



The Division of Student Affairs

The mission of the Division of Student Affairs is to promote the holistic development and academic success of students while advancing the mission of the University of South Carolina Upstate.

Core Values at USC-Upstate: Equity, Wellness, Civility



Core Values of the Division of Student Affairs

Integrity: We value being respectful, honest and ethical by exemplifying behavior that can be modeled by all.

Community: We seek to build a community of care and support for all students; A community of trust and tradition that instills a sense of belonging and Spartan pride.

Valuing Others: We advocate for all students, promoting inclusion and appreciation for individual differences. We celebrate the diversity of our community and seek to understand all students.

Knowledge: We value the importance of acquiring knowledge and developing skills to enable our division help students reach their full potential.

Responsibility: University students are given and accept a high level of responsibility to self, to others and to the community.

Division of Student Affairs Vision

Goals

1. **Foster a healthy, safe, and supportive learning environment that facilitates student success.** The Division of Student Affairs will promote a healthy and safe campus environment while encouraging students to live a balanced life and make healthy choices. We will: • Promote the development of ethical and responsible conduct • Offer education and services which promote lifelong health and wellness • Promote an inclusive community where students value racial, ethnic, cultural, physical, gender and other differences • Educate students about personal safety • Support student retention through the provision of a wide range of services
2. **Support student learning and personal development.** The Division of Student Affairs is an integral partner and strives to support the academic mission of the University through its co-curricular programming, while contributing to the holistic development of the student. We will: • Collaborate with academic units to provide experiential learning opportunities • Offer students opportunities to develop leadership, career and professional skills • Provide students with opportunities to expand their cultural arts appreciation and exposure • Assist students in defining realistic education/career goals • Support the interpersonal and social development of students • Offer education and services which promote lifelong health and wellness
3. **Create opportunities for student engagement.** The Division of Student Affairs will create opportunities for students to be actively engaged with the University and greater community through the development and implementation of purposeful programs, services, and activities. We will: • Create a sense of community with programs, services and events that facilitate positive interaction among students, faculty and staff • Provide a thriving campus life program • Present students opportunities to expand their cultural arts appreciation and exposure • Provide opportunities for students to volunteer and become engaged with our community and world



*The University of South Carolina – Upstate
Code of Student Conduct*

*adapted from The NCHERM Group Model Developmental Code of Student Conduct and is used
here with permission. www.ncherp.org*

Table of Contents

Preface.....	1
Introduction.....	2
Jurisdiction.....	3
Violations of the law.....	4
The Rules.....	5
Overview of the Conduct Process.....	11
Student Conduct Authority.....	12
Formal Conduct Procedures.....	15
Code of Academic Integrity.....	33

PREFACE

University students are responsible for knowing the information, policies and procedures outlined in this document. The University reserves the right to make changes to this code as necessary and once those changes are posted online, they are in effect. Students are encouraged to check online at <https://www.uscupstate.edu/globalassets/current-students/dean-of-students/usc-upstate-student-planner-2019-2020.pdf> for the updated versions of all policies and procedures.

Upstate Code of Student Conduct

The University community is committed to fostering a campus environment that is conducive to the transmission of truth, academic inquiry, a productive campus life, thoughtful study and discourse, and free expression. The student conduct program within the Dean of Students Office is committed to an educational and developmental process that balances the interests of individual students with the interests of the University community.

A community exists on the basis of shared values and principles. At USC-Upstate, student members of the community are expected to uphold and abide by certain standards of conduct that form the basis of the *Code of Student Conduct*. These standards are embodied within a set of core values that include integrity, valuing others, knowledge, community, and responsibility.

Each member of the University community bears responsibility for their conduct and to assume reasonable responsibility for the behavior of others. When members of the community fail to exemplify these five values by engaging in violation of the rules below, campus conduct proceedings are used to assert and uphold the *Code of Student Conduct*.

The student conduct process at the University is not intended to punish students; rather, it exists to protect the interests of the community and to challenge those whose behavior is not in accordance with our policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with our community expectations. When a student is unable to conform their behavior to community expectations, the student conduct process may determine that the student should no longer share in the privilege of participating in this community.

Students should be aware that the ***student conduct process is quite different from criminal and civil court proceedings***. Procedures and rights in student conduct procedures are conducted with fairness to all, but do not include the same protections of due process afforded by the courts. Due process, as defined within these procedures, assures written notice and a hearing before an objective decision-maker. No student will be found in violation of University policy without information showing that it is more likely than not (also called the "preponderance of the evidence") that a policy violation occurred and any sanctions will be proportionate to the severity of the violation, to the cumulative conduct history of the student, and to the attitude of the student during the process.

The University is committed to a policy that assures equal opportunity to all students and therefore does not discriminate on the basis of race, ethnicity, color, gender, sexual orientation, religion/faith tradition, national origin, age, disability, veteran status, or HIV/AIDS status. In addition, the Division of Student Affairs does not discriminate on the basis of gender identity/expression.

SECTION 2: JURISDICTION

Students at the University are provided a copy of the *Code of Student Conduct* annually in the form of a link on the University website. Hard copies are available upon request from the Dean of Students Office (email: officeofstudentaffairs@uscupstate.edu). **Students are responsible for having read and abiding by the provisions** of the *Code of Student Conduct*.

The *Code of Student Conduct* and the student conduct process apply to the conduct of individual students, both undergraduate and graduate, and all University-affiliated student organizations. For the purposes of student conduct, the University considers an individual to be a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest in the University.

The University retains conduct jurisdiction over students who choose to take a leave of absence, withdraw or have graduated for any misconduct that occurred prior to the leave, withdrawal or graduation. If sanctioned, a hold may be placed on the student's ability to re-enroll and/or obtain official transcripts and/or graduate and all sanctions must be satisfied prior to re-enrollment eligibility. In the event of serious misconduct committed while still enrolled but reported after the accused student has graduated, the University may invoke these procedures and should the former student be found responsible, the University may revoke that student's degree.

The *Code of Student Conduct* applies to behaviors that take place on the campus, at University-sponsored events and may also apply off-campus when the Dean of Students or designee determines that the off-campus conduct affects a substantial University interest.¹ A substantial University interest is defined to include:

- Any situation where it appears that the student's conduct may present a danger or threat to the health or safety of him/herself or others; and/or
- Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational mission and/or interests of the University;

The *Code of Student Conduct* may be applied to behavior conducted online, via email or other electronic medium. Students should also be aware that online postings such as blogs, web postings, chats and social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. The University does not regularly search for this information but may take action if and when such information is brought to the attention of University officials. However, most online speech by students not involving University networks or technology will be protected as free expression and not subject to this Code, with two notable exceptions:

¹ Adapted, with gratitude, from Penn State University.

- **A true threat, defined as “a threat a reasonable person would interpret as a serious expression of intent to inflict bodily harm upon specific individuals”;**
- **Speech posted online about the University or its community members that causes a significant on-campus disruption.**

The *Code of Student Conduct* applies to guests of community members whose hosts may be held accountable for the misconduct of their guests. The Code may also be applied to resident non-students, campers and high school bridge/extension/partner/dual-credit and continuing education programs by contractual agreements. Visitors to and guests of University may seek resolution of violations of the *Code of Student Conduct* committed against them by members of the University community.

There is no time limit on reporting violations of the *Code of Student Conduct*; however, the longer someone waits to report an offense, the harder it becomes for University officials to obtain information and witness statements and to make determinations regarding alleged violations.

Though anonymous complaints are permitted, doing so may limit the University’s ability to investigate and respond to a complaint. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Dean of Students Office and/or to University Police.

University email is the University’s primary means of communication with students. Students are responsible for all communication delivered to their University email address.

SECTION 3: VIOLATIONS OF THE LAW

Alleged violations of federal, state and local laws may be investigated and addressed under the *Code of Student Conduct*. When an offense occurs over which the University has jurisdiction, the University conduct process will usually go forward notwithstanding any criminal complaint that may arise from the same incident.

The University reserves the right to exercise its authority of interim suspension upon notification that a student is facing criminal investigation and/or complaint (additional grounds for interim suspension are outlined further into this code). Interim suspensions are imposed until a hearing can be held, typically within two weeks. Within that time, the suspended student may request an immediate hearing from the Dean of Students to show cause why the interim suspension should be lifted. This hearing may resolve the allegation, or may be held to determine if the interim suspension should be continued. The interim suspension may be continued if a danger to the community is posed and the University may be delayed or prevented from conducting its own investigation and resolving the allegation by the pendency of the criminal process. In such cases, the University will only delay its hearing until such time as it can conduct an internal investigation or obtain sufficient information independently or from law enforcement upon which to proceed. This delay will be no longer than three weeks from notice of the incident.

Students accused of crimes may request to take a leave from the University until the criminal charges are resolved. In such situations, the University procedure for voluntary leaves of absence is subject to the following conditions:

- The responding student must comply with all campus investigative efforts that will not prejudice their defense in the criminal trial; and
- The responding student must comply with all interim actions and/or restrictions imposed during the leave of absence; and
- The responding student must agree that, in order to be reinstated to active student status, they must first be subject to, and fully cooperate with, the campus conduct process and must comply with all sanctions that are imposed.

SECTION 4: THE RULES

A. Core Values and Behavioral Expectations

The University considers the behavior described in the following sub-sections as inappropriate for the University community and in opposition to the core values set forth in this document. These expectations and rules apply to all students, whether undergraduate or graduate. The University encourages community members to report to University officials all incidents that involve the following actions. Any student found to have committed or to have attempted to commit the following misconduct is subject to the sanctions outlined in Section 7: Conduct Procedures.

Integrity: University students exemplify honesty, honor and a respect for the truth in all of their dealings. Behavior that violates this value includes, but is not limited to:

- 1) **Falsification.** Knowingly furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification or financial instruments;
- 2) **Academic Dishonesty.** Acts of academic dishonesty as outlined in the *Code of Academic Integrity*;
- 3) **Unauthorized Access.** Unauthorized access to any University building (i.e. keys, cards, etc.) or unauthorized possession, duplication or use of means of access to any university building or failing to timely report a lost University identification card or key;
- 4) **Collusion.** Action or inaction with another or others to violate the *Code of Student Conduct*;
- 5) **Trust.** Violations of positions of trust within the community;

- 6) **Election Tampering.** Tampering with the election of any University-recognized student organization (minor election code violations are addressed by the Student Government Association (SGA));
- 7) **Taking of Property.** Intentional and unauthorized taking of University property or the personal property of another, including goods, services and other valuables;
- 8) **Stolen Property.** Knowingly taking or maintaining possession of stolen property;

Community: University students build and enhance their community. Behavior that violates this value includes, but is not limited to:

- 9) **Disruptive Behavior.** Substantial disruption of University operations including obstruction of teaching, research, administration, other University activities, and/or other authorized non-University activities which occur on campus;
- 10) **Rioting.** Causing, inciting or participating in any disturbance that presents a clear and present danger to self or others, causes physical harm to others, or damage and/or destruction of property;
- 11) **Unauthorized Entry.** Misuse of access privileges to University premises or unauthorized entry to or use of buildings, including trespassing, propping or unauthorized use of alarmed doors for entry into or exit from a University building;
- 12) **Trademark.** Unauthorized use (including misuse) of University or organizational names and images;
- 13) **Damage and Destruction.** Intentional, reckless and/or unauthorized damage to or destruction of University property or the personal property of another;
- 14) **IT and Acceptable Use.** Violating the University Acceptable Use and Computing Policy, found online at: <https://www.uscupstate.edu/campus-services/information-technology/service-directory/computing-tips/>
- 15) **Gambling.** Gambling as prohibited by the laws of the State of South Carolina. (Gambling may include raffles, lotteries, sports pools and online betting activities);
- 16) **Weapons.** Possession, use, or distribution of explosives (including fireworks and ammunition), guns (including air, BB, paintball, facsimile weapons and pellet guns), or other weapons or dangerous objects such as arrows, axes, machetes, nun chucks, throwing stars, or knives with a blade of longer than 3 inches, including the storage of

any item that falls within the category of a weapon in a vehicle parked on University property;

17) Tobacco. Smoking or tobacco use in any area of campus is prohibited as found online at: <https://www.uscupstate.edu/faculty-staff/policies/tobacco-free-campus-policy/>;

18) Fire Safety. Violation of local, state, federal or campus fire policies including, but not limited to:

- a) Intentionally or recklessly causing a fire which damages University or personal property or which causes injury.
- b) Failure to evacuate a University-controlled building during a fire alarm;
- c) Improper use of University fire safety equipment; or
- d) Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on University property. Such action may result in a local fine in addition to University sanctions;

19) Ineligible Pledging or Association. Pledging or associating with a student organization without having met eligibility requirements established by the University.

20) Animals. Animals, with the exception of animals that provide assistance (e.g. seeing-eye dogs approved by the University Office of Accessibility Services), and emotional/psychiatric support animals as outlined in the Housing & Residence Life Contract, are not permitted on campus except as permitted by law.

21) Wheeled Devices. Skateboards, roller blades, roller skates, bicycles and similar wheeled devices are not permitted inside University buildings, residence halls or on tennis courts. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities, and individuals may be liable for damage to University property caused by these activities.

Social Justice: Students recognize that respecting the dignity of every person is essential for creating and sustaining a flourishing university community. They understand and appreciate how their decisions and actions impact others and are just and equitable in their treatment of all members of the community. They act to discourage and challenge those whose actions may be harmful to and/or diminish the worth of others. Conduct that violates this value includes, but is not limited to:

22) Discrimination. Any act or failure to act that is based upon an individual or group's actual or perceived status (sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, or sexual orientation, gender identity, gender expression, or other protected status) that is

sufficiently severe that it limits or denies the ability to participate in or benefit from the University's educational program or activities.

23) Harassment. Any unwelcome conduct based on actual or perceived status including: sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, sexual orientation, gender identity, gender expression, or other protected status. Any unwelcome conduct should be reported to campus officials, who will act to remedy and resolve reported incidents on behalf of the victim and community.

- a) Hostile Environment. Sanctions can and will be imposed for the creation of a hostile environment only when harassment is sufficiently severe, pervasive (or persistent) and objectively offensive that it unreasonably interferes with, limits or denies the ability to participate in or benefit from the University's educational or employment program or activities².

24) Retaliatory Discrimination or Harassment. Any intentional, adverse action taken by an responding individual or allied third party, absent legitimate nondiscriminatory purposes, against a participant or supporter of a participant in a civil rights grievance proceeding or other protected activity under this Code.

25) Bystanding.

- a) Complicity with or failure of any student to appropriately address known or obvious violations of the *Code of Student Conduct* or law;
- b) Complicity with or failure of any organized group to appropriately address known or obvious violations of the *Code of Student Conduct* or law by its members.

26) Abuse of Conduct Process. Abuse or interference with, or failure to comply in, University processes including conduct and academic integrity hearings including, but not limited to:

- a) Falsification, distortion, or misrepresentation of information;
- b) Failure to provide, destroying or concealing information during an investigation of an alleged policy violation;
- c) Attempting to discourage an individual's proper participation in, or use of, the campus conduct system;
- d) Harassment (verbal or physical) and/or intimidation of a member of a campus conduct body prior to, during, and/or following a campus conduct proceeding;
- e) Failure to comply with the sanction(s) imposed by the campus conduct system;
- f) Influencing, or attempting to influence, another person to commit an abuse of the campus conduct system.

² This policy attempts to balance the need of the community to create a civil climate while also embracing the 1st Amendment protection that attaches to most harassing speech that is simply offensive, but not a violation.

Respect: University students show positive regard for each other and for the community. Behavior that violates this value includes, but is not limited to:

27) Harm to Persons. Intentionally or recklessly causing physical harm or endangering the health or safety of any person.

28) Threatening Behaviors:

- a) **Threat.** Written or verbal conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property.
- b) **Intimidation.** Intimidation defined as implied threats or acts that cause a reasonable fear of harm in another.

29) Bullying and Cyberbullying. Bullying and cyberbullying are repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally, and are not protected by freedom of expression.

30) Hazing. Defined as an act that endangers the mental or physical health or safety of a student, or that destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Participation or cooperation by the person(s) being hazed does not excuse the violation. Failing to intervene to prevent and/or failing to discourage and/or failing to report those acts may also violate this policy. (See *University Student Handbook*, <https://www.uscupstate.edu/campus-life/office-of-student-involvement/fraternity-sorority-life/>);

31) Intimate Partner/Relationship Violence. Violence or abuse by a person in an intimate relationship with another;

32) Stalking. Stalking is a course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to feel fear;

33) Sexual Misconduct. Includes, but is not limited to, sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, and/or sexual exploitation (See Sexual Misconduct/Title IX Policy at https://www.sc.edu/about/initiatives/safety/stop_sexual_assault/index.php);

34) Public Exposure. Includes deliberately and publicly exposing one's intimate body parts, public urination, defecation, and public sex acts. University theatrical productions that require student nudity in a rehearsal and/or performance are exempted from this violation.

Responsibility: University students are given and accept a high level of responsibility to self, to others and to the community. Behavior that violates this value includes, but is not limited to:

- 35) Alcohol.** Use, possession, or distribution of alcoholic beverages or paraphernalia except as expressly permitted by law and the University's Alcohol Policy (See <https://www.uscupstate.edu/globalassets/current-students/health-education/alcohol-drug-policy.pdf> for further information);
- 36) Drugs.** Use, possession or distribution of illegal drugs and other controlled substances or drug paraphernalia except as expressly permitted by law and the University's Drug Policy (See <https://www.uscupstate.edu/globalassets/current-students/health-education/alcohol-drug-policy.pdf> for further information);
- 37) Prescription Medications.** Abuse, misuse, sale, or distribution of prescription or over-the-counter medications;
- 38) Failure to Comply.** Failure to comply with the reasonable directives of University officials or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so;
- 39) Financial Responsibilities.** Failure to promptly meet financial responsibilities to the institution, including, but not limited to; knowingly passing a worthless check or money order in payment to the institution or to an official of the institution acting in an official capacity.
- 40) Arrest.** Failure of any student to accurately report an off-campus arrest by any law enforcement agency for any crime (including non-custodial or field arrests) to the Dean of Students Office within seventy-two (72) hours of release.
- 41) Other Policies.** Violating other published University policies or rules, including all Housing & Residence Hall policies, Parking & Traffic policies, Facilities Use policies, and/or Computing Use policies;
- 42) Health and Safety.** Creation of health and/or safety hazards (dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs, etc.)
- 43) Violations of Law.** Evidence of violation of local, state or federal laws, when substantiated through the University's conduct process.

SECTION 5: OVERVIEW OF THE CONDUCT PROCESS

This overview gives a general idea of how the University's campus conduct proceedings work, but it should be noted that not all situations are of the same severity or complexity. Thus, these procedures are flexible, and are not exactly the same in every situation, though consistency in similar situations is a priority. The campus conduct process and all applicable timelines commence with notice to an administrator of a potential violation of University rules.³

NOTICE. Once notice is received from any source (victim, Resident Assistant, 3rd party, online, etc.), the University may proceed with a preliminary investigation and/or may schedule an initial educational meeting with the responding student to explain the conduct process to the responding student and gather information.

A. STEP 1: Preliminary Inquiry or Educational Meeting

The University conducts a preliminary inquiry into the nature of the incident, complaint or notice, the evidence available, and the parties involved. The preliminary inquiry may lead to:

- 1) A determination that there is insufficient evidence to pursue the investigation, because the behavior alleged, even if proven, would not violate the Code of Student Conduct, (e.g.: for reasons such as mistaken identity or allegations of behavior that falls outside the code);
- 2) A more comprehensive investigation, when it is clear more information must be gathered;
- 3) A formal complaint of a violation and/or an educational meeting with the responding student.

When an initial educational meeting is held, the possible outcomes include:

- A decision not to pursue the allegation based on a lack of or insufficient evidence. The matter should be closed and records should so indicate;
- A decision on the allegation, also known as an "informal" or "administrative" resolution to an uncontested allegation (see immediately below);
- A decision to proceed with additional investigation and/or referral for a "formal" resolution.

If a decision on the allegation is made and the finding is that the responding student is not responsible for violating the Code, the process will end. If the University's finding is that the responding student is in violation, and the responding student accepts this finding within three work days, the University considers this an "uncontested allegation." The administrator conducting the initial educational

³ In Title IX related issues, the "administrator" is any "responsible employee" as defined under Title IX and/or campus policy.

meeting will then determine the sanction(s) for the misconduct, which the responding student may accept or reject. If accepted, the process ends⁴.

If student accepts the findings, but rejects the sanction, the University will conduct a sanction-only hearing, conducted by a **3-person faculty-staff hearing board** which recommends a sanction to the Dean of Students or the Dean of Students' Student Conduct designee. The sanction is then reviewed and finalized by the Dean of Student or the Dean of Students' Student Conduct designee and is subject to appeal (see *Appeal Review Procedures*) by any party to the misconduct. Once the appeal is decided, the process ends.

If the administrator conducting the educational meeting determines that it is more likely than not that the responding student is in violation, and the responding student rejects that finding in whole or in part, then it is considered a contested allegation and the process moves to Step 2.

B. STEP 2: Formal Hearing

In a contested allegation, additional investigation may then be commenced and/or a hearing may be held when there is reasonable cause to believe that a rule or rules have been violated. A formal notice of the complaint will be issued, and a hearing will be held before the Conduct Council. A finding will be determined and is final except in cases that involve Title IX or other discrimination allegations. In those cases, the hearing results serve as a recommendation to the Dean of Students or the Dean's Student Conduct-designee and, where appropriate, the Title IX Coordinator, who review and finalize the finding.⁵ If the finding is that the responding student is not responsible, the process ends. Applicable appeals options are described below.

C. STEP 3: Review and Finalize Sanction(s).

If the student is found in violation(s), sanctions will be recommended by the Conduct Council to the Dean of Students or the Dean's Student Conduct-designee and Title IX Coordinator when applicable, who will review and finalize the sanctions, subject to the University appeals process by any party to the complaint.

SECTION 6: STUDENT CONDUCT AUTHORITY

A. Authority

The Dean of Students is vested with the authority over student conduct by the Chancellor and by the Vice-Chancellor for Student Affairs. The Dean of Students may appoint a Student Conduct-designee to oversee and manage the student conduct process. The Dean of Students or Student Conduct-designee may appoint administrative hearing and appeals officers as deemed necessary to efficiently and effectively supervise the student conduct process.

The Dean of Students or Dean's Student Conduct-designee will assume responsibility for the investigation of an allegation of misconduct to determine if the complaint has merit.

B. Gatekeeping

No complaint will be forwarded for a hearing unless there is reasonable cause to believe a policy has been violated. Reasonable cause is defined as some credible information to support each element of the offense, even if that information is merely a credible witness or a victim's statement. A complaint wholly unsupported by any credible information will not be forwarded for a hearing.

C. Conflict Resolution Options

The Dean of Students or the Dean's Student Conduct-designee has discretion to refer a complaint for mediation or other forms of appropriate conflict resolution. All parties must agree to conflict resolution and to be bound by the decision with no review/appeal. Any unsuccessful conflict resolution can be forwarded for formal processing and hearing; however, **at no time will complaints of physical sexual misconduct or violence be mediated as the sole institutional response**. The Dean of Students or the Dean's Student Conduct-designee may also suggest that complaints that do not involve a violation of the *Code of Student Conduct* be referred for mediation or other appropriate conflict resolution.

D. Composition of the Conduct Council

The Dean of Students or the Dean's Student Conduct-designee will be responsible for assembling the Conduct Council according to the following guidelines:

- 1) The membership of the Conduct Council is selected from a pool of at least 6 students, 6 faculty, and 6 staff/administrative members appointed and trained **for at least 8 hours**⁶ annually by the Dean of Students or the Dean's Student Conduct-designee. Title IX/Sexual Misconduct Hearing Board members will be trained for at least 12 hours annually by the Dean of Students or the Dean's Student Conduct-designee and/or the Office of Equity and Inclusion.
 - 2) For each complaint, a panel will be chosen from the available pool, and is usually comprised of five (5) or seven (7) persons with a minimum of two (2) students, and three (3) faculty/staff-administrators. Availability may determine a different composition for the Council, and in complaints involving discrimination, sexual misconduct, or other sensitive issues, the Dean of Students or the Dean's Student Conduct-designee will usually use five (5) or seven (7) faculty/administrators/staff member for the Title IX/Sexual Misconduct Hearing Board. The Dean of Students or the Dean's Student Conduct-designee appoints the Chair of the Council, who assures that University procedures are followed throughout the hearing. In the case of Title
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IX/sexual misconduct Hearing Boards, the University Office of Equity and Inclusion will be consulted for hiring an external expert to serve as non-voting Chairperson of the Title IX/sexual misconduct Hearing Board.

E. Administrative Hearing/Meeting Officers

Administrative Hearing/Meeting Officers (AHO or ACO) are chosen from a pool of annually trained administrators or staff members selected by the Dean of Students or the Dean's Student Conduct-designee or the Director of Housing and Residence Life.

F. Panel Pool and the Appeals Panel

Three-member Appeals Panels are drawn from the panel pool, with the only requirement being that they did not serve on the Council or Hearing Board for the initial hearing. Appeals Panels review appeal requests submitted by the Dean of Students or by the Dean's Student Conduct-designee. If an all faculty/administrator/staff panel is used to hear a sensitive issue, the Appeals Panel will also be comprised of only faculty/administrator/staff members.

To serve in the Conduct Council pool, students must:

- 1) Be in academic good standing and have completed 15 hours of academic credit with a cumulative GPA of at least 2.0.
- 2) Be in good standing with the conduct process throughout the semester in which they serve. Good standing is defined as having no record of misconduct during the semester(s) in which a student wishes to serve on the panel. A serious history of misconduct could disqualify a student for service.

The Dean of Students or the Dean's Student Conduct-designee will have final authority to approve all those serving on the Conduct Council or the Title IX/Sexual Misconduct Hearing Board. The non-voting advisor to the council/board/panel is the Student Conduct-designee with responsibility for training the Council/Board/Panel, conducting preliminary investigations, and ensuring a fair process for the party bringing the complaint and responding student. In the event of a resignation from the council/board/panel, the Student Conduct-designee will solicit a replacement from the group from which the representative came. Decisions made, and sanctions imposed, by the panel or an AHO will be final and implemented, pending the normal appeal process. At the discretion of the Dean of Students or by the Dean's Student Conduct designee, implementation of sanctions may be stayed pending review.

G. Interpretation and Revision

The Dean of Students or the Dean's Student Conduct-designee will develop procedural rules for the administration of hearings that are consistent with provisions of the *Code of Student Conduct*. Material deviation from these rules will, generally, only be made as necessary and will include reasonable advance notice to the parties involved, either by posting online and/or in the form of written communication. The Dean of Students or the Dean's Student Conduct-designee may vary procedures with notice upon determining that changes to law or regulation require policy or procedural alterations not reflected in this *Code*. The Dean of Students or the Dean's Student Conduct-designee may make

minor modifications to procedure that do not materially jeopardize the fairness owed to any party. Any question of interpretation of the *Code of Student Conduct* will be referred to the Dean of Students, whose interpretation is final. The *Code of Student Conduct* will be updated annually under the direction of the Dean of Students or the Dean's Student Conduct-designee with a comprehensive revision process being conducted every 5 years.

SECTION 7: FORMAL CONDUCT PROCEDURES

A. University as Convener

The University is the convener of every action under this code. Within that action, there are several roles. The responding student is the person who is alleged to have violated the Code. The party bringing the complaint, who may be a student, employee, visitor, or guest, may choose to be present and participate in the process as fully as the responding student. There are witnesses, who may offer information regarding the allegation. There is an investigator(s) whose role is to present the allegations and share the evidence that the University has obtained regarding the allegations.

B. Group Violations

A student group or organization and its officers and membership may be held collectively and individually responsible when violations of this code by the organization or its member(s):

- Take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit;
- Have received the consent or encouragement of the organization or of the organization's leaders or officers; or
- Were known or should have been known to the membership or its officers.

Hearings for student groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual and the organization.

C. Amnesty:

1) For Victims

The University provides amnesty to victims who may be hesitant to report to University officials because they fear that they themselves may be accused of minor policy violations, such as underage drinking, at the time of the incident. Educational options will be explored, but no conduct proceedings or conduct record will result⁷.

⁷ Records regarding the provision of amnesty should be maintained.

2) For Those Who Offer Assistance

To encourage students to offer help and assistance to others, University pursues a policy of amnesty for minor violations when students offer help to others in need. At the discretion of the Dean of Students or the Dean's Student Conduct-designee, amnesty may also be extended on a case-by-case basis to the person receiving assistance. Educational options will be explored, but no conduct proceedings or conduct record will result.

3) For Those Who Report Serious Violations

Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the University are offered amnesty for their minor violations. Educational options will be explored, but no conduct proceedings or record will result.

Abuse of amnesty requests can result in a decision by the Dean of Students or the Dean's Student Conduct-designee not to extend amnesty to the same person repeatedly.

4) Safe Harbor

The University has a Safe Harbor rule for students. The University believes that students who have a drug and/or addiction problem deserve help. If any University student brings their own use, addiction, or dependency to the attention of University officials outside the threat of drug tests or conduct sanctions and seeks assistance, a conduct complaint will not be pursued. A written action plan may be used to track cooperation with the Safe Harbor program by the student. Failure to follow the action plan will nullify the Safe Harbor protection and campus conduct processes will be initiated.

D. Notice of Alleged Violation

Any member of the University community, visitor or guest may allege a policy violation(s) by any student for misconduct under this *Code* by the following process:

Notice may also be given to the Dean of Students or by the Dean's Student Conduct-designee) and/or to the Title IX Coordinator, when appropriate. Additionally, administrators may act on notice of a potential violation whether a formal allegation is made or not. All allegations can be submitted by a victim or a third party, and should be submitted as soon as possible after the offending event occurs. The University has the right to pursue an allegation or notice of misconduct on its own behalf and to serve as convener of the subsequent campus conduct process.

The Dean of Students or the Dean's Student Conduct-designee will assume responsibility for the investigation of the alleged violation as described in the sub-section below.

E. Investigation

Investigation is referenced in both steps 1 and 2 above, with detailed investigation procedures described in this sub-section. The Dean of Students or the Dean's Student Conduct-designee will appoint an investigator(s) for allegations under this *Code*.⁸ The investigator(s) will take the following steps, if not already completed by the Coordinator or designee:

- 1) Initiate any necessary remedial actions on behalf of the victim (if any);
- 2) Determine the identity and contact information of the party bringing the complaint, whether that person is the initiator of the complaint, the alleged victim, or a University proxy or representative;
- 3) Conduct an immediate preliminary investigation to identify an initial list of all policies that may have been violated, to review the history of the parties, the context of the incident(s), any potential patterns and the nature of the complaint;
 - a) If the victim is reluctant to pursue the complaint, determine whether the complaint should still be pursued and whether sufficient independent evidence could support the complaint without the participation of the victim;
 - b) Notify the victim of whether the University intends to pursue the complaint regardless of their involvement, and inform the victim of their rights in the process and option to become involved if they so choose;
 - c) Preliminary investigation usually takes between 1-7 business days to complete;
- 4) If indicated by the preliminary investigation and authorized by the Dean of Students or Dean's Student Conduct-designee, conduct a comprehensive investigation to determine if there is reasonable cause to believe that the responding student violated University policy, and to determine what specific policy violations should serve as the basis for the complaint;
 - a) If there is insufficient evidence through the investigation to support reasonable cause, the allegations will be closed with no further action;
 - b) A comprehensive investigation usually takes between one day and two weeks;
- 5) Meet with the party bringing the complaint to finalize the party's Statement, which will be drawn up by the investigator or designee as a result of this meeting;
- 6) Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding student, who may be given notice of the interview prior to or at the time of the interview;
 - a) Prepare the notice of alleged policy violation(s) on the basis of the reasonable cause determination, which may be delivered prior to, during or after the responding student is interviewed, at the discretion of the investigator(s);
- 7) Interview all relevant witnesses, summarize the information they are able to share and have each witness sign the summary to verify its accuracy;

⁸ For any complaint that falls under Title IX (e.g. sexual misconduct) or involves any other form of discrimination, the Dean of Students will work with the Title IX Coordinator.

- 8) Obtain all documentary evidence and information that is available;
- 9) Obtain all physical evidence that is available;
- 10) Complete the investigation promptly by analyzing all available evidence without unreasonable deviation from the intended timeline;
- 11) Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- 12) Present the investigation report and findings to the responding student, who may:
 - a) accept the findings,
 - b) accept the findings in part and reject them in part,
 - c) or may reject all findings;
- 13) Share the findings and update the party bringing the complaint on the status of the investigation and the outcome.

F. Findings

1) **The Responding Student is Found “Not Responsible”**

Where the responding student is found not responsible for the alleged violation(s), the investigation will be closed. The party bringing the complaint, if any, may request that the **Dean of Students or the Dean’s Student Conduct-designee**, as applicable, review the investigation file to possibly re-open the investigation or convene a hearing. The decision to re-open an investigation or convene a hearing rests solely with the Dean of Students or with the Student Conduct-designee in these cases, and is granted only on the basis of extraordinary cause.

2) **The Responding Student Accepts a Finding of “Responsible”...**

a) **The Responding Student Accepts a Finding of “Responsible” and Accepts the Recommended Sanctions.**

Should the responding student accept the finding that they violated University policy, the investigator will recommend appropriate sanctions for the violation, having consulted with the Dean of Students or with the Dean’s Student Conduct-designee, as appropriate. In cases involving discrimination, recommended sanctions will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the University community. If the responding student accepts these recommended sanctions, the sanctions are implemented by the Dean of Students or by the Dean’s Student Conduct-designee and the process ends. This outcome is not subject to appeal.

b) **The Responding Student Accepts a Finding of “Responsible” and Rejects the Sanctions Recommended.**

If the responding student accepts the “responsible” findings, but rejects the recommended sanctions, there will be an administrative conference on the sanction, only. Administrative conference procedures are detailed below.

3) Responding Student Rejects the Findings Completely or In-part

a) Responding Student Rejects the Findings Completely

Where the responding student rejects the finding that they violated University policy, a formal hearing will be convened within fifteen (15) business days, barring exigent circumstances.

At the hearing, the investigator(s) will present their report to the panel, the panel will hear from the parties, and any necessary witnesses. The investigation report will be considered by the panel, which renders an independent and objective finding. Full panel procedures are detailed below.

If the panel finds the responding student not responsible for all violations, the Dean of Students or the Dean's Student Conduct-designee will timely inform the parties of this determination and the rationale for the decision in writing. This determination is subject to appeal by any party to the complaint. Appeal review procedures are outlined below.

If the panel finds a violation, it will recommend a sanction/responsive action to the Dean of Students or to the Dean's Student Conduct-designee, who will render a decision within **10 work** days of the hearing and timely notify the parties in writing. An appeal of sanction(s) may be filed by any party to the complaint as detailed below.

b) Responding Student Accepts the Findings in Part and Rejects in Part

Where the responding student rejects in part the finding that they violated University policy, there will be a panel hearing solely on the disputed allegations within seven days, barring exigent circumstances. For all findings holding a responding student responsible for a violation, the University will follow the sanctioning process detailed in sub-sections below. If the Panel finds the responding student "Not Responsible" on any of the contested allegations, the process will move to the Sanctioning Phase on only the uncontested allegations, as detailed in sub-sections below.

G. Notice of Hearing

Once a determination is made that reasonable cause exists for the Dean of Students or the Dean's Student Conduct-designee to refer a complaint for a hearing, notice will be given to the responding student. Notice will be in writing and may be delivered by one or more of the following methods: in person by the Student Conduct-designee; mailed to the local or permanent address of the student as indicated in official University records; or emailed to the student's University-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered. The letter of notice will:

- 1) Include the alleged violation and notification of where to locate the *Code of Student Conduct* or the Title IX/Sexual Misconduct policy and University procedures for resolution of the complaint; and
- 2) Direct the responding student to contact the Dean of Students or Student Conduct-designee within a specified period of time to respond to the complaint. This time period will generally be no less than two days⁹ from the date of delivery of the summons letter.

A meeting with the Student Conduct-designee may be arranged to explain the nature of the complaint and the conduct process. At this meeting, the responding student may indicate, either verbally or in writing, to the Dean of Students or to the Dean's Student Conduct-designee, whether they admit to or deny the allegations of the complaint.

I. Interim Action

Under the *Code of Student Conduct*, the Dean of Students or designee may impose restrictions and/or separate a student from the community pending the scheduling of a campus hearing on alleged violation(s) of the *Code of Student Conduct* when a student represents a threat of serious harm to others, is facing allegations of serious criminal activity, to preserve the integrity of an investigation, to preserve University property and/or to prevent disruption of, or interference with, the normal operations of the University. Interim actions can include separation from the institution or restrictions on participation in the community for no more than ten (10) business days pending the scheduling of a campus hearing on alleged violation(s) of the *Code of Student Conduct*.

During an interim suspension, a student may be denied access to University housing and/or the University campus/facilities/events. As determined appropriate by the Dean of Students or by the Dean's Student Conduct-designee, this restriction may include classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Dean of Students or Dean's Student Conduct-designee and with the approval of, and in collaboration with, the appropriate Dean(s), alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding student.

J. Hearing Options & Preparation

The following sub-sections describe the University's conduct hearing processes. Except in a complaint involving failure to comply with the summons of the Dean of Students or of the Dean's Student Conduct-designee, no student may be found to have violated the *Code of Student Conduct* solely as a result of the student's failure to appear for a hearing. In all such instances, conduct hearings will proceed as scheduled and the information in support of the complaint will be presented to, and considered by, the

⁹ "Day", used throughout this document, refers to normal business days when the University is in operation.

Dean of Students, Dean's Student Conduct-designee, AHO or council/board/panel presiding over the hearing.

Where the responding student admits to violating the *Code of Student Conduct*, the Dean of Students or the Dean's Student Conduct-designee may invoke administrative hearing procedures to determine and administer appropriate sanctions without a formal hearing. This process is also known as an *administrative meeting*. In an administrative meetings, complaints will be heard and determinations will be made by the Dean of Students or by the Dean's Student Conduct-designee.

Where the responding student denies violating the *Code of Student Conduct*, a formal hearing will be conducted. This process is known as a Conduct Council or Title IX/Sexual Misconduct Hearing. At the discretion of the Dean of Students or the Dean's Student Conduct-designee, a request by one or more of the parties to the complaint for an administrative meeting may be considered. Students who deny a violation for which a council/board/panel hearing will be held will be given a minimum of ten (10) days to prepare unless all parties wish to proceed more quickly. Preparation for a formal hearing is summarized in the following guidelines:

- 1) Notice of the time, date and location of the hearing will be in writing and may be delivered by one or more of the following methods: in person by the Dean of Students or by the Dean's Student Conduct-designee; mailed to the local or permanent address of the student as indicated in official University records; or emailed to the student's University-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.
- 2) If there is an alleged victim of the conduct in question, the alleged victim may serve as the party bringing the complaint or may elect to have the University administration serve as the party bringing the complaint forward. Where there is no alleged victim, the University administration will serve as the party bringing the complaint forward.
- 3) If a responding student fails to respond to notice from the Dean of Students or the Dean's Student Conduct-designee, the Dean or Student Conduct-designee may initiate a complaint against the student for failure to comply with the directives of a University official and give notice of this offense. Unless the student responds to this notice within two days by answering the original notice, an administrative meeting may be scheduled and held on the student's behalf. As a result, the student may be administratively withdrawn from attending classes or a disciplinary hold may be placed on their University account, deeming them ineligible to register for courses or University housing until such time as the student responds to the initial complaint.
- 4) At least five (5) business days before any scheduled formal hearing, the following will occur:
 - a) The responding student will deliver to the Dean of Students or Student Conduct-designee a written response to the complaint;
 - b) The responding student will deliver to the Dean of Students or Student Conduct - designee a written list of all witnesses for the University to call at the hearing;

- c) The responding student will deliver to the Dean of Students or the Student Conduct-designee all physical evidence the student intends to use or needs to have present at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Dean of Students or the Student Conduct-designee can arrange for its presence;
 - d) The party bringing the complaint will deliver to the Dean of Students or Student Conduct-designee a written list of all witnesses for the University to call at the hearing;
 - e) The party bringing the complaint will deliver to the Dean of Students or to the Student Conduct-designee all items of physical evidence needed at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Dean or Student Conduct-designee can arrange for its presence;
 - f) The party bringing the complaint and the responding student will notify the Dean of Students or the Dean's Student Conduct-designee of the names of any advisors/advocates who may be accompanying the parties at the hearing.
- 5) The Dean of Students or the Student Conduct-designee will ensure that the hearing information and any other available written documentation is shared with the parties at least three (3) days before any scheduled hearing. In addition, the parties will be given a list of the names of all the panelists in advance. Should any party object to any panelist, that party must raise all objections, in writing, to the Dean of Students or the Student Conduct-designee immediately. Hearing officers will only be unseated if the Dean of Students or the Student Conduct-designee concludes that their bias precludes an impartial hearing of the complaint. Additionally, any panelist who feels they cannot make an objective determination must recuse themselves from the proceedings.

K. Panel Hearing Procedures

The Dean of Students or Student Conduct-designee will appoint one faculty-staff-administrator panelist as the Chair for the hearing. The parties have the right to be present at the hearing; however, they do not have the right to be present during deliberations. If a student cannot attend the hearing, it is that student's responsibility to notify the Dean of Students or the Student Conduct-designee no less than three (3) days prior to the scheduled hearing to arrange for another date, time and location. Except in cases of grave or unforeseen circumstances, if the responding student fails to give the requisite minimum three (3) day notice, or if the responding student fails to appear, the hearing will proceed as scheduled. If the party bringing the complaint fails to appear, the complaint may be dropped unless the University chooses to pursue the allegation on its own behalf, as determined by the Dean of Students or by the Student Conduct-designee.

The Dean of Students or Student Conduct-designee, the Chair and the Conduct Council will conduct panel hearings according to the following guidelines:

- 1) Hearings will be closed to the public.

- 2) Admission to the hearing of persons other than the parties involved will be at the discretion of the Council Chair and the Student Conduct-designee.
 - 3) In hearings involving more than one responding student, the standard procedure will be to hear the complaints jointly; however, the Dean of Students or the Student Conduct-designee may permit the hearing pertinent to each responding student to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding student.
 - 4) The parties have the right to an advisor/advocate of their own choosing, including attorneys. Typically advisors are members of the campus community, but the parties may select whomever they wish to serve as their advisor.¹⁰ The advisor may not make a presentation or represent the party bringing the complaint or responding student during the hearing. They may confer quietly with their advisee, exchange notes, clarify procedural questions with the Chair and suggest questions to their advisee.¹¹
 - 5) The party bringing the complaint, the responding student, the Conduct Council, the Dean of Students and the Student Conduct-designee will have the privilege of questioning all present witnesses and questioning all present parties (directly or through the Chair, at the discretion of the Chair). Unduly repetitive witnesses can be limited at the discretion of the **Chair and/or the Dean of Students and/or the Student Conduct-designee**.
 - 6) Pertinent records, exhibits, and written statements may be accepted as information for consideration by the Conduct Council and the Student Conduct-designee. Formal rules of evidence are not observed. The **Chair and/or the Dean of Students and/or the Student Conduct-designee** may limit the number of character witnesses presented or may accept written affidavits of character instead.
 - 7) All procedural questions are subject to the final decision of the Dean of Students or the Student Conduct-designee.
 - 8) After a Conduct Council hearing, the Council will deliberate and determine, by majority vote, whether it is more likely than not (also “the preponderance of evidence”) that the responding student has violated the *Code of Student Conduct*. The Dean of Students or Student Conduct-designee will be present and available as a resource during all deliberations. Once a finding is determined, if the finding is that of a policy violation, the panel will determine an appropriate sanction(s). The Dean of Students or Student Conduct-designee is responsible for informing the panel of applicable precedent and any previous conduct violations or other relevant pattern information about the responding student. The Council Chairperson will prepare a written deliberation report and deliver it to the Dean of Students, detailing the recommended finding, how each member voted, the information cited by the panel in support of its recommendation, and any information the panel excluded from its consideration and why. This report should conclude with any recommended sanctions. This report should not exceed two pages in length and must be submitted to the Dean of Students within two (2) days of the end of deliberations.
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- 9) The Dean of Students will consider the recommendations of the Council, may make appropriate modifications to the panel's report and will then render a decision and inform the responding student and party bringing the complaint (if applicable by law or University policy) of the final determination within five (5) business days of the hearing. Notification will be made in writing and may be delivered by one or more of the following methods: in person by the Dean of Students or Student Conduct-designee; mailed to the local or permanent address of the student as indicated in official University records; or emailed to the student's University-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered. In cases of sexual misconduct and other crimes of violence, notice of the outcome will be delivered to all parties simultaneously, meaning without substantial delay between the notifications to each.
- 10) There will be a single verbatim record (an audio recording is acceptable) for all Council hearings. Deliberations will not be recorded. The record will be the property of the University and maintained according to the University's record retention policy.

L. Conduct Sanctions

One or more of following sanctions may be imposed upon any student for any single violation of the *Code of Student Conduct*:

- 1) *Warning*: An official written notice that the student has violated University policies and/or rules and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the University.
- 2) *Restitution*: Compensation for damage caused to the University or any person's property. This could also include situations such as failure to return a reserved space to proper condition – labor costs and expenses. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.
- 3) *Fines*: Reasonable fines may be imposed. Fines are specified to include the costs for enrolling in online courses related to the violations.
- 4) *Community/University Service Requirements*: For a student or organization to complete a specific supervised University service.
- 5) *Loss of Privileges*: The student will be denied specified privileges for a designated period of time.
- 6) *Confiscation of Prohibited Property*: Items whose presence is in violation of University policy will be confiscated and will become the property of the University. Prohibited items may be returned to the owner at the discretion of the Dean of Students, Director of Housing & Residence Life, Student Conduct-designee, and/or University Police.

- 7) *Behavioral Requirement*: This includes required activities including, but not limited to, seeking academic counseling or substance abuse screening, writing a letter of apology, purchasing a gift for an aggrieved party, etc.
- 8) *Educational Program*: Requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- 9) *Restriction of Visitation Privileges*: May be imposed on a resident or non-resident student. The parameters of the restriction will be specified by the Office of Housing and Residence Life.
- 10) *University Housing Probation*: Official notice that, should further violations of Residence Life or University policies occur during a specified probationary period, the student may immediately be removed from University housing. Regular probationary meetings may also be imposed.
- 11) *University Housing Reassignment*: Reassignment to another University housing facility. Housing and Residential Life personnel will decide on the reassignment details.
- 12) *University Housing Suspension*: Removal from University housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to University housing may be specified. Under this sanction, a student is required to vacate University housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Housing and Residence Life. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for University housing, the student must gain permission from the Director of Housing and Residence Life (or designee). This sanction may include restrictions on visitation to specified buildings or all University housing during the suspension.
- 13) *University Housing Expulsion*: The student's privilege to live in, or visit, any University/College housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary. This sanction will be recommended as a Housing Expulsion on the student's official academic transcript.
- 14) *University Probation*: The student is put on official notice that, should further violations of University policies occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.
- 15) *Eligibility Restriction*: The student is deemed "not in good standing" with the University for a specified period of time. Specific limitations or exceptions may be granted by the

Dean of Students or Student Conduct-designee and terms of this conduct sanction may include, but are not limited to, the following:

- a) Ineligibility to hold any office in any student organization recognized by the University or hold an elected or appointed office at the University; or
 - b) Ineligibility to represent the University to anyone outside the University community in any way including: participating in the study abroad program, attending conferences, or representing the University at an official function, event or intercollegiate competition as a player, manager or student coach, etc.
- 16) *University Suspension*: Separation from the University for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. The student is required to vacate the campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Dean of Students or the Dean's Student Conduct-designee, and in consultation with the Director of Housing and Residence Life when the student resides in Housing. During the suspension period, the student is banned from university property, functions, events and activities without prior written approval from the Dean of Students. This sanction may be enforced with a trespass action as necessary. This sanction will be noted as a Conduct Suspension on the student's official academic transcript.
- 17) *University Expulsion*: Permanent separation from the University. The student is banned from university property and the student's presence at any University-sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary. This sanction will be noted as a Conduct Expulsion on the student's official academic transcript.
- 18) *Other Sanctions*: Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Dean of Students or the Dean's Student Conduct-designee.

The following sanctions may be imposed upon groups or organizations found to have violated the *Code of Student Conduct*:

- 1) One or more of the sanctions listed above, specifically *a)* through *i)* and *o)* through *q)*; and/or
- 2) Deactivation, de-recognition, loss of all privileges (including status as a University registered group/organization), for a specified period of time.

M. Parental Notification

The University reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under the age of 21 of alcohol and/or other drug violations. Parental notification may also be utilized discretionarily by administrators when permitted by FERPA or consent of the student.

N. Notification of Outcomes

The outcome of a campus hearing is part of the education record of the responding student and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. As allowed by FERPA, when a student is accused of a policy violation that would constitute a “crime of violence” or forcible or nonforcible sex offense, the University will inform the alleged victim/party bringing the complaint in writing of the final results of a hearing regardless of whether the University concludes that a violation was committed. Such release of information may only include the alleged student’s/responding student’s name, the violation committed, and the sanctions assigned (if applicable). In cases of sexual misconduct and other offenses covered by Title IX, only, the rationale for the outcome will also be shared with all parties to the complaint in addition to the finding and sanction(s).

In cases where the University determines through the student conduct process that a student violated a policy that would constitute a “crime of violence” or nonforcible sex offense, the University/College may also release the above information publicly and/or to any third party. FERPA defines “crimes of violence” to include:

- 1) Arson
- 2) Assault offenses (includes stalking)
- 3) Burglary
- 4) Criminal Homicide—manslaughter by negligence
- 5) Criminal Homicide—murder and nonnegligent manslaughter
- 6) Destruction/damage/vandalism of property
- 7) Kidnapping/abduction
- 8) Robbery
- 9) Forcible sex offences
- 10) Non-forcible sex offences

O. Failure to Complete Conduct Sanctions

All students, as members of the University community, are expected to comply with conduct sanctions within the timeframe specified by the Dean of Students, Dean’s Student Conduct-designee or Administrative Meeting Officer. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions and/or suspension from the University and may be noted on, or with, the student’s official transcript at the end of the semester. In such situations, resident students will be required to vacate University housing within 24 hours of notification by the Dean of Students or the Dean’s Student Conduct-designee, though this deadline may be extended upon application to, and at the discretion of, the Director of Housing and

Residence Life and/or the Director of Student Conduct. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. This determination will be made by the Director of Student Conduct.

P. Appeal Review Procedures

Any party may request an appeal of the decision of the Administrative Meeting or formal hearing by filing a written request to the Dean of Students, subject to the procedures outlined below. All sanctions imposed by the original meeting or hearing body remain in effect, and all parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision.

GROUNDINGS FOR APPEAL REQUESTS

Appeals requests are limited to the following grounds:

- 1) A procedural error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.);
- 2) To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction.¹² A summary of this new evidence and its potential impact must be included;¹³
- 3) The sanctions imposed are substantially disproportionate to the severity of the violation.

Appeals must be filed in writing with the Dean of Students within five (5) business days of the notice of the outcome to the hearing, barring exigent circumstances. Any exceptions are made at the discretion of the Dean of Students and, when appropriate, the Director of Housing & Residence Life, and/or the Title IX Coordinator.

The Dean of Students will share the appeal by one party with the other party (parties) when appropriate under procedure or law (e.g., if the responding student appeals, the appeal is shared with the complainant, who may also wish to file a response, request an appeal on the same grounds or different grounds). The Dean or Dean's Student Conduct-designee will refer the request(s) to the University's designated Appeal Review Officer, the Vice-Chancellor for Student Affairs. The Dean of Students will also draft a response memorandum to the appeal request(s), based on the Appeal Review Officer's determination that the request(s) will be granted or denied, and why. All request-related documents are shared with all parties prior to submission to the Appeal Review Officer.

The Appeal Review Officer will conduct an initial review to determine if the appeal request meets the limited grounds and is timely. They may consult with the Dean of Students, the Student Conduct-designee, the Director of Housing and Residence Life and/or Title IX Coordinator on any procedural or substantive questions that arise.

If the appeal is not timely or substantively eligible, the original finding and sanction will stand and the decision is final. If the appeal has standing, the Appeal Review Officer determines whether to refer the appeal to the Appeals Panel or to remand it to the original decision-maker(s), typically within five (5) business days. Efforts should be made to use remand whenever possible, with clear instructions for reconsideration only in light of the granted appeal grounds. Where the original decision-maker may be unduly biased by a procedural or substantive error, a new panel will be constituted to reconsider the matter, which can in turn be appealed, once. Full rehearings by the Appeals Panel are not permitted. Where new evidence is presented or the sanction is challenged, the Appeals Review Officer will determine if the matter should be returned to the original decision-maker for reconsideration or if it should be reviewed by the Appeals Panel with instruction on the parameters regarding institutional consistency and any applicable legal guidelines. In review, the original finding and sanction are presumed to have been decided reasonably and appropriately, thus the burden is on the appealing party(ies) to show clear error. The Appeals Panel must limit its review to the challenges presented.

On reconsideration, the Appeals Panel or original decision-maker may affirm or change the findings and/or sanctions of the original hearing body according to the permissible grounds. Procedural errors should be corrected, new evidence should be considered, and sanctions should be proportionate to the severity of the violation and the student's cumulative conduct record.

All decisions of the Appeals Panel are to be made within five (5) days of submission to the Panel and are final, as are any decisions made by the original hearing body, Dean of Students, Dean's Student Conduct-designee, and/or Director of Housing & Residence Life as the result of reconsideration consistent with instructions from the Appeal Review Officer.

THE APPEALS PANEL

Three-member Appeals Panels are drawn from the hearing panel pool, with the following requirements to serve¹⁴:

- 1) they did not serve on the Panel for the initial hearing
- 2) they were not involved in the investigation in any way
- 3) they have been properly trained in appeals procedures

For students to serve in the panel pool¹⁵, they must:

- 1) Be in academic good standing and have completed 15 hours of academic credit with a cumulative GPA of at least 2.0.
- 2) Be in good standing with respect to the conduct process throughout the term in which they serve. Good standing is defined as having no record of misconduct during the semester(s) in

¹⁵ Students should not be panelists for sexual misconduct and other Title IX-covered behaviors, because of the chilling effect on reporting this causes.

which a student wishes to serve on the panel, as well as not currently being on any probation. A serious history of misconduct could disqualify a student for service.

The Appeal Review Officer will have final authority to approve all those serving on the Appeals Panel. The parties may challenge a panelist(s) on the basis of potential bias, and any panelist who cannot render an impartial decision must recuse themselves. The Appeals Review Officer will make the determination as to the validity of any challenge or need for recusal. In the event of a recusal from the panel, the Appeals Review Officer will solicit a replacement from the pool of panelists.

The Dean of Students or the Student Conduct-designee serves as the non-voting advisor to the Panel, with responsibility for training the Panel, conducting preliminary investigations, and ensuring a fair process for the complainant and responding student.

The presumptive stance of the University is that all decisions made and sanctions imposed by the original decision-maker are to be implemented during the appellate process. At the discretion of the Dean of Students or Student Conduct-designee, and in consultation with the Director of Housing and Residence Life when necessary, implementation of sanctions may be stayed pending review only in extremely exigent circumstances. This does not include proximity to graduation, end of term, or exams. Instead, it refers to an overwhelming likelihood, as determined by the Appeals Review Officer and Dean of Students or Student Conduct-designee, in consultation, that the appeal would result in a reversal of the finding and/or substantial modification of the sanctions.

OTHER GUIDELINES FOR APPEALS

- All parties will be timely informed within five (5) work days of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
- Every opportunity to return the appeal to the original decision-maker for reconsideration (remand) should be pursued;
- Appeals are not intended to be full re-hearings of the complaint. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal; witnesses may be called if necessary.
- Appeals are not an opportunity for appeals panelists to substitute their judgment for that of the original decision-maker merely because they disagree with the finding and/or sanctions. Appeals decisions are to be deferential to the original decision-maker, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.

Q. Disciplinary Records

All conduct records are maintained by the University for seven (7) years from the time of their creation except those that result in separation (suspension or expulsion, including from housing) and those that fall under Title IX, which are maintained indefinitely.

R. Policy for Non-Academic Grievances

A grievance is defined as a dissatisfaction occurring when a student thinks that any condition affecting him/her is unjust, inequitable or creates an unnecessary hardship. Such grievances include, but are not limited to, the following problems: mistreatment by any University employee, wrongful assessment and processing of fees, records and registration errors, racial discrimination, sex discrimination, and discrimination based on disability, as they relate to non-academic areas of the University. The grievance procedure shall not be used for appeals of disciplinary decisions, residency classification decisions, traffic appeals decisions or any other type decision where a clearly defined appeals process has already been established. Non-Academic grievances related to the University's non-discrimination and equal opportunity policies should be reported to the dean of students, and to the director of equal opportunity programs. The procedure is as follows:

The initial phase of the student grievance procedure requires an oral discussion between the student and the immediate supervisor of the person(s) alleged to have caused the grievance. If the student wishes to file an official grievance, a grievance form may be completed and filed with the immediate supervisor of the person alleged to have caused the grievance.

The form should be filed with the person's immediate supervisor within five (5) working days of the initial discussion referred to above. The supervisor shall immediately investigate the incident and render a decision. If the student feels the grievance is resolved, the process is complete. If the grievance is unresolved, the student may bring the matter before the dean of students by presenting a written statement within ten (10) working days of the supervisor's decision. The Dean of Students will investigate and render a decision within 10 working days.

The Code of Academic Integrity

Within the Code of Student Conduct there exists the Code of Academic Integrity. Students are on their honor not to cheat, lie or steal, and if they witness another student doing so, it is their responsibility to report the individual and the circumstances to the instructor or the dean of students.

A. Bribery

The offering, giving, receiving or soliciting of anything of value to obtain a grade or consideration a student would not expect to achieve from his or her own academic performance.

B. Cheating

Examples include:

Any conduct during a program, course, quiz or examination that involves the unauthorized use of written or oral information, or information obtained by any other means of communication; the buying, selling, sharing of questions or theft of any examination or quiz prior to its administration; the unauthorized use of any electronic or mechanical device during any program, course, quiz or examination or in connection with laboratory reports or other materials related to academic performance; the unauthorized use of notes, laboratory reports, term reports, theses and written materials in whole or part; the unauthorized collaboration on any test, assignment or project.

C. Lying

Lying is the deliberate misrepresentation by words, actions or deeds of any situation or fact, in part or whole, for the purpose of avoiding or postponing the completion of any assignment, duties, test or examination in a course, internship or program.

D. Plagiarism

Plagiarism, or literary theft, in any writing assignment: using others' words or ideas without consistent, correctly formatted acknowledgement. This includes sources the student knows personally (friends, other students, relatives, etc.) as well as all text, Internet, and other sources. Students are required to properly acknowledge sources as follows: students may not present as their own ideas, opinions, images, figures, languages or concepts of another, including those of other students. Students must acknowledge all sources such as magazines, journals, Internet sites, records, tapes, films and interviews.

Papers and other materials bought from "term paper writing services," if submitted as the work of anyone except the writing service, constitute a violation of the principles of this code. Further, violation of any of the following standards may be cause for disciplinary action. The common specific uses of source material are:

Direct Quotation: Word-for-word copying of a source. Direct quotation must be accurate, must not misrepresent the source in any way and must be properly acknowledged.

Paraphrase:

A recasting into one's own words material from a source, generally condensing the source. A direct quotation with only a word or two changed, added or omitted should not be passed off as a paraphrase. A paraphrase restates the source but does not misrepresent it and must be properly acknowledged.

Self-Plagiarism:

The act of re-using your own work without letting your professor know that it comes from a previous paper or assignment. This can include parts of a previous assignment or an entire paper.

Use of ideas:

The use of an idea from a source must be properly acknowledged, even when one's application of that idea varies from the source.

Use of figures, tables, charts, statistics, images, photographs and other similar sources: These items must be fully acknowledged, and any changes must be clearly indicated. If a student has received any kind of help (except that permitted by an instructor) in the preparation of a project, that help must be fully acknowledged.

Sanctions of Academic Integrity violations include, but are not limited to:

- **expulsion**
- **indefinite or definite suspension;**
- **reprimand;**
- **"X" assigned for the final grade;**
- **"F" assigned for the course;**
- **"0" assigned for the assignment, test or paper;**
- **reduction in final course grade;**
- **additional assignments from the professor;**
- **completion of plagiarism workshop and**
- **letter of apology to the Faculty member**

The sanctions in this section are intended to be disciplinary, and nothing in these procedures, including the imposition of any sanction, shall be interpreted to limit the academic authority of an instructor to determine an appropriate grade for a student who has violated the rule. If an instructor determines that, because of academic dishonesty, a student's performance in an academic program merits a grade reduction or a failing grade, the instructor's authority to award such an appropriate grade is not limited by the imposition of any sanction under this section.

Infractions of the Code of Academic Integrity may result in removal from academic programs by the authority of the specific academic dean.

Students removed by the academic dean for academic integrity violations have the same rights outlined in the USC Upstate Code of Student Conduct regarding notice of the alleged offense and an opportunity to be heard before the honor council.

Resolution of Alleged Academic Infractions

Informal Administrative Hearing

Upon receiving an alleged violation of the Code of Academic Integrity, the dean of students or designee (oftentimes, this is the involved faculty member) will investigate the report. The dean of students or designee will conduct an initial interview with the accused. The potential academic violations will be explained at that time. It is at this time the student can resolve the matter through admission of responsibility, or request a hearing with the Honor Council.

The Honor Council is given the charge to handle academic integrity violations. The Honor Council does not have the role to examine severity of sanction appeals from the decisions of the dean of students or faculty member; those concerns will be forwarded to the Appeals Panel.

Should further action be necessary, the charged student will receive written notification of a hearing before the Honor Council within two (2) business weeks. The charge letter will include a statement of the charges and the time and place of the hearing.

If the accused accepts responsibility in writing prior to appearing before a Council hearing, a sanction determined by faculty member for an academic violation will be imposed.

If a student fails to respond to a charge letter within the time specified in a formal University email and/or letter, (s)he forfeits his or her rights and may have a sanction imposed by the faculty member. A hearing may be conducted in the absence of an accused student if the student fails to appear for a scheduled hearing.

The Honor Council Procedures

During an Honor Council hearing, the faculty chairperson will bring the council to order and present the alleged violation brought against the student. The student has the right to attend the hearing, at a designated time, to respond to any evidence, and to present witnesses and evidence. The student has the right to be accompanied by an advisor. The accused student's advisor does not participate in the hearing. All evidence from the accused student must be provided to the Honor Council a minimum of five (5) business days prior to the formal hearing. The names of all witnesses will be presented by the accused student to the Honor Council a minimum of five (5) business days prior to the hearing. All Honor Council evidence and witness names must be provided to the accused student a minimum of five (5) days prior to the formal hearing. Council members and the student shall be free to ask questions during the hearing. Following the presentation and hearing of all information pertaining to a particular violation, the Honor Council shall deliberate without the accused student being present. Formal rules of evidence shall not be applicable, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding unless significant prejudice to the charged student, student organization or University is shown to have resulted.

Ad hoc student honor councils may be created when extenuating circumstances (e.g. summer break, University holidays, final exams, etc.) preclude an honor council or an appeal council from obtaining the usual quorum (five students) for hearing a case. The dean of students will serve as the non-voting chair of this ad hoc board.

Faculty members will determine the sanction assigned for any Code of Academic Integrity violations that occur in their classes. The Honor Council shall also determine if other sanctions that be imposed if the student is found responsible for Code of Academic Integrity violations.

The dean of students will maintain all records of violations of the Code of Academic Integrity for a period of seven (7) calendar years from the date of the hearing. Cases that result in suspension or expulsion will be retained indefinitely. Appropriate University officials may be notified of actions taken by the Honor Council on the basis of their need to know. Records will be made available to the Honor Council for specific cases where a student is found responsible, and has a record of any prior violations of the Code of Academic Integrity.

Any prior violations of the Code of Academic Integrity will be taken into account in determining the sanction or sanctions for a subsequent violation(s) of the Code. The hearing authority shall exercise active control over the hearing in order to elicit relevant information, avoid needless consumption of time, and to prevent harassment or intimidation of witnesses. Formal rules of evidence shall not be applicable, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding unless significant prejudice to the charged student, student organization or University is shown to have resulted.

Composition and Jurisdiction of the Honor Council

The Honor Council consists at minimum of two students and three faculty voting members but additional students and faculty are permissible. Participants for each council are selected by the dean of students from a pool of students and faculty. If possible, the faculty pool consists of two faculty appointed by each academic division or department from each of the following disciplines: business, education, nursing, library and the College of Arts and Sciences. The student pool consists of two students appointed by each academic division or department from each of the following colleges: business, education, nursing and the College of Arts and Sciences. Students serving on the Honor Council must have completed 30 hours at USC Upstate and maintain a 2.25 GPA and must be in good behavioral standing at the University. Members of the Honor Council are selected each fall to serve during the fall, spring and summer of the following year.

With the voluntary, informed and written consent of the University's representative and charged parties, the above provisions related to council composition, chairmanship and quorum may be waived in order to expedite the scheduling and completion of hearing procedures. The dean of students or designee acts as a nonvoting administrator of the council, and will appoint a faculty chairperson for each council hearing, and selects members from the pool to serve at a particular council hearing. All matters involving an alleged violation of the Code shall subject the student or student organization to the jurisdiction of the campus judicial system. In special cases where the safety of the individual or the University community is threatened, a student may be subject to immediate suspension by the chancellor or his designee pending a hearing.

The focus of inquiry in disciplinary proceedings shall be the responsibility of the accused party. The hearing authority shall exercise active control over the hearing in order to elicit relevant information, avoid needless consumption of time, and to prevent harassment or intimidation of witnesses. Formal rules of evidence shall not be applicable, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding unless significant prejudice to the charged student, student organization or University is shown to have resulted.

Extenuating Circumstance Creation of Conduct Councils, Honor Councils, or Title IX/Sexual Misconduct Hearing Boards

Ad hoc conduct councils, honor councils or hearing boards or appeals panels may be created when extenuating circumstances (e.g. summer break, University holidays, final exams, etc.) preclude an honor council or an appeal panel from obtaining the usual quorum (two students, three faculty) for hearing a case. The dean of students or designee will serve as the administrator of this council or hearing board.

S. Approval and Implementation

This *Code of Student Conduct* was approved on August 14, 2020.

