

Code of Student Rights and Responsibilities
2022-2023 [Interim]



**BALL STATE
UNIVERSITY**

Published by
Office of Student Conduct
conduct@bsu.edu
bsu.edu/studentconduct
(755) 285-5036
L. A. Pittenger Student Center SC L-4

Table of Contents

INTRODUCTION	4
The Beneficence Pledge.....	4
I. STATEMENT ON RIGHTS AND RESPONSIBILITIES.....	5
1.1 Statement on Rights and Responsibilities (Board of Trustees, January 31, 2020)	5
II. TERMS and DEFINITIONS.....	7
III. GENERAL ADMINISTRATION OF THE CODE	9
3.1 Authority	9
3.2 Jurisdiction	9
3.3 Other Proceedings	9
3.4 Application	9
3.5 Violations of the Law	10
3.6 Interpretation	10
3.7 Amendments and Review.....	10
3.8 Notice	11
IV. PROHIBITED CONDUCT	12
4.1 Offenses against Persons.....	12
4.1.1 Harassment.....	12
4.1.2 Hazing	12
4.1.3 Harm, Threat, or Endangerment	12
4.1.4 Privacy Violation	12
4.1.5 Sexual Misconduct.....	13
4.1.6 Stalking	13
4.2 Offenses Related to the Operation of the University	13
4.2.1 Academic Misconduct	13
4.2.2 Aiding and Abetting.....	13
4.2.3 Misuse of Computer and Technology Resources	13
4.2.4 Disorderly Conduct.....	13
4.2.5 Failure to Comply	13
4.2.6 False Information	14
4.2.7 Fraudulent Use	14
4.2.8 Obstruction or Disruption	14
4.2.9 Housing and Residence Life Policy Violations	14
4.2.10 Solicitation	14

Ball State Code of Student Rights and Responsibilities 2022-2023 [Interim]

4.2.11	Violation of the Law	14
4.2.12	Other Policy Violations.....	14
4.3	Violations That Compromise the Health/Safety/Welfare of the Student or Others	14
4.3.1	Alcohol.....	14
4.3.2	Fire Safety	15
4.3.3	Drugs.....	15
4.3.4	False Reporting	15
4.3.5	Gambling.....	15
4.3.6	Smoking and Tobacco Use	15
4.3.7	Weapons.....	15
4.3.8	Animals	15
4.4	Offenses against Property.....	15
4.4.1	Misuse of Property	15
4.4.2	Theft.....	15
4.4.3	Vandalism	16
4.5	Offenses Involving the Conduct Process	16
4.5.1	Improper Influence.....	16
4.5.2	Intimidation of Participants.....	16
4.5.3	Providing False Testimony	16
4.5.4	Sanction Noncompliance	16
4.5.5	Interference with a Reprimand or Sanction	16
V.	CONDUCT PROCEDURES	17
5.1	General Procedures	17
5.2	Housing and Residence Life Conduct Procedures	19
5.3	Recreation Services Conduct Procedures.....	19
5.4	Academic Ethics Conduct Procedures	19
5.5	Student Organizations Conduct Procedures	20
5.6	Office of Student Conduct Procedures (OSC)	24
5.7	Sanctions	30
5.8	Supportive Measures and Interim Suspension	32

BALL STATE CODE OF STUDENT RIGHTS AND RESPONSIBILITIES 2020-2021

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. Entrance into the University students with many rights, privileges, and opportunities, but also 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. Ball State's [Beneficence Pledge](#), found below, gives a broad statement of aspirational expectations for students. The [Beneficence Pledge](#) is approved and published separately from this *Code of Student Rights and Responsibilities*).

The Beneficence Pledge

Members of the Ball State University Community...

pledge to maintain high standards of scholarship and excellence

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

pledge to practice academic honesty

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

pledge to act in a socially responsible way

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

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

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

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

The *Code of Student Rights and Responsibilities* outlines behaviors expected of students at Ball State University and methods used to judge fairly student behavior according to these standards. The standards of conduct apply to students while on the campus or off campus, when attending University-sponsored events or activities, 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. Complaint resolution should use an educational framework to assist students in making informed, responsible choices regarding their behavior in this academic community.

I. STATEMENT ON RIGHTS AND RESPONSIBILITIES

1.1 Statement on Rights and Responsibilities (Board of Trustees, January 31, 2020)

- 1.1.1 Freedom of expression is enshrined in the First Amendment to the United States Constitution and Ball State University's Bill of Rights and Responsibilities. Therefore, Ball State University is committed to free and open inquiry in all matters, and our University guarantees all members of the University community—including students, faculty, staff, and visitors—the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of our University, Ball State fully respects and supports freedom of expression of all members of the University community. Our University endeavors to maintain a culture and community that will inspire our members to pursue knowledge with rigor and curiosity, to speak with care, and to work so that even the quietest or most underrepresented voices among us are heard. In the **Beneficence Pledge**, members of the Ball State community “pledge to value the intrinsic worth of every member of the community/to respect and learn from differences in people, ideas, and opinions.”
- 1.1.2 The ideas of different members of the University community will often and quite naturally conflict. It is not the proper role of our University, however, to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Our University greatly values civility, and all members of the University community share in the responsibility for maintaining a climate of mutual respect. But concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, irrespective of how offensive or disagreeable those ideas may be to some members of our community.
- 1.1.3 The freedom to debate and discuss the merits of competing ideas does not, though, mean that individuals may say whatever they wish, wherever they wish. Our University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, our University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of our University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with our University's commitment to a completely free and open discussion of ideas.
- 1.1.4 Simply put, our University's fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for our University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of our University's educational mission.

- 1.1.5 As a corollary to our University's commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus. But they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, our University has an enduring responsibility to promote a lively and fearless freedom of debate and deliberation and to protect that freedom when others attempt to restrict it.
- 1.1.6 Ball State's commitment to freedom of expression comports with our commitment to inclusive excellence, which encompasses encouraging and rewarding diversity of thought, innovation, and creativity. We define inclusiveness, one of our University's enduring values, as a commitment "to respect and embrace equity, inclusion, and diversity in people, ideas, and opinions." As members of the Ball State University community, we will provide opportunities for all to express their opinions. It is our hope that, as we engage in free expression, we will learn to be comfortable in the dissidence that opposing views can often evoke. Freedom of expression is a powerful tool for testing ideas, for learning, and for growth. We pledge to keep inclusive excellence at the highest level of institutional importance and as a foundation in all that we do.

Adapted from the Report from the Committee on Freedom of Expression at the University of Chicago, 2014.

II. TERMS and DEFINITIONS

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

- 2.1 **Business day** means any day, Monday through Friday, in which University offices are open.
- 2.2 **Conduct body** (alternatively: case manager, convening official, hearing officer, appellate administrator, hearing board, hearing panel, etc.) means any person or group of persons authorized by this *Code* to determine whether a student has violated any provision of the *Code*, to administer sanctions, to convene a hearing, or to review and respond to appeals.
- 2.3 **Members of the University community** include anyone who belongs to any of the following groups: students, faculty, professional personnel, staff personnel, service personnel, and visitors.
- 2.4 **Preponderance of Evidence** is the standard of evidence to determine if a violation of this Code has occurred. This standard of proof means people in decision-making roles must be convinced by the totality of the available, relevant evidence presented that the alleged conduct has more likely than not (greater than 50 percent likely) occurred in order for there to be a violation of this policy.
- 2.5 **School day** means Monday, Tuesday, Wednesday, Thursday, or Friday. It does not include Saturday or Sunday, nor does it include any day on which there are no scheduled University classes.
- 2.6 **Student** is defined as:
 - a. Any person admitted to the University who is registered (used interchangeably with ‘enrolled’) in classes, either full-time or part-time.
 - b. Persons who have been enrolled at the University, and have not withdrawn, are students even when they are not enrolled for a particular semester if a University official determines they have a continuing relationship with the University. A “continuing relationship” may include, but is not necessarily limited to, a student enrolled in a previous semester and registered or otherwise indicating intent to register for a future period of enrollment.
 - c. Persons accepted for admission who have indicated intent to attend in a future period of enrollment.
 - d. Persons who, before their first attendance, participate in activities intended only for those who will be students (e.g., orientation, leadership, band, athletic training and practices, etc.).
 - e. Any person who graduates or withdraws after allegedly violating the *Code of Students Rights and Responsibilities*, until the case has been resolved under the *Code*.
- 2.7 **Student Organization** means any student group, including fraternities and sororities, granted official recognition by the University after meeting established criteria for such

recognition.

- 2.8 **University** means Ball State University.
- 2.9 **University-sponsored event or activity** means all the operations of the University, including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the University. It also includes off-campus locations, events, or circumstances over which the University exercises substantial control over students, including any building owned or controlled by a student organization that is officially recognized by the University.
- 2.10 **University official** means any employee of the University performing administrative, professional, or staff responsibilities.
- 2.11 **University property** means property owned, controlled, used, or occupied by the University.
- 2.12 **Written notice** is defined as a notice deemed to be effective on the first business day after the date such notice is mailed by the University, or immediately when the notice is hand delivered, delivered to a residence hall mailbox, delivered to a student's University email in-box, or forwarded to an alternative email address as directed by the student's University email.

III. GENERAL ADMINISTRATION OF THE CODE

3.1 Authority The Board of Trustees of Ball State University is empowered by Indiana law (IC 21-39-2) to regulate the conduct of students. The Board of Trustees, has delegated this authority to the president and to the vice president for Student Affairs, who in turn have further delegated to other personnel the authority to implement and apply the sections Prohibited Conduct and Conduct Procedures as set forth in this *Code of Student Rights and Responsibilities (Code)*. Whenever an action is permitted or required to be taken under this *Code* by a University official or other employee, the action may be taken by that official or employee's designee.

3.2 Jurisdiction This *Code*, as well as other generally-applicable University policies that may govern student conduct, apply to students and student organizations (and thus may result in disciplinary actions) in the following situations:

- a. When the conduct occurs within the physical boundaries of Ball State University
- b. When the conduct otherwise occurs on or affects University property;
- c. When the conduct affects people on University property;
- d. When the student is in attendance at or otherwise participating in a University-sponsored event or activity (regardless of location including virtual or online environments); or
- e. When a University official determines that off campus conduct involves the interests of the University. Such interests may include, but are not limited to:
 - 1) Conduct that causes or threatens harm to the health or safety to the person or causes damage or destruction to the property of a member of the University community;
 - 2) Conduct involving serious crimes including all crimes of violence, felonies, and the sale or distribution of illegal drugs or controlled substances, or if a police report has been filed, if a summons or indictment has been issued, or if an arrest has occurred; or
 - 3) 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.

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

3.4 Application This *Code*, as from time to time amended, shall apply to all undergraduate and graduate students of Ball State University at any campus location including online

and shall be deemed a part of the terms and conditions of admission and enrollment of all students. These policies and procedures shall apply to a student's conduct even if the student withdraws from the University while a conduct matter is pending. A student's diploma and final transcript may be withheld while a conduct matter is pending.

- 3.5 Violations of the Law** Students charged with or convicted of a violation of federal, state or local law (see [Requirement to Disclose Felony Conviction or Charge after Admission](#)) to the University) may be subject to University sanctions for the same conduct, in accordance with established policies and procedures, when the conduct is in violation of a University rule which is important to the continuing protection of other members of the University or to the safeguarding of the educational process. At the discretion of University officials, conduct action under this *Code* may proceed in advance of or during the pendency of criminal proceedings. Determinations made or sanctions imposed under this *Code* 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.
- 3.6 Interpretation** Any question of interpretation or application of the *Code* shall be referred to the vice president for Student Affairs, or a designee, for final determination.
- 3.7 Amendments and Review** Amendments may be proposed by the Ball State Student Government Association, University Senate, administrative personnel, or by the Board of Trustees. In addition, the *Code* shall be reviewed at least every two years under the direction of the dean of students or other University official designated by the vice president for Student Affairs.
- a. Changes required to correct typographical errors, reflect changes in organizational structure and position titles, and improve clarity but not change substance of text may be made by the dean of students, or a designee, in consultation with the vice president for Student Affairs.
 - b. Changes deemed more substantial by the vice president of Student Affairs, or a designee, will be reviewed as required through the University's policy approval process.
 - c. Changes required to be in compliance with new or revised federal, state, or local laws, regulations, ordinances, or directives may be made by the Vice President of Student Affairs in consultation with the Vice President and General Counsel.
 - d. The *Code* was last reviewed and amended in 2022 on an interim basis. A summary of amendments made at that time is below:
 - i. **5.6.2 Administrative Hearing** was amended to allow case managers to serve as hearing officer in cases in which respondents have not responded to requests for meetings, to choose adjudication option, and the violation(s) are minor and not subject to suspension or expulsion.

- ii. **5.6.5 Procedures for Conduct Hearings** was amended to clarify that both rescheduled administrative and URB hearings require a minimum three-day notice of the new hearing's date, time, and location.
- 3.8 Notice** A notice of the *Code* will be sent at the beginning of each semester to the University community.

IV. PROHIBITED CONDUCT

This section outlines types of student conduct prohibited by the University. Any student found to have committed or to have attempted to commit one or more of these offenses, or to have engaged in other conduct that does not align with University standards or otherwise violates University policies not explicitly set out in this Code, is subject to the sanctions outlined in a later section.

4.1 Offenses against Persons

4.1.1 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-sponsored event or activity; (b) unreasonably interfering with a person's educational environment, living environment, work environment, or environment for participation in a University-sponsored event or activity; or (c) unreasonably affecting a person's educational or work opportunities or participation in a University-sponsored event or activity.

4.1.2 Hazing: A violation of the [Hazing Policy](#). This includes but is not limited to 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 and/or welfare, or which is personally degrading to the individual person 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.

4.1.3 Harm, Threat, or Endangerment: Conduct that causes or threatens physical harm to any person is prohibited, as is any reckless or unauthorized conduct that threatens, endangers, or reasonably could threaten or endanger the health or safety of any person. Conduct covered under this rule also includes but is not limited to fighting, physical assault, intimidation, coercion, or impairment of any person's freedom of movement as well as verbal or written threats of any action described above. This prohibition includes consideration of how a reasonable person similarly situated would perceive harm, threat, or endangerment.

4.1.4 Privacy Violation: Use of any devices (e.g., audio, video, or photographic) to make an image or recording of another person

- a. without that person's prior knowledge, or without that person's effective consent,
- b. when such image or recording is likely to cause injury or distress as determined by a reasonable person, and
- c. when there is a reasonable expectation of privacy.

This includes, but is not limited to, surreptitiously taking audio recordings, video recordings, or other images/pictures of another person in a private area such as a

residence hall room, a public or private restroom, or a dressing/locker room. [Note: A video or audio recording of a person outside, in a classroom, or in building hallway—even without consent—is unlikely to be a privacy violation but may constitute another violation depending on the circumstances.]

4.1.5 Sexual Misconduct: A violation of the [Title IX Policy](#) or the [Sexual Harassment and Misconduct Policy](#). This includes but is not limited to sexual assault which is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. This includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape as defined in the policies indicated above.

4.1.6 Stalking: Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others or (B) suffer substantial emotional distress. Such actions could be either implicit or explicit threats against a specific person; an acquaintance, friend, family member, or pet of that person; or that person's property. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

4.2 Offenses Related to the Operation of the University

4.2.1 Academic Misconduct: Acts that violate the [Student Academic Ethics Policy](#), 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. Note: Alleged violations of this prohibition are subject to procedures and consequences outlined in the [Student Academic Ethics Policy](#) implemented by the [Office of the Vice Provost for Academic Affairs](#).

4.2.2 Aiding and Abetting: Knowingly, recklessly, or willfully encouraging or assisting other persons to commit acts prohibited by this *Code of Student Rights and Responsibilities*.

4.2.3 Misuse of Computer and Technology Resources: Any behavior violating policies that govern the use of the University's computer system and related equipment/technology including the [Information Technology Users' Privileges and Responsibilities Policy](#). Examples include, but are not limited to, downloading copyrighted materials such as music or movies without authorization and advertising commercial services for private financial gain.

4.2.4 Disorderly Conduct: Behavior that is disruptive, including but not limited to public indecency, urination, or nudity, noise ordinance violation, or breach of peace, to campus life/activities or the community surrounding the University.

4.2.5 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.

- 4.2.6 False Information:** Intentionally submitting false information, verbally or in writing, to a University official or office. Examples include, but are not limited to, submitting transcripts modified without authorization to Admissions, submitting falsified medical documents to a faculty member to document an absence, submitting resumes containing fake experiences to Career Services, and submitting a false ID card to a Ball State police officer.
- 4.2.7 Fraudulent Use:** Forgery, alteration, taking possession, or the unauthorized use of University documents, records, keys, or identification without the consent or authorization of appropriate University officials.
- 4.2.8 Obstruction or Disruption:** Obstructing or disrupting the teaching and/or learning process in any campus classroom, building, or meeting area, or any University-sponsored event or 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. Note: obstruction or disruption as prohibited here only occurs on campus or in relation to a University-sponsored event or activity including but not limited to field trips, athletic events, study abroad, or alumni events.
- 4.2.9 Housing and Residence Life Policy Violations:** Acts that violate residence hall rules and regulations, or the housing contract. Note: Alleged violations of this prohibition are subject to procedures outlined at [Residence Life Policies](#) (see Disciplinary Proceedings) implemented by Housing and Residence Life staff members.
- 4.2.10 Solicitation:** Acts that violate the [Commercial Activity on University Property Policy](#), including but not limited to engaging in selling, offering, purchasing, fund-raising, or similar activity on University property without appropriate authorization.
- 4.2.11 Violation of the Law:** Committing or attempting to commit any act, on or off University property, that would be a violation of local, state, or federal law when such behavior is judged by the dean of students, or a designee, to be detrimental to the University's educational process or objectives. Examples include, but are not limited to, providing a false ID to an Indiana State Excise Police officer, or violating the Muncie noise ordinance.
- 4.2.12 Other Policy Violations:** Violating any other published University policies that are not specifically referenced by this *Code*.
- 4.3 Violations That Compromise the Health/Safety/Welfare of the Student or Others**
- 4.3.1 Alcohol:** Acts that violate the [Alcohol Policy](#), including but not limited to, using, possessing, or distributing alcoholic beverages except as expressly permitted by law and University policies.

- 4.3.2 Fire Safety:** Setting or attempting to set fires, using fire/open flame without authorization, using fire/open flame in an unauthorized location, or acting in a manner that disregards fire safety rules that results or could reasonably result, in a fire. This prohibition also includes unauthorized use, activation, dismantling, deactivating, or any other unauthorized alteration of fire-fighting equipment, fire safety equipment, or other emergency equipment.
- 4.3.3 Drugs:** Acts that violate the [Drug Policy](#) including, but not limited to, Using, abusing, possessing, selling, distributing, manufacturing, or transferring narcotics, illegal drugs as defined by federal, state, or local laws, or any controlled substance (including marijuana, inhalants, and abuse of over-the-counter or prescription drugs), except as expressly permitted by law. Possession of drug paraphernalia which can be demonstrated to be linked to illegal drug activity is also a violation of this policy.
- 4.3.4 False Reporting:** Falsely reporting an emergency.
- 4.3.5 Gambling:** Risking money or other property for gain, contingent upon lot, chance, or the operation of a gambling device in violation of the law.
- 4.3.6 Smoking and Tobacco Use:** Acts that violate the [Tobacco-Free Campus Policy](#). These include, but are not limited to, smoking and the use of any other tobacco products (e.g., smokeless tobacco, electronic cigarettes, and “vapes”) on Ball State campus with limited exceptions. This also prohibits use of devices that mimic tobacco products (e.g., vaporizers or “vapes”) that create smoke or vapor regardless of content.
- 4.3.7 Weapons:** Acts that violate the University’s [Weapons Policy](#) or federal, state, or local weapons laws. These include, but are not limited to, unauthorized transferring, using, possessing, or manufacturing explosives, fireworks, firearms, dangerous chemicals, or any other weapons (intended for and deemed capable of causing bodily injury or property damage).
- 4.3.8 Animals:** Acts that violate the University’s [Pet Policy](#), city ordinance, and state law including, but not limited to, unauthorized pets or animals in university buildings and housing facilities and animals on university grounds that are not appropriate leashed and accompanied by their owners.
- 4.4 Offenses against Property**
- 4.4.1 Misuse of Property:** Trespassing on, occupancy of, unauthorized entry into, possession of, receipt of, or use of the property of another person, of the University, or of University services, facilities, or resources including, but not limited to, the University’s name, seal, or insignia. This includes unauthorized use of wheeled vehicles (e.g., skateboards, “hoverboards,” bicycles, etc.) inside of any building.
- 4.4.2 Theft:** Attempted or actual theft, unauthorized use, or unauthorized possession of public property, University property, or personal property.

4.4.3 Vandalism: Attempted or actual vandalism of, damage to, or destruction of public property, University property, or personal property.

4.5 Offenses Involving the Conduct Process

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

4.5.2 Intimidation of Participants: Intimidating, coercing, influencing, or attempting to intimidate, coerce, or influence a witness, complainant, or other persons participating in the conduct process.

4.5.3 Providing False Testimony: Providing false testimony or false information in the conduct process, or knowingly making unfounded accusations against another individual.

4.5.4 Sanction Noncompliance: Failing to complete or to comply with a sanction imposed by the University.

4.5.5 Interference with a Reprimand or Sanction: Obstructing or interfering with the reprimand, or sanction of another person who is involved in a violation of this *Code* or any other University rule or regulation.

V. CONDUCT PROCEDURES

5.1 General Procedures

5.1.1 Reporting an incident or filing a complaint: Any person (student, employee of the University, or other person) who believes a student or student organization may have committed a violation of the *Code of Student Rights and Responsibilities (Code)*, Section IV, may file a report with one of the following offices or personnel:

- a. [Office of Student Conduct \(OSC\) \(Report an Incident\)](#);
- b. [Office of Housing and Residence Life](#) or with the residence hall staff members where a student lives or where the violation occurred;
- c. [Office of Recreation Services](#);
- d. [Office of Student Life \(includes Fraternity and Sorority Life\)](#);
- e. [Office of the Associate Dean of Students/Title IX Coordinator](#) (particularly sexual harassment and sexual misconduct);
- f. [Office of the Vice Provost for Academic Affairs](#) (grade appeals, academic ethics policy violations);
- g. [Multicultural Center](#) (*see bias incident reports*);
- h. [Office of the Dean of Students](#); or
- i. [University Police Department](#) (reports of crimes).

5.1.2 Types of adjudication: Adjudication processes (formal means to resolve complaints) 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). The proceeding sections of this *Code* outline or refer to procedures in administrative areas most likely to adjudicate complaints. Other offices may be designated by the dean of students to act on behalf of the University, in conjunction with the Office of Student Conduct.

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 their concerns addressed by faculty members or other administrators. When the offense is of a more serious nature and may warrant consideration of suspension or expulsion from the University, the case will be referred to the Office of the Dean of Students, or a designated office.

5.1.3 Persons with Disabilities

- a. Accommodations in conduct procedures for persons with disabilities may be requested and will be assessed on an individualized basis.

- b. Students may seek assistance from the Office of Disability Services (755-285-5293 or dsd@bsu.edu) in making this request.

5.1.4 Good Neighbor Exception: Students are always encouraged and expected to call for emergency assistance as needed, even at the risk of disciplinary action for their 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 conduct action regarding drug or alcohol policy violations if a student risked revealing their own violation in order to seek medical or other emergency assistance for another person. The Good Neighbor Exception typically applies only to students committing minor offenses. Whether to apply the Good Neighbor exception shall be the judgment of the designated University official. The University exercising this exception does not preclude criminal prosecution by a law enforcement agency.

5.1.5 Common Rights and Procedures

The rights and procedures below describe certain issues common to all procedures designed to resolve complaints against students for violations of any policy noted in this Code, whatever office resolves the complaint.

- a. Procedures will be structured to meet the fundamental requirements of fairness (e.g., right to written notice of charge in advance, right to a hearing, right to examine evidence, right to prepare defense, right to appeal, and right to an advisor of the student's choice but not representation by counsel or other advisor).
- b. Decisions in all proceedings and hearings shall be based on a preponderance of the evidence.
- c. Charges of minor infractions (those infractions not warranting suspension or expulsion and not repeated) of the *Code* and other University policies, for which a student is sanctioned, may be handled efficiently by the appropriate individual or committee in the respective administrative area or OSC. Students sanctioned in this manner have the right to appeal either to the next higher level of administration or to an established appeals committee.
- d. In cases involving charges of infractions of the *Code* and other University policies that may result in suspension or expulsion from the University, students have the right to formal procedures which include the right of appeal. Any student sanctioned 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.
- e. Formal rules of process, procedure, technical rules of evidence, and terms like "guilt," "innocence," and "burden of proof," such as are applied in criminal or civil court, are not used in *Code* proceedings. Investigations and hearings may take place in person

or virtually (e.g., telephone, tele-conference) as determined by the office administering the procedure.

- f. From the time a complaint is made, a respondent is presumed not responsible for the alleged misconduct until a determination regarding responsibility is made final.
- g. Students accused of a policy violation have the following rights:
 - i. to obtain copies of all specific policies of the University (e.g., routine administrative policies, *Faculty and Professional Personnel Handbook*, etc.)
 - ii. to have the complaint reviewed by a neutral party;
 - iii. to receive a written notice of charged violations;
 - iv. to know in advance the range of penalties for violations of campus regulations
 - v. to accept responsibility for a violation and seek an informal resolution in lieu of a hearing;
 - vi. to receive a written notice of hearing (including date, time, and place of the hearing);
 - vii. to have a hearing convened by a neutral party; and
 - viii. to appeal imposed sanctions and a hearing officer's/board's decision regarding responsibility based on stated criteria.

5.2 Housing and Residence Life Conduct Procedures

When an alleged violation occurs within or adjacent to facilities of Housing and Residence Life or in the context of programs sponsored by that office, the conduct procedures found in Housing and Residence Life [Disciplinary Proceedings](#) will apply. Housing and Residence Life will on occasion refer incidents for review and possible adjudication by the Office of Student Conduct.

5.3 Recreation Services Conduct Procedures

When an alleged violation occurs within or adjacent to the facilities of the Office of Recreation Services or in the context of programs sponsored by that office, the [conduct procedures found at Recreation Services](#) will apply. Recreation Services will on occasion refer incidents for review and possible adjudication by the Office of Student Conduct.

5.4 Academic Ethics Conduct Procedures

When an alleged violation of the Academic Ethics policy occurs, the policy and conduct procedures found at the Office of the Vice Provost for Academic Affairs [Academic Integrity web page](#) will apply. The Office of the Vice Provost for Academic Affairs will on occasion refer incidents for review and possible adjudication by the Office of Student

Conduct as outlined in that policy.

5.5 Student Organizations Conduct Procedures

5.5.1 Complaints against Student Organizations

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* or published policies and, when appropriate, be subjected to disciplinary action. When a student organization is accused of committing a violation of University policy, or local, state, or federal laws, a complaint may be filed **online** or in person with the Office of Student Conduct and Student Life. Upon receipt of such a complaint, the director of student conduct will designate one or more staff members (case managers) to conduct an investigation and determine if additional action is warranted (e.g., a hearing) regarding the complaint. “Cease and desist” instructions also may be issued at this time.

- a. The case manager will request in writing a meeting with the student organization president to provide notice that a review has begun, review procedures and the general nature of the complaint, and seek additional information about the reported incident and the student organization’s alleged role.
- b. The case manager may at any time during the review dismiss the complaint in writing. The case manager also may charge the student organization with violations, provide a rationale for doing so, and propose appropriate sanctions based on the nature and severity of the violation(s), the student organization’s prior conduct, and consistency with past sanctions imposed on similarly situated organizations. This “charge notice” will be in writing but may be preceded by an informal, verbal notice.
- c. The student organization may respond to the charges by accepting responsibility for the alleged policy violations or contesting the charges. If the student organization accepts responsibility for the policy violations, it may still appeal the proposed sanctions. If the student organization contests the charges, the complaint will be referred to a formal hearing for resolution.
- d. When the accused organization is a fraternity or sorority, the director of student life, or a designee, may choose to refer the contested, charged violations to the appropriate Fraternity and Sorority Life (FSL) governing board [(Interfraternity Council (IFC), Panhellenic Council (PHC), or National Pan-Hellenic Council (NPHC)] for a formal hearing using its procedures.
- e. Alleged violations by individuals will be referred to the Office of Student Conduct.
- f. If a student organization, including fraternities and sororities, is accused of a severe policy or risk management violation (including but not limited to hazing, fighting, other physical violence, sexual misconduct, or egregious violation involving alcohol or illegal drugs) or has a history of severe policy or risk management violations, the

director of student life, or a designee, may refer the contested, charged violations for a formal hearing through a venue determined by the director of student life. For example, sexual misconduct may be resolved through a separate process described in the Sexual Harassment and Misconduct Policy (Sexual Misconduct Board).

- g. Other cases may be referred to the Student Organization Hearing Board for adjudication.

5.5.2 Adjudication Procedures

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

- a. *Selection of the Student Organization Hearing Board (Board) or Hearing Officer.* The Board will consist of five (5) members, three (3) to be selected from the Judicial Court of the Student Government Association (SGA), one (1) member being a current faculty or staff advisor of a recognized student organization, and one (1) Student Affairs professional staff member selected in consultation with the director of student life, or a designee. A chairperson will be selected from within the committee. The director of student life, or a designee, will serve as an advisor and ex-officio (non-voting) member to the Board and be responsible for providing appropriate procedural and administrative support. In cases noted in 5.5.1.e above, the director of student life, or a designee, may also appoint a staff member to serve as an administrative hearing officer who is the sole decision-maker. The hearing board or hearing officer will determine if a student organization is in violation based on information provided at the hearing and will determine sanctions as appropriate.
- b. *Quorum.* Four (4) of the five (5) voting members of the Board must be present to constitute a quorum. A single administrative hearing officer constitutes a quorum.
- c. *Written Notice of Hearing.* The president or highest-ranking officer of the student organization shall be notified in writing by the director of student life, or a designee, of the date, time, and place of the hearing at least three (3) business days before the hearing. The written 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, and the case manager may invite witnesses who have information relevant to the accusation to present testimony at the hearing; however, the chairperson of the Board or hearing officer may limit the number of witnesses to avoid repetition and cumulative testimony. Testimony of character witnesses may be provided in writing for

consideration only during to the sanctioning phase of the hearing. The names of witnesses and written disclosure of the main points of their testimony must be provided to the convening official a minimum of one (1) business day before the hearing. The accused organization and the case manager shall be responsible for ensuring the presence of their witnesses at the hearing. Witnesses invited shall be present only while they are testifying.

- f. *Advisor.* The officer of the student organization may be accompanied and assisted at the hearing by an advisor of the student organization's choice. The student organization must provide the name of the advisor to the convening official at least twenty-four (24) hours before the hearing. At no time may the advisor or attorney participate directly in the hearing proceedings. The advisor may only consult with the student representing the organization.
- g. *Recusal and Challenges.* Any Board member or hearing officer may disqualify themselves if they have a conflict of interest with the case, with the accused student organization, with the complainant, or when a personal bias makes it impossible to render a fair decision. The accused student organization or the complainant may challenge a Board member or hearing officer 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 or by the director of student life, or a designee, in the case of a hearing officer. If a challenge is upheld, the chairperson or dean of students may, at their discretion, either appoint another person to fill the vacancy or direct that the vacancy not be filled. In the latter case, a quorum shall thereafter consist of the remaining members of the 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 Board or hearing officer with a complete understanding of the facts involved. Irrelevant, immaterial, and unduly repetitious evidence may be excluded. The hearing and the deliberations of the Board or hearing officer shall be private. The convening official or hearing officer shall make a record of the hearing which may be reviewed 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 Board, by majority vote, or hearing officer may continue the hearing to a later time.
- j. *Additional Rules.* Procedural rules not inconsistent with these procedures may be established by the Board or hearing officer from time to time to fulfill its functions in an orderly manner.

5.5.3 Decisions

The decision of the Board or hearing officer shall be submitted as a determination of responsible

or not responsible for each charged, contested violation (non-binding comments regarding sanctions may also be submitted) to the director of student life, or a designee, who may then do one of the following:

- a. Accept the determination and direct that the sanctions recommended by the case manager be implemented if the determination is “responsible”;
- b. Accept the determination and lessen or otherwise modify the sanctions recommended by the case manager if the determination is “responsible.”

5.5.4 Appeal Process

- a. 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 Board may be appealed to the dean of students, or a 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 procedural or substantive error occurred that significantly affected the outcome of the hearing, such as substantiated bias or material deviation from established procedures.
 - 2) An unduly harsh sanction was imposed against the student organization.
 - 3) New information of a substantive nature sufficient to affect the outcome became available, and such information and/or facts were not known to the student organization appealing or its individual members at the time of the original hearing.
- f. An appeal may be resolved in one of the following ways:
 - 1) The original decision may be upheld;
 - 2) Modified, lesser sanctions, may be imposed;
 - 3) The case may be remanded back for a new hearing on the original charges violations to a Board reconstituted with new members or a new hearing officer.

- 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.

5.6 Office of Student Conduct Procedures (OSC)

A flowchart depicting the procedures outlined below can be found at www.bsu.edu/studentcode. See link to **Conduct Process** in the second paragraph.

5.6.1 Preliminary Meeting

When a potential conduct matter is referred to the Office of Student Conduct (OSC), or OSC is otherwise made aware of such an incident, the designated staff member handling the matter (“case manager”) will review the information provided, check to ensure OSC has jurisdiction over the situation, and gather more information as necessary. If deemed appropriate under the circumstances, the case manager will then contact the student for a preliminary meeting.

The preliminary meeting is an initial meeting with a designated OSC staff member (“case manager”). During this meeting, the student is made aware of University conduct procedures, the nature of the complaint and alleged violations, and the range of sanctions possible for that type of offense. The student is also given an opportunity to respond to the complaint. Based on the information available, the director of Student Conduct, or a designee, may:

- a. dismiss some or all of the alleged violations;
- b. continue an investigation into the complaint to determine if the allegations have merit;
- c. refer the complaint to an alternative resolution process with the mutual consent of the parties involved and if such referral is acceptable to the director of Student Conduct, or a designee. As an example, a student may make a complaint about an off-campus roommate taking common property without authorization (theft) If there is a successful resolution of the matter via this alternative resolution process, the complaint will be dismissed by OSC. If successful resolution cannot be reached, the OSC conduct procedures outlined in 5.6 may proceed.”
- d. charge the student with one or more violations of the *Code of Student Rights and Responsibilities*, inform the student of recommended sanctions, and request the student choose from the options in adjudicating the complaint. If charged by the case manager with a violation(s) of the *Code*, the student is also informed of their options in adjudicating the violation(s), including one of the following:
 - i. To accept responsibility (a.k.a., “plead responsible”) for the violation, request an informal resolution in lieu of a hearing, and have the sanctions determined by the case manager. As part of an informal resolution, the director of Student Conduct, or a designee, may impose sanctions up to and including suspension and expulsion from the University but not revocation of degree.

- ii. To assert “not responsible” for the violation and request a hearing (a.k.a., “contest charged violations”). In the case of minor offenses, the case manager will refer the case to an administrative hearing for resolution. Cases that are complicated in nature and scope, or where the violations may result in suspension or expulsion, are referred to the University Review Board.

5.6.2 Administrative Hearing

The case is heard before a designated hearing officer who is the sole decision-maker and will determine if a student is in violation based on information provided and will determine sanctions up to but not including suspension or expulsion. Administrative hearings will be conducted consistent with the procedures outlined in Section 5.6.4 below with the following exception:

5.6.2.a The case manager may serve as the administrative hearing officer in cases in which (a) the student has not responded to requests to meet, (b) has not submitted a response to requests for choosing an adjudication option, and (c) the alleged violation(s) are minor and not subject to suspension or expulsion from the University.

5.6.3 University Review Board (URB)¹

- a. *Purpose.* The URB hears conduct cases referred to it by the director of Student Conduct, or a designee. Cases heard by the (URB) typically involve behavior that warrants suspension or expulsion. The URB is composed of students, faculty members, and/or professional employees.
- b. *Student Membership.* The student membership will include the vice president of the [Student Government Association](#), the secretary of justice, and students appointed by the SGA. Students are typically recruited and selected in conjunction with the OSC but are appointed by the SGA. Student members must participate in an initial orientation before they are eligible to serve as panelists in a hearing. Student members are appointed annually to serve on both the URB and the SGA Student Judicial Court and are expected to serve through the end of the fall semester in the year they are oriented to service. The dates of appointments, and assumption of responsibilities may vary per agreement between the SGA and the OSC. A student member may serve an unlimited number of terms. If insufficient student members have been appointed by the SGA when a hearing is required, the director of Student Conduct, or a designee, has the discretion to utilize non-appointed students in order to provide a timely process.
- c. *Faculty and Professional Staff Membership.* The faculty and professional employees shall be selected by OSC and confirmed by the [Student Government Association](#) at any of its regularly scheduled meetings. These hearing panelists are eligible to serve

¹ When URB is used in this document, it refers to the entire membership of the University Review Board. When Board is used, it refers to those members of the URB empaneled to conduct a particular hearing.

immediately after confirmation and serve for one (1) calendar year. Confirmed faculty members and professional employees may serve an unlimited number of terms.

- d. *Quorum for URB hearing.* A URB hearing must have a quorum of voting members to be convened; the quorum required depends on the sanctions under consideration:
 - i. *Cases that Warrant Consideration of Suspension or Expulsion.* To conduct a URB hearing for a student conduct case, a hearing panel composed of a minimum of three (3) members of the URB, of whom at least one (1) must be a student and two (2) must be faculty and/or professional employees, will be designated by the director of Student Conduct, or a designee.
 - ii. *Cases that do not Warrant Suspension or Expulsion.* The director of Student Conduct, or a designee, may on occasion refer cases that do not warrant suspension or expulsion to URB hearings to resolve complaints against students. However, these hearings may be composed of three (3) panelists, all of whom may be student URB members. An OSC administrator will chair the hearing but may not vote in deliberation.
- e. *Hearing Chairperson.* The hearing may be chaired by (a) an OSC staff member who shall be a non-voting member of the hearing panel or (b) a member of the hearing panel designated in advance by the OSC and who shall be a voting member of the URB.
- f. *Hearings during Summer Session and Breaks.* To ensure the functioning of the URB during the Summer semester and during breaks (when regular classes are not in session), the director of Student Conduct, or a designee, may convene a URB hearing with a minimum of three panelists chosen from the pool of the URB members who are available. Should a minimum of three panelists be unavailable from the URB pool, the director of Student Conduct, or a designee, may select unappointed or unconfirmed faculty, professional employees, or students to serve.

5.6.4 Procedures for Conduct Hearings

Procedures for disciplinary cases resolved by an administrative hearing (5.6.2) or a URB hearing (5.6.3) shall be as follows:

- a. *Written Notice of Hearing.* In cases where suspension or expulsion will not be considered, the respondent(s) shall be notified in writing by the OSC of the date, time, and place of the hearing at least three (3) business days before the hearing. In cases where suspension or expulsion is under consideration, the respondent(s) shall be notified in writing by the OSC of the date, time, and place of the hearing at least five (5) business days before the hearing. This written notice shall also include a statement of the allegations of policy violations and information about the hearing process. In cases where there are multiple respondent(s) respondents, the director of Student Conduct, or a designee, has the discretion to convene one hearing or separate hearings

for the respondents. If an administrative or URB hearing must be rescheduled, the notice shall be sent a minimum of three business days prior to the new hearing's date, time, and location.

- b. *Respondent (aka Accused Student)*. The University does not compel a respondent to attend a hearing. The respondent may choose not to attend the hearing and may instead submit a written presentation of their case. The hearing may proceed in the absence of the respondent. By such absence, a respondent forfeits their right to question witnesses.
- c. *Complainant*. In cases where a person is an alleged victim of a violent crime or non-forcible sex offense² or an act which is prohibited by the Sexual Harassment and Misconduct Policy (including but not limited to non-consensual sexual penetration, non-consensual sexual contact, domestic violence, dating violence, and stalking), that person shall be considered a complainant. A complainant may participate fully as a party in the hearing, which includes but is not limited to being present at the hearing, asking questions of other parties and witnesses, and responding to questions by the hearing panel, the respondent, and the director of student conduct, or a designee, acting as complainant on behalf of the University. As with a respondent, the University does not compel a complainant to attend a hearing. The complainant may choose not to attend the hearing and may instead submit a written presentation of their case. The hearing may proceed in the absence of the complainant. By such absence, a complainant forfeits their right to question witnesses.
- d. *Complainant on Behalf of the University*. In a hearing, the case manager who charged the respondent with violations will serve as a complainant on behalf of the University because of its interest in the behavior of students and the safety of all members of the University community. In those cases where another Complainant exists (see above – cases in which the Complainant is an alleged victim of violent crime or an act violating the Sexual Harassment and Misconduct Policy), the Complainant on Behalf of the University will provide documentation specifying charged violations and the rationale for those charges but will not otherwise attend or participate in the hearing.
- e. *Witnesses*. A respondent, complainant, and/or the director of Student Conduct, or a designee, (in their role as complainant on behalf of the University) may invite persons who have information relevant to the accusation to be witnesses and present testimony at the hearing. The hearing officer or hearing chairperson may limit the number of witnesses to avoid repetitive testimony. The names of witnesses and the main points of their testimony must be provided in writing to the OSC at least one (1) business day before the hearing. Each party shall be responsible for ensuring the

² “Violent crimes” for this purpose includes those outlined in the Family Educational Rights and Privacy Act: “The offenses that constitute a crime of violence or a non-forcible sex offense include arson, assault offenses, burglary, criminal homicide (manslaughter by negligence), criminal homicide (murder and non-negligent manslaughter), destruction/damage/vandalism of property, kidnapping/abduction, robbery, forcible sex offenses, statutory rape, and incest.” <https://studentprivacy.ed.gov/frequently-asked-questions>

physical or virtual presence of their witnesses at the hearing. Witnesses invited by any party shall be present only while they are testifying. Character witnesses may not provide testimony at a hearing but may provide written statements to be considered only if a student is found responsible. Character witness statements will be considered for sanctioning purposes only.

- f. *Advisor.* The respondent and the complainant may be accompanied and assisted at the hearing by an advisor of their choice. Students must provide the name of their advisor to the OSC at least one business day before the hearing. At no time may the advisor participate directly in the hearing proceedings. The advisor may only consult with their student(s).
- g. *Recusals and Challenges.* Board members and hearing officers may recuse themselves if they have a conflict of interest with the case, with the respondent, with the complainant, or when the Board member or hearing officer believes a personal bias makes it impossible to render a fair decision. The respondent or complainant may challenge a Board member or hearing officer on the grounds of conflict of interest or personal bias.
 - i. The decision whether to disqualify a challenged Board member shall be made by a majority vote of the remaining members present. If a challenge is upheld, the chairperson is authorized to either appoint another person to fill the vacancy or direct that the vacancy not be filled. In the latter case, a quorum shall thereafter consist of the remaining members of the Board.
 - ii. The decision whether to disqualify a challenged hearing officer shall be made by the director of the Office of Student Conduct (or the Dean of Students in a case where the director is the challenged hearing officer). The administrator making the decision will appoint a new hearing officer if upholding the challenge.
- 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 Board or hearing officer with a complete understanding of the facts involved. The chairperson or hearing officer may limit questioning deemed to be irrelevant, immaterial, and unduly repetitious. The hearing will not be open to the public. The deliberations of the Board or hearing officer shall be private. Decisions of the Board shall be made by majority vote; the hearing officer is the sole decision-maker.
- i. *Record of the Hearing.* There shall be a single verbatim record, such as an audio recording, of all URB hearings. Deliberations shall not be recorded. No other recording shall be made. The respondent and complainant may review the recording in the OSC upon request, for any reason but typically to prepare for an appeal. The recording shall be the property of Ball State University and shall be maintained by the OSC until the conclusion of all appeal proceedings, until the appeal deadline has surpassed, or as required by law. Preliminary meetings, witness and other interviews,

or administrative hearings may also be recorded by OSC staff members.

- j. *Continuances.* The Board, by majority vote, or the hearing officer, may continue the hearing and/or their deliberation to a later time.
- k. *Additional Rules:* Procedural rules not inconsistent with this process may be established by the Board or hearing officer from time to time to fulfill its or their functions in an orderly manner.

5.6.5 Hearing Outcomes

- a. The Board shall submit its decision regarding responsibility and any comments on the recommended sanctions (see 5.6.1.d above) to the director of Student Conduct, or a designee, who shall:
 - i. accept the decision and impose appropriate sanctions, or
 - ii. refer the case back to the Board with a written request to reconsider its decision, giving specific reasons for doing so.
- b. The hearing officer will render their decision regarding responsibility, impose sanctions as appropriate, and will notify the student and the case manager of the decision.

5.6.6 Appeal Process

- a. Students may appeal the hearing outcome (finding and sanctions) of an Administrative Hearing decision to the next level administrator.
- b. Decisions from a URB hearing and subsequent sanctions may be appealed to the vice president for Student Affairs or designee.
- c. In both types of cases, the student has three (3) business days (for cases that do not result in suspension or expulsion) or five (5) business days (for cases that do result in suspension or expulsion) from receipt of the original decision in which to submit an appeal in writing. In cases that involve a crime of violence or [sexual harassment and misconduct](#), the other party will be notified of the appeal, provided the basis on which the appeal is made and a summary of the appeal, and given an opportunity to provide a response in writing within five (5) business days of written 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 a hearing and supporting documents.
- e. A student may appeal based on the following reasons:

- 1) A procedural or substantive error occurred that significantly affected the outcome of the hearing, such as substantiated bias or material deviation from established procedures.
 - 2) An unduly harsh sanction was imposed against a student (appeal by the respondent) or an insufficient sanction was imposed against a student (appeal by the complainant);
 - 3) New information of a substantive nature sufficient to affect the outcome became available, and such information and/or facts were not known to the person appealing at the time of the original hearing.
- f. An appeal may be resolved in one of the following ways:
- 1) The original decision may be upheld;
 - 2) Modified, lesser sanctions, may be imposed (or modified, more severe sanctions in the case of a successful appeal by a complainant); or
 - 3) The case may be remanded to a Board reconstituted with new members or a new hearing officer to allow reconsideration of the original determination and/or sanctions.
- g. The appellate decision shall be final and not subject to any further appeal.

5.7 Sanctions

Sanctions listed below are meant to be a general notice. If imposed, they may be named or labelled differently by the office imposing the sanction. Multiple sanctions may be administered at the same time.

- 5.7.1 Housing and Residence Life administrators may impose sanctions found at Housing and Residence Life [Disciplinary Proceedings](#) for violations of the *Ball State Code of Student Rights and Responsibilities* or the *Housing and Residence Life Handbook* that occur in housing facilities. Those sanctions are included in section 5.7.5 below.
- 5.7.2 Recreational Services administrators may impose certain sanctions when a student is found responsible for violations of the *Ball State Code of Student Rights and Responsibilities* that occur on or within recreation facilities. Those sanctions can be found at [Recreation Services Guidelines](#) and are included in section 5.7.5 below.
- 5.7.3 Office of Student Life (including Fraternity and Sorority Life) hearing boards and administrators, as authorized, 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](#). Those sanctions are included in section 5.7.5 below.
- 5.7.4 Violations of Academic Misconduct and the [Academic Ethics Policy](#). Faculty members may impose consequences for academic misconduct up to and including failure in the

course. The Provost and Vice President of Academic Affairs, upon receipt of an Academic Ethics Committee hearing panel's summary, findings, and recommendations, may impose consequences and sanctions listed below up to including suspension or expulsion from the University or revocation of a previously awarded degree.

- 5.7.5 Office of Student Conduct (OSC) 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 any handbooks or policies noted above in cases referred from another office.
- a. Ban from an Area (Housing and Residence Life): A student may be prohibited from entering or being on the premises of specific residence hall buildings or all residential facilities.
 - b. Apartment Contract Cancellation: A student may have their apartment contract cancelled and be required to vacate the apartment per terms of the contract. The cancellation includes forfeit of deposit. The student may be responsible for rent through the contracted period.
 - c. Conduct Probation: A status imposed for a limited, specified period of time (usually no longer than a calendar year) during which the student must demonstrate a willingness and ability to conform to all University regulations. Any violation of University policy while on Conduct Probation is more likely to result in more severe sanctions up to and including termination of housing contract, suspension, or expulsion from the University. Conduct Probation does not include any other restrictions but may be combined with restrictions and loss of privileges and other sanctions. Additionally, other University offices and programs may consider conduct probation and restrict/deny participation of students including but not limited to participation in athletics, service as student organization leader, international study abroad, or other off-campus programs.
 - d. Educational Requirements: A 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. Examples include, but are not limited to, alcohol and other substance use online education. Educational programming may be hosted by, required of, and/or attended by a percentage of organization membership.
 - e. Forfeit: Outcomes (e.g., a recorded win) of previous activities are struck from the record.
 - f. Official Reprimand: A written warning that the continuation or repetition of unacceptable conduct may lead to further conduct action. In the case of student organizations, a copy of the official reprimand may be sent to its national organization if applicable.
 - g. 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. Examples include, but are not limited to, a substance use assessment).

- h. **Residence Hall Reassignment:** A student may be relocated to another residence hall and subsequently restricted from the facility and/or the area of where the incident occurred.
- i. **Restitution:** A student or organization, 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. In the case of an organization, each member of the organization may be held financially responsible through group billing.
- j. **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.
- k. **Restriction – Recreation Services:** Suspension from use of or participation in Recreation Services facilities or programs for a pre-determined period of time.
- l. **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.
- m. **Service Requirement:** Participation in University or community service activities.
- n. **Termination of Housing Contract:** A student may have his/her room and board contract terminated and be required to vacate the residence hall. The student will be given at least 48 hours to vacate the residence halls. Any additional violation occurring prior to vacating the residence halls will be referred to the Office of Student Conduct. Students, who are under the age of 21, have not lived two semesters in the residence halls, and are freshmen will be referred to the Office of Student Conduct for possible additional disciplinary sanctions for violation of the residency requirement. Parents/guardians will be contacted when the housing contract is terminated.
- o. **Trespass:** A student may be prohibited from entering or being on the premises of specific locations, facilities or buildings or the entire campus.
- p. **University 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 OSC.
- q. **University Suspension:** Termination of enrollment indefinitely or for a specific period of time. During the period of suspension, the student may not attend or participate in any University-sponsored event or activity without prior authorization by the Office of the Dean of Students or designated office. Conditions of re-enrollment prior to or following a period of suspension may be determined by the OSC.
- r. **Withdrawal of Recognition:** Withdrawal of University recognition from a student (e.g., an award) or student organization and the privileges inherent in that recognition indefinitely or for a specific period of time.

5.8 Supportive Measures and Interim Suspension

5.8.1 Supportive Measures

- a. Should there be reasonable cause, the University may find it necessary to take interim measures before a formal decision is made in order to mitigate the effects of alleged misconduct and otherwise promote the safety of University community members. If a student fails to comply with the requirements of the supportive measure(s), the University may take further actions as it deems necessary to ensure the safety of the campus community. Interim measures may include, but are not limited to:
 - 1) mutual no contact instructions;
 - 2) residential reassignments or removal;
 - 3) changes to employment assignments;
 - 4) changes to academic schedule;
 - 5) counseling;
 - 6) temporary delay of graduation or other academic progress;
 - 7) restriction on the student's presence in University buildings, on University property, at University-sponsored events or activities, and/or use of the University's online resources.
- b. No contact instructions and other orders do not always involve actions that threaten the safety or operations of the University community.
- c. The dean of students or designee will make decisions on supportive measures after appropriate review. The director of Housing and Residence Life, or a designee, may initiate a residential move in cases concerning immediate safety. In the cases of alleged sexual misconduct (including but not limited to sexual harassment, sexual assault, domestic violence, dating violence, and stalking), interim housing moves will be made in consultation among the dean of students, director of housing and residence life, and the representative of the office investigating the complaint. They may also issue temporary no contact instructions under the same circumstances. The director of Housing and Residence Life, or a designee, will notify the dean of students, or a designee, in writing of any interim measures they initiate as soon as possible, but no later than the next business day. All interim measures described above will be documented in writing.

5.8.2 Interim Suspension

- a. When the behavior of a student poses a risk to the safety of or disruption to the effective operations of the University community, the University may place the student on an interim suspension. This action immediately suspends the student from all University premises and University-sponsored events or activities, including but not limited to, participation in online classes.
- b. The interim suspension will be decided by the dean of students, or a designee. The interim suspension remain in effect until such time as the alleged violations of the *Ball State Code* are resolved. The student will be notified of the interim suspension in writing by the dean of students, or a designee. Within two (2) business days of the

notification of the interim suspension, the student may request a review of the interim suspension with the associate vice president for student affairs/director of housing and residence life, or designee. The request for review must be submitted in writing and include all relevant documentation the student wishes to be considered as part of the review. The purpose of the review is to determine only if the student poses an on-going threat.

- c. After a thorough and comprehensive review of the available information, the associate vice president for Student Affairs/director of Housing and Residence Life, or a designee, will then determine if the interim suspension remains in effect, is modified, or is rescinded. The associate vice president for Student Affairs/director of Housing and Residence Life, or a designee, may make their decision in consultation with other personnel. The decision on the review will be provided to the student in writing and is final.
- d. The dean of students, or a designee, will notify the student's faculty members of the interim suspension and any subsequent changes in that status. After the associate vice president for Student Affairs/director of Housing and Residence Life, or a designee, has made the initial decision on the student's request for review, and if the decision was to modify the original interim suspension (e.g., to allow the student to participate in classes remotely), the dean of students, or a designee, is authorized to make appropriate changes in the status of the interim suspension to implement that decision and to notify, if necessary, the student's faculty members of those changes.
- e. In extreme circumstances, the student may request an extension of the deadline to submit a request for review. Examples of such circumstances include, but are not limited to, hospitalization or incarceration. Students may be required to provide documentation related to their request for an extension.
- f. The outcome of the review will not impact the pending disciplinary process. If the associate vice president for Student Affairs/director of Housing and Residence Life, or a designee, upholds the interim suspension, the decision will remain in effect until the matter has been resolved through formal procedures including investigation and adjudication as needed. The student will be notified of the decision of the associate vice president for Student Affairs/director of Housing and Residence Life, or a designee, in writing within a reasonable time frame.
- g. If the final decision of the student conduct process is to suspend or expel the student, the sanction will take effect from the date of the interim suspension. If the decision is a reprimand or disciplinary probation, or if the student is found not to be in violation of the charges, for purposes of the record, the interim suspension will be deemed not to have occurred. The student has the right to appeal the final decision (see 5.6.6).