approved by the Vice President for Business Affairs and Treasurer or their designee. Sales of merchandise for profit by a recognized student group for the purpose of raising funds for their treasury in conjunction with a non-affiliated person or group may be approved on a limited basis by the Vice President for Business Affairs and Treasurer and the Vice President for Student Affairs and Dean of Students. No goods or services may be made available for sale if similar goods or services are available for sale on University property by the University or persons under contract with the University. Such sales customarily are restricted to the following locations:

7.2.1. Emens Auditorium

7.2.2. John E. Worthen Arena

7.2.3. L.A. Pittenger Student Center

7.2.4. Pruis Hall

7.2.5. Scheumann Stadium

7.2.6. Sursa Hall

7.3. For the purpose of promoting an educational entrepreneurial experience, enrolled full-time students in good standing may conduct activities that constitute commercial activity upon prior written approval by the Vice President for Student Affairs and Dean of Students and the Vice President for Business Affairs and Treasurer, or their designee, through an approval process that will consider but is not limited to the following:

7.3.1. The proposed activity is not in violation of local, state or federal law;

7.3.2. The activity will not disrupt the University's educational atmosphere;

7.3.3. The activity does not conflict with this or other University policies;

7.3.4. The activity will not unreasonably impact other university revenue streams or violate existing contracts;

7.3.5. The activity does not involve significant risks and, if necessary, appropriate insurance has been obtained;

7.3.6. A permit shall be issued and displayed as directed by Facilities Planning and Management on any campus property occupied by the business;

7.3.7. The business cannot be operated from residence hall rooms unless an exception is granted, in writing, from the Office of Housing and Residence Life;

7.4. A signed contract is required prior to any commercial activity being conducted on campus. See paragraph 9.2 below. The contract will be obtained through the approval process that originates in the Office of Student Life.

7.5. Except as may otherwise be provided by this policy, no other commercial, sales or solicitation activity is permitted in any University building.

7.6. Except as may otherwise be provided by this policy, no distribution, commercial, sales or solicitation activity is permitted on the University's Communication Center (or any subsequent university-wide electronic communication platform) with the exception of "For Sale/Lease" and similar open publishing categories in the Communications Center which are intended for use of a personal nature.

8. PROHIBITION ON FRONTING ACTIVITIES.

8.1. Any University-affiliated person, department or student organization that reserves or permits the use of University property or services by a non-affiliated person or group under the guise that the activity is a University-sponsored program or event is participating in fronting for the non-affiliated person or group, which is prohibited.

8.2. Non-affiliated persons or groups are required to schedule use of facilities through the appropriate facility manager and pay for and use the space and any services in accordance with University policies and fee schedules.

8.3. Determination of fronting situations is made by the Vice President for Business Affairs and Treasurer or designee, in consultation with the Vice President for Student Affairs and Dean of Students or designee when student groups or organizations are involved, and may subject the parties involved to sanctions as set forth in section 11, Failure to Comply.

9. GENERAL LIMITATIONS.

- 9.1. The University has established fees for the use of its facilities and retains the right to assess such fees relative to use of specified areas of the campus. Due to the uniqueness of each facility, scheduling needs, etc., each facility will establish usage policies and charges specific to their facility and property subject to the approval of the Vice President for Business Affairs and Treasurer. The University reserves the right to reduce or waive charges where a compelling public need or interest is served, such as emergency shelter.
- 9.2. A signed contract is required prior to the use of University property by non-affiliated University persons or students for commercial activity as described paragraph 7.3. The contract must include required insurance coverage, statement of requested facilities, services and/or equipment, dates/times/locations of activities and any other information regarding special conditions or responsibilities.
 - 9.2.1. All contracts must be reviewed and/or drafted by the Contracts Office after preparation by the facility director and approved by an authorized signatory of the University (i.e., President, Vice President for Business Affairs and Treasurer or Associate Vice President for Business Affairs and Assistant Treasurer).
 - 9.2.2. Proof of liability insurance and the indemnification agreement must be filed and approved by the Office of Risk Management before any facility or property may be approved for outside use.
- 9.3. All activities must be in compliance with the *Tobacco-Free Campus Policy*.
- 9.4. For the purpose of reducing the risk of liability and maintaining quality, food safety and control, all food and beverages sold and provided on University property must be supplied by University Dining, University Catering, University contracted third-party food service provider, or as approved by the University pursuant to the *Food Safety Policy for Temporary Food Service*.
- 9.5. If approved, alcoholic beverage service must be provided by University Catering pursuant to the *Procedure for Scheduling Alcohol Related Events*.
- 9.6. Amplified sound and/or music are prohibited unless the event is sponsored by the President or Executive Cabinet, or other university affiliated event that is approved in writing and in advance by the Vice President for Business Affairs and Treasurer or designee. The Vice President for Student Affairs and Dean of Students, or designee, may approve amplified sound and/or music for student organization events.
- 9.7. No alterations may be made to University property unless otherwise authorized by the Vice President for Business Affairs or designee.
- 9.8. The University reserves the right to substitute an alternative space for any facility reserved if deemed necessary to conduct official University business or special programs or if it is in the best interest of the University to take such action.
- 9.9. In circumstances due to factors beyond the control of the University, the University may cancel a previously scheduled event without penalty unless otherwise specified in a written contract. If an event is canceled, the Campus Reservationist will contact the primary contact to discuss the cancellation and opportunities for rescheduling.
- 9.10. Permission for any activity covered by this policy may be denied or revoked if the proposed activity would:
 - 9.10.1. Interfere with the free flow of traffic on the campus or block an exit or entrance to a building;

- 9.10.2. Be a danger to the safety or welfare of persons or property;
- 9.10.3. Conflict with other previously scheduled programs or University activities, such as instruction, research, or administration;
- 9.10.4. Be unlawful; or
- 9.10.5. Be impermissible pursuant to other University policies.

10. RESTRICTING ACCESS TO UNIVERSITY PROPERTY.

- 10.1. The University may prohibit, limit or otherwise restrict access to or use of its buildings, facilities, or other property as may be necessary to provide for the orderly conduct of the University's instructional, research, administrative and service activities and the safety and security of University property, students, employees, guests and other visitors.
- 10.2. A university police officer or any university official designated by the university police, may restrict or deny any person's access to the building or a portion thereof, if the person engages (or threatens to engage) in conduct which:
 - 10.2.1. Interferes with the orderly operation of University programs, building or other facilities;
 - 10.2.2. Violates the University's regulations pertaining to use of facilities;
 - 10.2.3. Creates reasonable apprehension of harm or injury to persons or property;
 - 10.2.4. Is proscribed by law.
- 10.3. The President, a university police officer or any university official designated by them, may restrict or deny any person's access to the entire University property if the person engages in conduct outlined above.

11. FAILURE TO COMPLY.

- 11.1. Failure to comply with this policy or the policies described may result in:
 - 11.1.1. Assessment of costs for expenses or damages incurred by the University;
 - 11.1.2. Suspension or revocation of scheduling privileges;
 - 11.1.3. Placing a recognized student organization on probation or withdrawing recognition;
 - 11.1.4. Disciplinary action under the appropriate University policies for students and employees.

12. INTERPRETATION AND APPEALS.

- 12.1. Any questions concerning the interpretation or application of this policy shall be submitted to the Vice President for Business Affairs and Treasurer's designee for resolution. The question shall be submitted in writing by the person affected and must set forth all facts and arguments which the person believes to be relevant to the resolution of the question. The Vice President for Business Affairs and Treasurer's designee may conduct such investigation of the circumstances involved as deemed desirable and shall render a decision in writing. Any person who is informed that the person's conduct is in violation of this policy shall immediately cease the conduct involved. An appeal may be taken from the decision made under this paragraph.
- 12.2. Written notice of appeal from the denial or limitation of the use of University property must be received in writing in the office of the appropriate Vice President within ten (10)

days of the receipt of the notice of the denial or limitation. Failure to file a timely notice of appeal may be waived by the Vice President upon a showing of good cause.

12.2.1. Appeals by students, student groups or recognized student organizations must be made to the Vice President for Student Affairs and Dean of Students or designee.

12.2.2. All other appeals must be made to the Vice President for Business Affairs and Treasurer.

12.3. The notice of appeal must include the name and address of the person making the appeal or the authorized representative of the person responsible for the appeal, and the nature of the action being appealed.

12.4. The Vice President or designee shall review the appeal, which shall consist of an examination of: (1) the request for use of University property; (2) the written denial or limitation of the request; (3) the written notice of appeal; and (4) any other evidence deemed relevant by the Vice President. The decision of the Vice President or designee shall be based on whether good cause existed for the limitation or denial of the use request, which decision shall be final.

12.5. Any event related to an appeal shall not be held pending a decision on appeal.

13. AMENDMENT. This policy may be amended, added to, or revoked, in whole or in part, by the President of the University as the President from time to time may deem to be appropriate. Any such amendment, addition, or revocation, shall be effective as determined by the President and does not require approval by the Board of Trustees unless the action is inconsistent with any then existing policy of the Board of Trustees.

14. DISCLAIMER. In making its facilities available for use under this policy to non-University affiliated persons and groups, the University assumes no obligation or responsibility for the activities of the person or group. Further, the University reminds all users to be aware of and comply with applicable laws, including those concerning safety, libel, slander, defamation, and obscenity.