

Code of Student Conduct

1. Introduction

Bowling Green State University aspires to create an academic environment grounded in intellectual discovery and guided by rational discourse and civility. Within our learning community we endeavor to act on our Core Values:

- We respect one another and foster diversity and a culture of inclusion.
- We collaborate with each other and our community partners in the region, the State of Ohio, the nation and the world.
- We promote intellectual and personal growth through curricular and co-curricular efforts.
- We foster an environment of creativity, innovation, and entrepreneurship.
- We expect excellence in all we do.

This Code of Student Conduct is intended to ensure that students, and recognized student organizations conduct themselves in accordance with these values by participating in the University environment which respects differences of sex, sexual orientation, gender identity, gender expression, race or color, marital status, ethnicity, religion or creed, ancestry, genetic information, pregnancy, national origin, disability, age, and veteran's status.

This Code creates a set of expectations for student conduct, ensures a fair process for determining responsibility when behavior may have deviated from those expectations and provides appropriate sanctions when a student or recognized student organization has violated the Code of Student Conduct. Every effort will be made to balance the needs and rights of the student or recognized student organization with the welfare of the community as a whole.

2. Definitions

- A. The term "Code" means the Code of Student Conduct
- B. The term "student(s)" means any person from the time they are admitted to Bowling Green State University up through the date of graduation. This includes but is not limited to:
 - 1. New students at orientation;
 - 2. Persons not currently registered for classes but who are eligible to register without applying for readmission;
 - 3. Any other person enrolled in at least one credit-earning course offered by Bowling Green State University, including students enrolled in the College Credit Plus program; and/or
- C. The term "recognized student organization (RSO)" means any student organization whose registration has been approved by the Office of the Dean of Students
- D. The term "University official" includes any person employed by the University and any person serving the University in an official capacity
- E. The term "member of the University community" includes any person who is a student, University official, trustee, or any other person serving the University in an official capacity. The Vice President for Student Affairs and the Vice Provost shall determine a person's status as a member of the University community
- F. The term "University official" includes any person employed by the University and any person serving the University in an official capacity.
- G. The term "University premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University, whether in Bowling Green, Ohio, or elsewhere.
- H. The terms "shall" and "will" are used in the imperative sense.
- I. The term "may" is used in the permissive sense.
- J. The term "day" means business days (Monday – Friday) when the University is open, regardless of whether classes are in session. In determining any deadlines as set forth in the Code, references to a number of "days" prior to or after occurrence of an event shall not include the day of the incident.
- K. The term "Complainant" means any person filing an Incident Report of alleged misconduct or otherwise bringing a complaint to the attention of a University official charged with receiving, investigating and remedying a complaint.
- L. The term "Respondent" means a student or recognized student organization against whom an Incident Report of alleged misconduct has been filed under this Code.
- M. The term "health" means physical or mental well-being.
- N. For the purposes of the Code of Student Conduct, the term "residence hall" means any hall, house or other living unit owned or leased by the University for the principle purpose of providing student housing.
- O. The term "Incident Report" means any accusation of alleged misconduct submitted through the "Report an Incident" function at <https://cm.maxient.com/reportingform.php?BowlingGreenStateUniv>. The University also treats law enforcement agency reports and citations as incident reports.

3. Conduct Authority

Ultimate authority for student conduct is vested in the Board of Trustees of the University. The Board of Trustees has delegated authority for student conduct to the President. The Vice President for Student Affairs and Vice Provost is the person designated by the President to be responsible for the administration of the Code of Student Conduct. Conduct authority may be delegated to University officials and committees as set forth in this code, in accordance with other University policies, rules, or regulations, and as deemed appropriate by the Vice President for Student Affairs and Vice Provost.

4. Jurisdiction of the University

University jurisdiction shall address conduct that occurs on or off University premises, which adversely affects members of the

University community and/or the pursuit of its objectives, including but not limited to creating a positive academic environment, promoting responsible citizenship, and fostering an inclusive community.

5. Violation of Law and University Policy

An Incident Report may be filed against a student or organization charged with a violation of a law that is also a violation of this Code if both violations result from the same factual situation, independent of any pending criminal prosecution or civil litigation. Proceedings under the Code may be carried out prior to, simultaneously with, or following criminal prosecution or civil litigation.

6. Prohibited Conduct

Any student or recognized student organization found to have committed one or more of the following acts of prohibited conduct will be subject to sanctions. The standard of proof in determining whether a student or organization has violated the Code is "more likely than not".

A. Offenses Against the University Community

1. Acts of dishonesty, including but not limited to the following:
 - a. Furnishing false information to the University or any University official.
 - b. Forgery, alteration, or misuse of any University or government document, record, or instrument of identification.
 - c. Tampering with the election of any organization.
2. Violations of other published University policies, rules or regulations. Such policies, rules or regulations include but are not limited to Residence Life Community Living Standards, Residential Living Agreement, Information Technology Policies, parking and traffic regulations, policies governing student organizations and other published policies.
3. Using electronic or other means to make a video, audio, or photographic record of any person in a location where there is a reasonable expectation of privacy without the person's prior knowledge or permission in each instance, when such a recording is likely to cause injury, distress, or damage to reputation. The storing, sharing, and/or distributing of such unauthorized records by any means is also prohibited. Faculty have the right to control the classroom environment and to permit or deny permission to do electronic video or audio recording at their discretion.

B. Offenses Against Persons

1. These behaviors include but are not limited to any contact or communication that are intended to threaten, harass or injure a person(s):
 - a. Endangering, threatening, intimidating, or attempting to cause physical harm to another person, causing reasonable apprehension of such harm or engaging in conduct or communications that a reasonable person would interpret as a serious expression of intent to cause harm;
 - b. Harassment – any severe, persistent, or pervasive action or communication (verbal, written, or electronic) that causes a reasonable person to feel emotionally or mentally distressed or frightened whether after having been asked to stop or continuing actions to such a degree that a reasonable person, subject to contact, would regard the contact as unwanted. Harassment also includes communication or action that interfere with a person's participation in an educational, work, or University activity or environment;
 - c. Hazing – any mental or physical action, requirement, request of, or obligation placed upon any person (including but not limited to a pledge, associate member, affiliate, prospective member, guest, initiate or team member) which could be harmful to the health, welfare or academic progress of the person; or which is personally degrading to the person involved, or which has an adverse effect on the academic progress of the person; or which destroys or removes public or private property; or which violates any federal, state, or local laws, or University policy, whether on or off-campus. No member of the University community shall fail to report hazing. Expressed or implied consent to hazing does not prevent the behavior from being considered a violation of the Code.
 - d. Retaliation – a student or recognized student organization shall not retaliate against any person who files an Incident Report or who brings forward a complaint or concern.
2. **Sexual misconduct, relationship violence, and stalking**
 - a. Sexual Assault: See University Policy 3341-2: Sexual Misconduct & Relationship Violence
 - b. Sexual Misconduct: See University Policy 3341-2: Sexual Misconduct & Relationship Violence
 - c. Sexual or Gender-Based Harassment- See University Policy 3341-2: Sexual Misconduct & Relationship Violence
 - d. Stalking: See University Policy 3341-2: Sexual Misconduct & Relationship Violence
 - e. Intimate Partner Violence: See University Policy 3341-2: Sexual Misconduct & Relationship Violence
 - f. Domestic Violence: See University Policy 3341-2: Sexual Misconduct & Relationship Violence
 - g. Retaliation: See University Policy 3341-2: Sexual Misconduct & Relationship Violence
 - h. Violation of Interim and Protective Measures: See University Policy 3341-2: Sexual Misconduct & Relationship Violence

C. Offenses Against Property

1. Attempted or actual theft or possession of stolen property, whether knowingly or should have reasonably known.
2. Attempted or actual damage or vandalism to property.
3. Unauthorized possession, duplication, or use of keys and other entry codes or devices to any University premises as well as non-University premises.
4. Unauthorized presence in or unauthorized use of university property, resources, or facilities as well as non-University property.
5. Theft or other abuse of computer facilities and resources, including but not limited to:
 - a. Unauthorized entry into a file to use, read, or change the contents, or for any other purpose.
 - b. Unauthorized transfer of a file.

- c. Use of another individual's identification and/or password.
 - d. Use of University computing facilities and resources to interfere with the work of others.
 - e. Use of University computing facilities and resources to send obscene or abusive messages.
 - f. Use of University computing facilities and/or e-mail to send unsolicited or unauthorized messages with the intention of reaching a mass of users.
 - g. Use of University computing facilities and resources to interfere with normal operation of the Bowling Green State University computing system.
 - h. Use of University computing facilities or resources in violation of copyright laws.
 - i. Any violation of Bowling Green State University's Information Technology Policies.
- 6. Intentionally setting fire to property.
 - 7. Littering on University premises.

D. Offenses Disrupting Order or Disregarding Health and Safety

1. Drugs

- a. Use and/or possession of controlled substances including marijuana or substances derived from marijuana, except as expressly permitted by law.
- b. Use and/or possession of drug related paraphernalia except as expressly permitted by law.
- c. The abuse, misuse, sale, or distribution of prescription drugs
- d. Manufacture, distribution, sale and/or offer for sale of any controlled substance or drug, except as expressly permitted by law.
- e. Intentionally or recklessly inhaling or ingesting substances (e.g. nitrous oxide, glue, paint, etc.) that will alter a person's state of mind.

2. Alcohol

- a. Use and/or possession of alcoholic beverages except as expressly permitted by law and University Policy. This includes, but is not limited to, the underage possession or consumption of alcohol.
- b. Selling, distributing, or furnishing of alcoholic beverages except as expressly permitted by law and University Policy. This includes, but is not limited to providing alcohol to a person under the legal drinking age.
- c. Misconduct under the influence of alcohol including but not limited to operating a vehicle under the influence, disorderly conduct, due to intoxication, and public intoxication.
- d. Failure of a student organization to take all necessary steps to ensure that no person under the legal drinking age possesses alcoholic beverages at functions it sponsors or within any property or transportation it owns, operates, and/or rents.

3. Weapons - Possession of firearms, explosives, incendiary devices, or illegal or unauthorized possession of weapons, or dangerous chemicals.

4. Fire Safety - Entering false fire alarms or bomb threats or tampering with fire extinguishers, alarms, smoke detectors or other safety equipment.

5. Gambling - Illegal gambling or wagering.

6. Disruptive Behavior

- a. Disrupting and/or interfering with university operations including but not limited to obstruction of teaching, research and/or administrative activities which occur on or off campus.
- b. Causing, inciting, or participating in any disturbance that presents a clear and present danger to others, causes physical harm to others, or damage and/or destruction of property, including but not limited to participating in or inciting a riot.
- c. Failure to comply with lawful orders of university officials or law enforcement officers acting within the scope of their job duties, and/or failure to identify oneself to these persons when requested to do so.
- d. An act which deliberately interferes with the freedom of speech of any member or guest of the university community.
- f. Public Urination

E. Violation of State, Federal or Local Laws and University Policies

Any act or omission that constitutes a violation of federal, state or local laws and University policy, which is not otherwise covered in this Code.

F. Interfering with the Conduct Process, Including but not Limited to:

- 1. Failure to appear at a conduct meeting or hearing when directed to do so.
- 2. Falsifying, distorting or misrepresenting information at a conduct meeting or hearing, or knowingly initiating a false complaint.
- 3. Attempting to discourage a person's proper participation in, or use of, the conduct process whether in person or via digital platform such as e-mail or social media.
- 4. Harassment or intimidation of a University official or member of a conduct committee.
- 5. Failure to comply with sanction(s) imposed under the Code.

G. Shared Responsibility for Infractions

- 1. Presence during any violation of University policies or rules in such a way as to incite, aid or abet the violation.
- 2. Students and recognized student organizations may be held responsible for the conduct of their guests while on University premises, at University-sponsored or supervised activities, and at functions sponsored by any registered student organization.

7. Organizational Responsibility

An Incident Report may be filed against a recognized student organization under the Code of Student Conduct. A recognized student organization and individual students may be held collectively and individually responsible for violations of the Code, as well as for violations of the Code conducted by those associated with the recognized student organization, which includes guests and alumni. When an Incident Report is filed naming a recognized student organization as Respondent, the presiding officer and/or students affiliated with the group shall be required to participate in meetings and hearings as representatives.

8. Conduct Procedures

A. Filing an Incident Report

1. Any person may file an Incident Report against a student or recognized student organization alleging violation(s) of this Code. An Incident Report shall be made in writing and directed to the Office of the Dean of Students or designee.
2. A Complainant is expected to participate in the conduct meeting or hearing and to present relevant information.
3. Incident Reports should be submitted as soon as possible after an event takes place, preferably during the semester in which the event took place.
4. A staff member in the Office of the Dean of Students or designee may conduct an investigation to determine if the Incident Report has merit and/or if it can be resolved by mutual consent of the persons involved on a basis acceptable to the Office of the Dean of Students or designee. Such resolution shall be final and there shall be no subsequent proceedings. If a staff member in the Office of Dean of Students or designee determines the Incident Report has merit and cannot be resolved by mutual consent, a staff member in the Office of the Dean of Students or designee may participate in any subsequent conduct meeting or hearing to resolve the Incident Report. A staff member in the Office of the Dean of Students or designee reserves the right to reject an Incident Report without further qualification.
5. The Vice President for Student Affairs and Vice Provost reserves the right to refer any Incident Report to a University official or committee other than the Office of the Dean of Students or designee, the University Conduct Committee, the Alternative Resolution Board, or the Sexual Misconduct & Relationship Violence Board.
6. If a Respondent fails to keep a meeting with the Office of the Dean of Students or designee, a hold may be placed on the student's registration account and/or a decision regarding appropriate charges, responsibility and/or sanctions may still be made.

B. Investigation

1. Respondents will have the opportunity to meet with a staff member in the Office of the Dean of Students or designee to discuss the Incident Report. During the investigation meeting, Respondents will receive:
 - Reasonable access to the Incident Report filed;
 - An opportunity to be assisted by one advisor of their choosing and at their expense. Advisors are not allowed to speak or participate in the conduct process. Meetings will not be scheduled around the availability of the advisor. Advisors may not appear in lieu of the Respondent. The Respondent has the opportunity to request an advisor from the Office of the Dean of Students or designee if they are unable to identify one on their own;
 - An opportunity to respond to the Incident Report and to present relevant information and/or witnesses.
2. Based on the information presented by the Complainant and the Respondent, a determination will be made whether or not the information presented warrants a charge using the Preponderance of the Evidence or 'More Likely than Not' standard of proof.
3. Respondents will be provided up to two (2) days to choose between the informal and formal disposition options. Should the Respondent fail to make a decision, the case may be resolved without the input from the Respondent which also may waive the right to a formal hearing.

C. Informal Disposition - Conduct Meeting

Respondents not disputing alleged policy violation(s) may choose the informal process for resolution of one or more violations of the Code.

1. The Respondent will receive via electronic mail, written notice of the complaint prior to the conduct meeting.
2. The Respondent/ will have the opportunity to discuss sanctions with a staff member in the Office of the Dean of Students or designee.
3. A final determination of sanctions will be provided in writing to the Respondent through email.
4. The right to appeal sanctions as part of the informal disposition as defined in Section 11 of the Code.
5. Victims of crimes of violence, including sexual misconduct and relationship violence, will be notified of the resolution, the sanctions, and any rights to appeal.

D. Formal Disposition

University Conduct Committee (UCC)

Respondents disputing the alleged policy violation(s) are entitled to a formal hearing before the UCC or one of the affiliate hearing boards.

1. Composition of the UCC

- a. The UCC shall be composed of faculty, students and staff members. Members shall be appointed by the Vice President for Student Affairs and Vice Provost for a one (1) year term and may be reappointed.
- b. Quorum for a hearing is five (5) members: one each from the faculty and staff, and three (3) students are necessary to hold a hearing. In the event quorum cannot be reached the respondent can waive the five (5) member requirement. A hearing will not be conducted without a minimum of four (4) UCC members. All

- members, except the chair, shall have voting rights. Decisions by the UCC shall be made by majority vote. In the event of a tie or should quorum not be reached, the Chair will serve as a voting member.
- c. A staff member in the Office of the Dean of Students or designee shall chair all UCC hearings.
 - d. A staff member in the Office of the Dean of Students or designee is responsible for coordinating hearings and assigning Incident Reports.
 - e. All committee members hearing a case should not have a direct, firsthand knowledge of the case before the UCC.
 - f. The Vice President for Student Affairs and Vice Provost may remove a member from the UCC when the member has failed or refused to perform his or her duties or responsibilities. Student members found in violation of this Code may be removed from the UCC.
 - g. A Respondent may challenge a UCC member on the grounds of a conflict of interest that might affect impartial consideration of the Incident Report. The remaining members of the UCC will conduct a secret ballot vote to determine if the challenged member shall be recused from the hearing.

2. **Alternative Resolution Board (ARB)**

In an effort to more effectively deal with student behaviors which adversely affect or disrupt the campus community, Bowling Green State University may choose to utilize an alternative formal process. Respondents disputing the alleged policy violation(s) or those who have caused serious disruptions to the community may be assigned to the ARB for resolution of the case.

Composition of the ARB

- a. The ARB shall be composed of one staff member each from the Psychological Services and Accessibility Services as appointed by the Vice President for Student Affairs and Vice Provost. The Director of Residence Life or designee will serve on ARB when the hearing involves a residential student.
- b. Quorum for a hearing is three members including the Chair. All members, including the Chair, shall have voting rights. Decisions by the ARB shall be made by majority vote.
- c. A staff member in the Office of the Dean of Students or designee shall chair all ARB hearings.
- d. A staff member in the Office the Dean of Students or designee is responsible for coordinating ARB hearings and assigning Incident Reports.
- e. All committee members hearing a case should not have a direct, firsthand knowledge of the case before the ARB.
- f. Respondent may challenge an ARB member on the grounds of a conflict of interest that might affect impartial consideration of the Incident Report. The remaining members of the ARB will conduct a secret ballot vote to determine if the challenged member shall be recused from the hearing.

3. **Conduct Formal Hearing Procedures for the University Conduct Committee and the Alternative Resolution Board**

The Respondent will receive written notice of the hearing date at least five (5) business days prior to the hearing.

On a date specified by a staff member in the Office of the Dean of Students or designee, the Respondent will submit to the Office of the Dean of Students or designee a list of witnesses for the hearing, a summary of the information each witness is expected to provide and any document(s) the Respondent expect to present at the hearing. The Office of the Dean of Students or designee will make copies of this information available to the Respondent and the hearing board prior to the hearing.

The Respondent may be assisted by one advisor of their choosing and at their expense. Advisors are not permitted to speak or participate in a hearing. Hearings will not be scheduled around the availability of an advisor. The Respondent shall notify the Office of the Dean of Students or designee of their advisor's name and telephone number at least three (3) business days prior to the hearing. Advisors may not appear in lieu of the Respondent; however, an advisor may consult with the Respondent during a hearing and may assist with preparation for the hearing. An attorney can be used as an advisor but is subject to the aforementioned stipulations. Should an advisor not be able to attend the hearing date, the hearing will still proceed.

In the event that the University chooses to proceed through legal counsel, the Respondent will be notified three (3) business days prior to the hearing and also shall have the right to proceed through counsel. Counsel may not appear in lieu of the Respondent.

If a Respondent fails to appear for a hearing, the hearing may proceed without the Respondent's presence.

The Respondent may request alternative accommodations in lieu of being physically present at the hearing.

Violations will be determined on the basis of whether it is "more likely than not" that the Respondent violated the Code.

The hearing will be recorded. The recording is University property and shall be an education record of the student Respondent only.

The University expects that the Respondent will be present and available for the entire hearing. The Respondent need not be physically present for the hearing, although it is strongly preferred. A Respondent may choose to listen and speak by telephone.

The Chair will exercise control over the proceedings. The Chair is also permitted to ask questions. If any person is disruptive, the Chair may require them to leave the hearing.

The Chair will determine whether information is relevant. Information will be considered if it directly relates to the facts of the Incident Report or appropriateness of a particular sanction. Formal rules of evidence shall not apply.

The Student Conduct investigator will be the first person to present information to the hearing panel.

The second person who may present information to the hearing panel is the Respondent.

The Respondent and the members of the hearing panel may ask questions directly to each witness.

The Chair may disallow any question that seeks information that is not relevant or rephrase the question to limit it to relevant information.

Each witness (other than the Respondent and the Student Conduct investigator) will be excluded from the hearing while another witness speaks before the hearing panel.

No witness may be compelled to answer a question. The Respondent may choose to speak on their own behalf or remain silent.

The Respondent and hearing board may examine the information accepted by the chairperson.

After the investigator and the Respondent have each had the opportunity to present information to the hearing panel, the Chair will allow the hearing panel to ask questions of the investigator and the Respondent. Finally, the Chair will allow the investigator and the Respondent to ask concluding questions of each other (directly or indirectly as applicable).

The hearing will end after the concluding questions. The hearing panel will consider the Prohibited Conduct for which there was a sufficient-information finding in the final investigation report.

The Respondent will be given an opportunity to recommend any potential sanctions should the respondent be found responsible for any violation of the Code.

During deliberations, the hearing panel may use prior conduct history if applicable for sanction purposes only.

If a majority of the hearing panel agrees that a preponderance of the evidence compels the conclusion that Respondent Party engaged in an act of Prohibited Conduct under the Code of Student Conduct, it will find the Responding Party to be responsible.

Hearing Outcome and Sanctions

If the University Conduct Committee or Alternative Resolution Board hearing panel finds the Respondent to be responsible for Prohibited Conduct under the Code of Student Conduct, that same board will review any impact or mitigation statements and deliberate and determine sanctions. The sanctioning process is to end the Prohibited Conduct, protect the best interests of the BGSU community, and promote the goals and objectives of this Policy in a manner that supports the university's educational mission. Sanctions may also be designed to promote safety, deter similar behavior and promote university values.

Once the hearing panel has made a finding as to each instance of Prohibited Conduct under consideration, and determined sanctions, it will set forth its outcome together with an explanation of the majority's reasoning in a written report and will submit the outcome to the Office of the Dean of Students within three calendar days of the conclusion of the hearing.

The Office of the Dean of Students will provide a written notice of the outcome of the hearing, a copy of the University Conduct Committee or Alternative Resolution Board hearing panel rationale, and the appeal rights to the Respondent.

As permitted by FERPA, victims of crimes of violence will be notified of the resolution and the sanctions.

Victims of crimes of violence will be notified of the resolution and the sanctions.

Appeals shall be made to the Dean of Students or designee in writing stating the grounds of the appeal within five (5) days of the date that the decision letter was emailed to the respondent and/or complainant. The decision of the Dean of Students or designee is final. Grounds for appeal are found in Section 11 of this Code of Student Conduct.

Guidelines for the implementation of sanction(s) are outlined in Section 11 of this Code of Student Conduct.

9. Medical Amnesty Policy

(A) Policy Statement and Purpose

Student health and safety is a substantial University interest. Abuse and overconsumption of alcohol or other legal and illegal substances is a serious and worsening national problem. The University's interest in promoting student health and safety is furthered by encouraging students to seek and obtain prompt medical assistance for themselves, or another, if in distress from the abuse of alcohol or other substances. The University's interest is also furthered by removing obstacles to obtaining prompt medical assistance for a person in distress from alcohol or substance abuse.

(B) Policy

(1) A currently enrolled student who, in good faith, seeks or obtains medical assistance (e.g. by calling 9-1-1) for themselves or for another person for the overconsumption of alcohol or for a drug overdose, shall not be charged with a violation of the Code in connection with the possession or consumption of alcohol or drugs if all of the following apply:

(a) The information that would be the basis for a hearing of a Code violation for alcohol, drug or other offense was obtained as a result of a student seeking medical assistance for themselves or another person for the overconsumption of alcohol or a drug overdose.

(b) Under the supervision of the Office of the Dean of Students, the student: accepts responsibility for the misconduct; obtains an alcohol and drug assessment at the BGSU Counseling Center; complies with a referral for treatment from a university or community alcohol or drug abuse services provider or a properly credentialed substance abuse or addiction treatment professional; and completes any educational interventions required by the Office of the Dean of Students.

(c) The student who obtains an assessment and receives a referral for treatment under the preceding sub-section of this Policy, upon the request of the Office of the Dean of Students, submits documentation to the Office of the Dean of Students that verifies that the student satisfied the requirements of that sub-section.

(d) The student has not previously asserted this policy in defense of another alcohol or drug incident.

(e) The student is in good disciplinary standing with the university.

(2) This Policy does not prevent the University from notifying students' parents/guardians about the incident because family members can provide additional support for students.

(3) This policy applies only to disciplinary actions under the Code of Student Conduct and does not apply to limit any law enforcement agency, including the BGSU Police department, from investigating or prosecuting criminal activity in accordance with state and federal law.

(4) This policy does not preclude any disciplinary actions regarding other University violations such as endangering, threatening, or attempting to cause physical harm to another individual; sexual misconduct; relationship violence; damage to property; theft; and hazing.

(C) Recognized Student Organizations

If a representative of a recognized student organization seeks medical assistance under this policy, that act will be considered as a mitigating factor in determining a sanction if the recognized student organization is found in violation of the Code in connection with the occurrence.

(D) Determination of Policy Application

Whether all the conditions of this policy have been satisfied shall be at the sole sound discretion of the Office of the Dean of Students. When circumstances warrant, the Office of the Dean of Students may waive compliance with subparagraphs (B) (1) (d) and (B) (1) (e).

A student who fails to successfully satisfy all the conditions of this policy, including any required educational interventions, will be referred for adjudication through the Code of Student Conduct for the original incident.

(E) Appeal

A student who has been denied the defense afforded by this policy may appeal that decision to the Dean of Students with five (5) business days of the decision. The Dean's decision shall be final.

10. Sanctions

A. The following sanctions may be imposed upon any student or recognized student organization found to have violated the Code:

1. *Warning*—Notice in writing that continuation or repetition of prohibited conduct may be cause for additional conduct action. Warning is for a designated period of time and includes the probability of more severe sanctions if the student is found in violation of any University policy while on warning.
2. *Conduct Probation*—A written reprimand specifying the violation for which the student is held responsible. Students on probation are not considered to be in good standing with the University. Probation is for a designated period of time and includes the probability of more severe sanctions if the student is found in violation of any University policy while on probation.

3. *Deferred Suspension*—Separation from the University for a defined period of time unless specified educational sanctions are successfully completed. Upon successful completion of educational sanctions, conduct probation will be assigned for a defined period of time. Failure to complete educational sanctions will result in suspension from the University.
 4. *Suspension*—Separation of the student from the University for a defined period of time, after which the student is eligible to return, and a permanent notation on one's transcript. While on suspension, the student may be prohibited from being present on all University property. Conditions for readmission may be specified.
 5. *Expulsion*—Permanent separation of the student from the University, and a permanent notation on one's transcript. The student may also be permanently prohibited from being present on all University property.
 6. *Residence Hall Suspension*—Separation of a student from one or more of the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
 7. *Residence Hall Expulsion*—Permanent separation of a student from the residence halls.
 8. *Educational Sanctions*—Work assignments, service to the University, classes, workshops, papers or other related educational assignments.
 9. *Restrictions and Loss of Privileges*—Denial or restriction of certain privileges for a designated period of time.
 10. *Restitution*—Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
- B.** Members of the University community who are part of the sanctioning decision will also be notified of the final decision, including but not limited to the Counseling Center, Campus Activities, Office of Residence Life, Intercollegiate Athletics, Marvin Center for Student Leadership, University Police Department, ROTC officials, International Programs and Partnerships, and Accessibility Services.
- C.** The following sanctions may be imposed on any organization found in violation of the Code:
1. Any of the sanctions listed in Section 10.A. above.
 2. Loss of status as a recognized student organization for a defined period of time or permanently. Campus Activities shall notify any national or regional governing body with which the organization is associated or that sponsors social, academic, or sports events when such action is taken.
 3. Loss or withdrawal of all student general fee dollars or other University funding for the remainder of the academic year.
 4. Loss of small-group housing privileges at Bowling Green State University for a defined period of time or permanently.
- D.** More than one of the sanctions listed above may be imposed for any single violation.
- E.** Failure to complete sanctions or attend a Code of Student Conduct meeting may result in a University hold being placed on a student's ability to register for subsequent semesters or change a class schedule.

11. Appeals

A. Right to Appeal

A Respondent may appeal the sanction imposed by a staff member in the Office of the Dean of Students or designee (informal disposition) or the decision rendered by the UCC or ARB (formal disposition.)

B. Grounds for Appeal

1. Appeals must be based on the issue of substantive or procedural errors which are prejudicial and which were committed during the conduct meeting or hearing.
2. The specifics to be addressed on appeal are:
 - a. Were the procedures of the Code of Student Conduct followed?
 - b. If a procedural error occurred, were the rights of the student or organization violated to the extent that the student or organization did not receive a fair hearing?
 - c. Was the meeting or hearing conducted in a way that permitted the student or organization adequate notice and the opportunity to present their version of the facts?
 - d. Was the information presented at the meeting or hearing sufficient to justify the decision and/or sanctions reached?
 - e. Was there information existing at the time of the meeting or hearing that was not discovered until after the hearing?

C. Appeal of Informal Disposition (Individual Hearing Officer)

Appeals shall be made to the Dean of Students or designee within five (5) days of the date that the Respondent was emailed the sanction notification letter rendered by a staff member in the Office of the Dean of Students or designee. The appeal shall be in writing, stating the ground(s) for appeal. The decision of the Dean of Students or designee is final.

D. Appeal of Formal Disposition (UCC/ARB)

Appeals shall be made to the Dean of Students or designee within five (5) days of the date that the Respondent was emailed the sanction notification letter of the decision of the UCC or ARB. The appeal shall be in writing, stating the ground(s) for appeal. The decision of the Dean of Students or designee is final.

E. Appeal Proceedings

- a. An appeal is confined to the criteria set in Grounds for Appeal.
- b. No appeal may be taken when disciplinary action is not imposed.
- c. An appeal is confined to the subjects presented at the hearing. No new matters may be presented on appeal except those which, through the exercise of reasonable diligence the appellant could not have discovered prior to the hearing.
- d. The written appeal and the supporting documents will be reviewed in determining the outcome.
- e. There will typically be no oral argument before the appeal officer. However the appeal officer may choose to meet with the Respondent before determining the outcome.
- f. The appeal officer's review is confined to reviewing the proceedings below to determine if there were violations of the procedure or if there was substantial error.

F. Potential Appeal Outcomes

- a. Uphold, modify, or eliminate the original sanction(s) in both the informal and formal disposition processes;
- b. Dismiss the case or individual charge(s) against the student in the formal disposition process; or
- c. Refer the case to a new hearing board to be reheard in the formal disposition process. This process includes a new recommendation on responsibility and, if applicable, sanctions. Potential Appeal Outcomes (a-c) are final and may not be appealed.

G. Implementation of Sanction(s)

Sanctions are effective immediately upon notice. Upon submission of appeal, sanctions will be placed on hold until the appeal process has been exhausted. New deadlines may be reassigned as necessary. The Dean of Students may impose interim measures during the appeal process to ensure the safety and well-being of members of the University community or preservation of University property.

12. Sexual Misconduct and Relationship Violence Procedures University Resolution Processes

BGSU uses two processes to resolve reports of prohibited conduct under this Policy: (1) Formal resolution is by an investigation that may result in a hearing and sanctions and may involve an appeal. (2) Alternative resolution is by informal or restorative methods.

After initially assessing the reported information, the Title IX Coordinator will decide if the investigation results in sufficient information to move forward and which process is most appropriate to use (although that decision may change as circumstances warrant).

If the Reporting Party has asked for any of the following circumstances, the Title IX Coordinator may consult with the Title IX Deputies to determine the course of action: (1) to remain anonymous, (2) or for BGSU not to pursue an investigation, (3) or for BGSU not to take disciplinary action.

The formal resolution process begins when notice of an investigation into an alleged policy violation is given to the Responding Party. Typically this process (except for any appeal) should conclude within sixty to ninety calendar days, but that time may be extended for good cause (such as, extended breaks where students may not be present or police involvement when the University is asked to pause for the purposes of a criminal investigation). The university will use its best efforts to achieve a timely resolution while being thorough and fair to all parties.

(1) The Initial Assessment

Upon receiving a report of Prohibited Conduct, the Title IX Coordinator will make an initial assessment of the reported information.

The first object of the initial assessment is to respond to any immediate health or safety concerns, including providing resources. The second object is to evaluate the nature and circumstances of the reported conduct and the specificity of the information (such as whether it is sufficient to personally identify the Reporting Party, the Responding Party, any witnesses, and any other persons with knowledge of the conduct). This task will include assessing the status of the Responding Party.

If the Responding Party is a university employee, the policy and procedures for responding to a report of Prohibited Conduct are addressed by Human Resources and are set forth in University Policy 3341-5-38 (Sexual Harassment) and 3341-5-33 (Anti-Harassment).

If the Responding Party is a student and an employee, the University's Title IX Coordinator or designee will determine which policy applies depending on the facts of the case, and whether the Prohibited Conduct alleged was committed predominately in the Responding Party's role as a student or predominately as an employee.

Student-employees who are reported to have engaged in Prohibited Conduct in their employment capacity will be subject to review under University Policy 3341-5-38 (Sexual Harassment) rather than under this Policy.

If the Responding Party is not a BGSU student or employee, or is not a participant in a university-related program or activity, BGSU's authority to take action may be limited. The Title IX Coordinator or designee, in consultation with the Office of General Counsel, will determine how best to proceed with regard to a third-party Responding Party. In those instances when BGSU cannot apply the procedures in this Policy or another University Policy to the alleged wrongdoer, BGSU will assist the Reporting Party in identifying and contacting appropriate campus or community resources, including law enforcement.

In deciding what course of action to take, the Title IX Coordinator will consider what the Reporting Party has requested; the degree to which the available information or evidence indicates that a Policy violation may have occurred; and BGSU's duty under Title IX obligation to determine what happened and take corrective action, as appropriate, to eliminate, prevent, and address the effects of Prohibited Conduct. The Reporting Party and Responding Party will each receive information about resources, rights and responsibilities in writing as well as updated information about the investigation during the process.

Formal Resolution

The formal resolution process typically begins when a Reporting Party has reported Prohibited Conduct and requested an investigation. It may also begin when the Title IX Coordinator (after consulting with Title IX Deputies) has decided that, despite a Reporting Party's request, a formal resolution is required to ensure the Reporting Party's health and safety or that of the university community.

The Title IX Coordinator will decide on the most effective means to formally review a report, but in most instances, that review will involve an investigation.

(1) Investigation

An investigation must give the Reporting Party and Responding Party notice and a full and fair opportunity to be heard, to submit information and to identify witnesses. The investigation will be thorough and impartial.

The Title IX Coordinator will assign one or more investigators to each investigation. In many cases, an investigator will be a Title IX Deputy Coordinator, but may also be a member of the Office of the Dean of Students, the Title IX Coordinator (when assigned by the Vice President for Student Affairs), any trained staff member, or an external investigator to be selected and assigned in consultation with the Vice President for Student Affairs, the University's President, and the Office of General Counsel (if applicable).

The investigator typically will separately interview the Reporting Party, the Responding Party, and available witnesses; give the parties an equal opportunity to submit or identify relevant information; and gather relevant information. That information may include documents, images, written or electronic communications or data, and medical records (with the person's consent).

The investigator will provide the Reporting and Responding Parties with a draft summary of their statement and give them an opportunity to comment.

Although the Reporting Party or Responding Party may provide materials to the investigator, it is the university's duty to gather relevant information that is reasonably available. The investigator may impose reasonable and equal time and page limits on documents and information presented by the parties.

(a) The Role of the Investigator(s)

Each person serving as an investigator must be impartial and have no conflict of interest. There will be a primary investigator who will serve as the lead investigator. This person may be assisted by one or more secondary investigators. Where circumstances warrant, and in consultation with General Counsel, the President, and the Vice President for Student Affairs, the Title IX Coordinator may appoint an external investigator.

A Reporting Party or Responding Party who is concerned that the designated investigator cannot conduct a fair and unbiased review may report those concerns to the Title IX Coordinator. The Title IX Coordinator will assess the circumstances and decide whether to designate a different investigator.

The investigator's role is to gather facts, not to function as an advocate for a Reporting Party or Responding Party. But upon request, an investigator may identify campus support resources for the Reporting Party and Responding Party and refer them to the Office of the Dean of Students to coordinate services.

(b) Notice of the Investigation

Before interviewing a Responding Party, the investigator(s) will give that party written notice of the initiation of the investigation. The investigator(s) will also give written notice to the Reporting Party unless that party has asked the university not to contact them.

(c) Presumption of Good Faith Reporting

BGSU presumes that a report of Prohibited Conduct is made in good faith. A finding that the conduct does not violate this Policy, or that there is not enough evidence to conclude that an incident occurred as reported, does not mean that a report was made in bad faith.

(d) Presumption of Non-Responsibility and Standard of Proof

Each investigation and hearing is a neutral, fact-gathering process in which the Responding Party is presumed not to be responsible. This presumption is overcome only if, after a hearing as provided below, the appropriate decision maker finds that the Responding Party violated this Policy by a preponderance of the evidence.

For purposes of this Policy, a preponderance of the evidence means that, based on all the reliable, relevant information and reasonable inferences from that information, the Responding Party is more likely than not in violation of this Policy.

(e) **Participation is Voluntary**

Reporting Party, Responding Party, and witnesses may choose whether or not to participate in the investigation. Even if a Reporting Party or Responding Party declines to participate, however, the investigator may continue to investigate the reported conduct and, to the extent consistent with due process, issue findings based on the information that is available.

(f) **Expectation of Truthful Information**

BGSU expects the Reporting Party, Responding Party, witnesses, and all others to provide truthful information in any proceeding under this Policy. Providing false information may result in disciplinary action under the Code of Student Conduct or other applicable Policy.

(g) **Acceptance of Responsibility**

The Responding Party may decide to accept responsibility for the Prohibited Conduct at any time. If so, the Title IX Coordinator will refer the matter to the appointed Commissioner (as described below) for sanctioning only.

(h) **Advisors**

The Reporting Party and Responding Party may each have one advisor of their choice throughout the formal resolution process. The university will not be responsible for professional fees of any advisor. The role of the advisor (who may be an attorney, a victim advocate, or other professional, for example) is to provide support and guidance. An advisor may not be a witness or have any other role in the process.

Changes to hearings will not be made to accommodate an advisor's schedule unless the university has chosen to have legal counsel present the case. During any meeting or hearing, an advisor's only role is to observe and provide support and counsel to the party they assist. An advisor may assist with written submissions. An advisor may not testify, question witnesses, or argue. If an advisor fails to comply with their role under this Policy, they may be excluded from the meeting or hearing. A Reporting Party or Responding Party may be deemed to have waived further rights to an advisor through the process under this Policy if the Title IX Coordinator or hearing panel determines an advisor's failure to comply with these rules to be sufficiently intentional and disruptive to warrant imposing such a sanction. A meeting or hearing may be postponed to accommodate an advisor's schedule at the sole discretion of the Title IX Coordinator and/or Commissioner.

Throughout the process, BGSU may determine what constitutes appropriate behavior by an advisor and to require compliance with the Policy.

(i) **Relevant Information**

The investigator is responsible for gathering relevant information to the extent reasonably possible. That information may include documents, images, written or electronic communications or data, and medical records (with the person's consent).

The Reporting Party and Responding Party, however, will be asked to identify witnesses and provide other relevant information as soon as possible to aid prompt investigation and resolution.

The investigator will review all information identified or provided by the parties. The investigator will determine the relevance and probative value of all information developed or received during the investigation. The investigator will provide all relevant information to the parties for their review and comment (as described below).

Confidential medical and counseling records generally are not available to the investigator unless the person voluntarily chooses to share them. In those instances, the investigator will summarize relevant information from those records in the preliminary report. Each party will be allowed to review the preliminary report and the relevant portions of the medical or counseling records.

When specialized expertise is needed, the investigator may seek authorization from the Title IX Coordinator to consult experts who have no connection to the reported incident.

(j) **The Responding Party's Prior or Subsequent Conduct**

A Responding Party's prior or subsequent conduct will not be used to prove that the Responding Party had the character to engage in the alleged conduct.

Prior or subsequent conduct may be considered for other purposes, such as determining preparation or plan, intent, knowledge, or the Responding Party's motive for taking an action. To that extent, evidence of a pattern of substantially similar Prohibited Conduct by the Responding Party (regardless of any other finding of a Policy violation) may be deemed relevant to the matter under investigation.

If the investigator determines that a Responding Party's prior or subsequent conduct is relevant, both persons will be informed in writing.

(k) Prior Sexual Contact between the Reporting Party and the Responding Party

Prior sexual contact between a Reporting Party and a Responding Party is generally not relevant. It will be considered only in limited circumstances.

For example, if the question is whether consent was given through mutually understandable actions, information about prior sexual contact may assist the investigator and decision-makers to better understand the manner and nature of the parties' sexual communication. To that extent, the information may be relevant in determining whether consent was sought and given during the incident under investigation.

If the investigator determines that the parties' prior sexual contact is relevant, both persons will be informed in writing.

(l) Witnesses

Witnesses are persons who observed the acts in question or have information relevant to the incident. A witness may not participate solely to speak about an individual's character.

The investigator will give each identified witness the opportunity to discuss the investigation process and participate in an interview. After the interview, the investigator will provide each witness a draft summary of their statement for their review and comment.

The investigator will provide a written summary of each witness's interview to the Reporting Party and the Responding Party for their review and comment. The summary will identify the witness by name and by their relationship to each other person and the university.

The investigator will provide this information in or with the draft investigation report.

(m) Coordination with Law Enforcement

If the university learns of a concurrent criminal investigation, BGSU's investigator will inform the criminal investigator that a university investigation is in progress; inquire into the status of the criminal investigation and determine whether law enforcement officials will make any evidence available to the university.

Upon request, BGSU may agree to defer part or all of its investigation until law enforcement evidence gathering is complete.

To the extent consistent with the law enforcement request, the investigator will communicate with the parties about resources and support, procedural options and anticipated timing, and any interim measures deemed necessary for the safety and well-being of the affected individuals.

Because the standards for a criminal proceeding differ from the standards for a violation of this Policy, BGSU will not base its decisions solely on law enforcement reports or actions. BGSU will take immediate and appropriate action in response to a report of Prohibited Conduct, even if a law enforcement action is pending. If BGSU finds that Prohibited Conduct has occurred, it will take appropriate action, even if a law enforcement action is pending.

(n) Time for Completion of Investigation

The period from the start of an investigation, which begins with the investigator's notice to the Responding Party, to a final investigation report (as described below) typically should not exceed sixty to ninety calendar days.

In some situations, however, this target may not be achievable. For example, additional time may be needed to ensure the integrity and completeness of the investigation (particularly in complex cases involving multiple witnesses or large volumes of information); to comply with a request by law enforcement; due to the unavailability of witnesses or university breaks or vacations; or for other well-supported reasons.

If the investigator determines that the ninety-day period must be exceeded, both parties will be informed in writing.

(o) Preliminary Report

After interviewing the Reporting Party and the Responding Party, giving each of them the opportunity to review and comment on their statement and to identify witnesses and provide information, completing witness interviews, and gathering relevant information, the investigator will prepare a preliminary report.

Usually, the preliminary report will include the Reporting Party's statement, the Responding Party's statement, a statement from each available witness, and a copy of the other relevant information obtained during the investigation and/or a written summary of it. The preliminary report will not contain any findings.

The investigator will provide the preliminary report to the Reporting Party and the Responding Party for their review and comment. Reports will not be shared electronically and should not leave the Office of the Dean of Students suite without arrangements being made prior by the investigator. Each party will have three (3) calendar days from the date the preliminary report is shared to submit in writing, to the investigator, any comments, questions for the other party based on the statements in the preliminary report, additional documents or other information, names of additional witnesses, requests for additional investigation, or any other information they feel is relevant.

The Title IX Coordinator may impose strict page limits on the written information and materials the parties can provide the investigator in response to the preliminary report.

If a party provides questions or identifies new relevant information, the investigator will address any relevant issues identified and pursue additional investigative steps as needed. The investigator will include those matters in a revised preliminary report and give the parties a two-day (2) period to review and comment on it before writing the final report.

(p) Final Investigation Report and Outcome of Investigation

After all review, questions, and comment periods have ended, the investigator will write a final investigation report that finds whether there is sufficient information, by a preponderance of the evidence, to believe that the Responding Party violated this Policy.

The final investigation report will include all information from the preliminary report (and any revised report); any additional relevant information gathered; the investigator's findings, and a summary of the investigator's rationale for those findings. If the investigator's findings warrant moving the final investigation report forward for adjudication, it will be accompanied with a conduct resolution record (CRR). The investigator will submit the final investigation report to the Title IX Coordinator for review and approval with copies to the Office of the Dean of Students and the Office of General Counsel for review.

The Office of the Dean of Students will simultaneously provide a written notice of the outcome of the investigation and a copy of the final investigation report to the Reporting Party and Responding Party. The notice will include information about next steps, which may include information on sanction only hearing, an option for a simplified hearing, or a full Sexual Misconduct and Relationship Violence Board hearing. Information about appeals will be provided at designated points in the process.

If a Reporting Party has asked not to be notified of the outcome, the university will honor that request. BGSU may decide that follow-up (as described below) is necessary, however, and will give the Reporting Party notification of that follow-up if appropriate.

(q) When a Policy Violation Is Found

When the final investigation report finds that there is sufficient information, by a preponderance of the evidence, to conclude that Responding Party committed a violation of this Policy, then the Responding Party may request a hearing as described in Section (2) below. When a hearing is requested, the Administrative Hearing or Sexual Misconduct and Relationship Violence Board hearing will be scheduled in accordance with this Policy. When no hearing is requested, the Adjudicator will act as a sanctioning board only.

(r) When a Policy Violation Is Not Found

When the final investigation report determines that there is insufficient information, by a preponderance of the evidence, to conclude that the Responding Party committed a violation of this Policy, then the Reporting Party may accept that determination or appeal it to the Dean of Students.

If the Reporting Party chooses not to contest the finding that there was no Policy violation, then the investigation will be closed.

To appeal, the Reporting Party must provide written notice as described below at Subsection (4).

(2) Simplified Hearing and Sexual Misconduct & Relationship Violence Board

When the investigation report finds that the Responding Party has committed a violation of this Policy, then the Responding Party may: 1) accept responsibility and go to a sanctioning-only hearing with a Commissioner who is annually trained on sexual misconduct, relationship violence, the impact of trauma, this Policy, best practices for responding to claims of student sexual misconduct, and other relevant matters; 2) request a simplified hearing where all parties agree to have a Commissioner review the investigative report, determine responsibility, and sanction if appropriate; or 3) request the Office of the Dean of Students to convene a hearing before a panel of the Sexual Misconduct and Relationship Violence Board. A

request for a hearing must be submitted in writing to the Title IX Office not more than five school days after the submission of the investigation report.

Each Academic Year, the university will appoint a Sexual Misconduct and Relationship Violence Board consisting of no fewer than ten (10), no more than twenty (20) members to be appointed by the Vice President for Student Affairs in consultation with the University President. Members of the Sexual Misconduct and Relationship Violence Board will receive annual training on sexual misconduct, relationship violence, the impact of trauma, this Policy, best practices for responding to claims of student sexual misconduct, and other relevant matters. Each member will serve for a minimum of two years unless they are removed by the Vice President for Student Affairs prior. Members may be asked to remain on the board beyond two years.

(a) Prehearing Procedure

When a case is scheduled for hearing before a panel of the Sexual Misconduct and Relationship Violence Board, the Associate Dean of Students or trained designee shall serve as a voting Chair of the hearing panel. The Chair will only vote in the event of a tie. The Chair will select two additional Sexual Misconduct and Relationship Violence Board members who will comprise the hearing panel. If a selected member has direct, firsthand knowledge of the case, is personally acquainted with the Reporting Party or Responding Party, has any other conflict or for other good cause as determined by the Chair, that individual will be recused and be replaced by another Board member. After any members, including the Chair, who were listed in the written notice and disqualified for cause have been replaced, the composition of the panel will be final.

The Chair shall maintain records related to the selection of the hearing panel in accordance with applicable University records retention schedules.

The Chair will set a hearing date. At least five calendar days before the hearing date, the Associate Dean of Students will give written notice to the Reporting Party and the Responding Party.

The written notice will specify the hearing date and list the names and job titles of the panel members. It will also specify a date by which the Reporting Party and Responding Party must each submit a list of witnesses, provide copies of any documents the party intends to present, identify any advisor who will attend the hearing, and submit a written explanation seeking to disqualify any member of the panel for bias or conflict of interest.

If the university chooses to have legal counsel present the case to the hearing panel, the written notice will include that information. If so, the Responding Party may also present their case through legal counsel.

At least three calendar days before the hearing, the Chair will make a list of all witnesses and copies of all documents available to the Reporting Party and the Responding Party.

(b) Hearing Procedure

The hearing will be recorded. The recording is university property and shall be an education record of a student Reporting Party and a student Responding Party only.

The university expects that the Reporting Party and the Responding Party will each be present and available for the entire hearing. The Reporting Party and Responding Party need not be present in the same room. A party may choose to listen and speak by telephone from another room at the hearing location when the other party is in the hearing room.

If either party is not present to answer questions before the hearing panel, at the end of the hearing the other party may submit written questions to the Chair. The Chair will confirm that questions are relevant prior to sending them to the absent party, instructing that party to provide written answers within twenty-four hours.

The Chair will exercise control over the proceedings. The Chair is also permitted to ask questions. If any person is disruptive, the Chair may require them to leave the hearing.

Formal rules of evidence will not apply.

The hearing panel may only consider relevant information.

The Chair will determine whether information is relevant.

The Reporting Party, the Responding Party, and the members of the hearing panel may ask questions directly to each witness; except that any questions from the Reporting Party to the Responding Party or from the Responding Party to the Reporting Party will be directed to the Chair.

The Chair may disallow any question that seeks information that is not relevant or rephrase the question to limit it to relevant information.

Each witness (other than the Reporting Party and the Responding Party) will be excluded from the hearing while another witness speaks before the hearing panel.

No witness may be compelled to answer a question. The Responding Party may choose to speak on their own behalf or remain silent.

The investigator will be the first person to present information to the hearing panel.

The second person who may present information to the hearing panel is the Reporting Party.

The third person who may present information to the hearing panel is the Responding Party.

After the investigator, the Reporting Party, and the Responding Party have each had the opportunity to present information to the hearing panel, the Chair will allow each of them to ask concluding questions of each other (directly or indirectly as applicable). Finally, the Chair will allow the hearing panel to ask concluding questions of the investigator, the Reporting Party, and the Responding Party.

The hearing will end after the concluding questions. The hearing panel will consider the Prohibited Conduct for which there was a sufficient-information finding in the final investigation report. While presuming that the Responding Party is not responsible, the hearing panel will deliberate on the information presented at the hearing.

During deliberations, the hearing panel may use prior conduct history if applicable.

If a majority of the hearing panel agrees that a preponderance of the evidence compels the conclusion that Responding Party engaged in an act of Prohibited Conduct, it will find the Responding Party to be responsible.

(3) Hearing Outcome and Sanctions

If the Sexual Misconduct and Relationship Violence Board hearing panel finds the Responding Party to be responsible for Prohibited Conduct, that same board will review any impact or mitigation statements and deliberate and determine sanctions. The sanctioning process is to end Prohibited Conduct, prevent its recurrence, remedy its effects, safeguard the university community, and promote the goals and objectives of this Policy in a manner that supports the university's educational mission and its duty under Title IX. Sanctions may also be designed to promote safety, deter similar behavior and promote university values.

Once the hearing panel has made a finding as to each instance of Prohibited Conduct under consideration, and determined sanctions, it will set forth its outcome together with an explanation of the majority's reasoning in a written report and will submit the outcome to the Office of the Dean of Students within five calendar days of the conclusion of the hearing.

The Office of the Dean of Students will simultaneously provide a written notice of the outcome of the hearing and a copy of the Sexual Misconduct and Relationship Violence Board hearing panel rationale to the Reporting Party and Responding Party.

A simplified hearing will follow the same steps as a hearing panel. It will also result in a finding and a written sanctioning determination, including the reasons in support of the determination, within five (5) business days of its meeting.

(a) Potential Sanctions

Potential sanctions include one or more of the following:

- Expulsion: Termination of student status for an indefinite period;
- Suspension: Full separation from the university for a specified period or until certain conditions are met;
- Disciplinary probation: A designated period during which the student is not in good standing with the university. Disciplinary probation may restrict student privileges and set specific behavioral expectations;
- No contact directive: Restriction from entering specific campus areas and/or from all forms of contact with designated persons;
- Removal, suspension or transfer from designated university courses or activities for a specified period;
- Reasonable restitution to pay for or replace lost or damaged property;
- Educational program attendance: Enrollment in and completion of one or more of the following: a class, workshop, training, or program that could appropriately help the Responding Party or the university community;
- Educational project: Completion of a project designed to help the Responding Party understand why certain behavior was inappropriate and to prevent its recurrence;
- Employment restriction: The prohibition of or limitation on university employment;
- Transcript hold: Placing a hold on transcripts, meaning that BGSU may prevent a student from registering, receiving a transcript, or both, until the student has complied with all other sanctions;
- Transcript notation and/or notice to other institutions (only in cases of suspension and expulsion): A notation of non-academic disciplinary action may be made on a transcript and/or BGSU may notify other institutions of non-academic disciplinary action.

- University housing change: Placement in another room or housing unit or removal from university housing, which may be temporary or permanent depending on all the circumstances;
- Withholding or revoking a degree: BGSU may withhold conferring a degree due to a finding of Prohibited Conduct. In extraordinary circumstances, the university may revoke a conferred degree.

(b) **Written Notice of Sanction**

The Office of the Dean of Students will prepare a written notice of the sanction, provide it to the Office of General Counsel for review for legal sufficiency, and provide it to the Title IX Coordinator for review and approval.

Once the sanction determination process is completed, the Office of the Dean of Students will simultaneously provide the Reporting Party and Responding Party with written notice of the sanction. The notice will include the sanction and summarize the reasons in support of the sanction. It will also describe the appeal process.

(4) **Appeals**

The Reporting Party and the Responding Party each may appeal as follows. All appeals will be conducted in an impartial manner. Each party will be given equivalent rights throughout the process.

(a) **Appeal of the Final Investigation Report**

A Reporting Party may appeal the investigator's decision that there is not sufficient evidence, by a preponderance of the evidence, to support a finding of a Policy violation by providing written notice to the Office of the Dean of Students within five (5) business days of the date the written notice of the outcome of the investigation is provided.

(b) **Appeal of the Sexual Misconduct and Relationship Violence Board Hearing Panel Decision**

A Reporting Party may appeal the Commissioner's or hearing panel's finding that the Responding Party is not responsible for Prohibited Conduct by providing written notice to the Office of the Dean of Students within five (5) business days of the date the written notice of the outcome of the hearing is provided.

A Responding Party may appeal the Commissioner's or hearing panel's finding that the Responding Party is responsible for Prohibited Conduct by providing written notice to the Office of the Dean of Students within five (5) business days of the date the written notice of the outcome of the hearing is provided.

(c) **Appeal of the Sanction**

Either party may appeal the sanction by providing written notice to the Office of the Dean of Students within five (5) business days of the date the written notice of sanction is provided.

(d) **The Content of an Appeal**

An appeal shall consist of a plain, concise, and complete written statement outlining the basis for appeal and all relevant information supporting the appeal. The Office of the Dean of Students may impose page limits for all appeal statements.

The Office of the Dean of Students will simultaneously provide notice of appeal to the other party, who will have three (3) calendar days to respond to that Office in writing. All appeal documents from each party will be considered together in the appeal. If an appeal contains new information that was not available at the time of the hearing, the appeal statement will be provided to the other party along with notice of appeal.

(e) **Grounds for an Appeal**

The Reporting Party or the Responding Party may appeal on one or more of the following grounds:

- A material deviation from procedure that affected the outcome of the hearing;
- New, relevant, and material information that was unavailable, with reasonable diligence and effort, at the time of the hearing and that reasonably could have affected the panel's or Commissioner's findings;
- A review of the Sexual Misconduct and Relationship Violence Board hearing panel or Commissioner's rationale indicates that the evidence clearly does not support the findings and provides firm and definite support for modifying those findings;
- The sanction was clearly inappropriate and/or disproportionate to the conduct for which the Responding Party was found responsible.

(f) **Appeal Decided by the Dean of Students**

The Dean of Students will conduct the review of the appeal.

The scope of the review will be limited to the grounds for appeal that the appealing party identified in their appeal statement. The appeal is not a rehearing.

The Dean of Students will consider only the following documents: the Sexual Misconduct and Relationship Violence Board hearing panel or Commissioner rationale, the entire record of the hearing, the parties' written appeal submissions, the sanctioning determination, and any impact or mitigation statements. The Dean of Students may determine the appropriateness of information used in the simplified hearing or Sexual Misconduct and Relationship Violence Board hearing panel rationale or the final investigation report (as applicable), including whether certain information should be considered, and the weight to give it.

The Dean of Students may freely consult with the Vice President for Student Affairs, the Title IX Coordinator, the Office of General Counsel, and other University administrators in deciding the appeal of the finding or the sanction.

(g) The Dean's Decision

In deciding each issue on appeal, the Dean of Students may do any of the following:

- Affirm the decision that was appealed;
- Reject the decision that was appealed and send the matter back for further action; or
- Modify the findings or sanction

If the Commissioner or hearing panel's findings are modified based on the existing evidence, and the result is a finding of no policy violation, there may be no second appeal.

If the Commissioner or hearing panel's findings are modified based on the existing evidence, and the result is a finding of a policy violation, the Office of the Dean of Students will have the Commissioner or hearing panel (as applicable) decide on sanctions.

In an appeal of a notice of sanctions, if the sanctions are clearly inappropriate or disproportionate, the Dean of Students will impose appropriate sanctions and provide a written explanation of the reasons for the action.

The Dean of Students will seek to complete the review within ten calendar days after receiving all the appeal documents.

The decision of the Dean of Students is final and unreviewable.

The Office of the Dean of Students will simultaneously provide the final and unreviewable decision of the Dean of Students to the participating parties in writing.

(h) Alternative Resolution

Alternative resolution is structured interaction between or among the parties affected by reported conduct. It is entirely voluntary.

The goal of every form of alternative resolution is to eliminate the reported conduct, prevent its recurrence, and remedy its effects in a way that meets the expressed preference of the Reporting Party while serving the safety and welfare of the campus community.

Because alternative resolution is not appropriate in all situations, the Title IX Coordinator has discretion to determine when a case is appropriate for alternative resolution.

Some forms of alternative resolution focus on developing remedies to support the Reporting Party without the Responding Party's participation or involvement. In other forms, the Responding Party may agree to participate. Depending on the form and the type of remedy used, it may be possible for the Reporting Party to remain anonymous.

If an agreement is reached through alternative resolution, it must be reviewed and approved by the Title IX Coordinator as described below. If no agreement is reached, the matter will be referred to the Title IX Coordinator for further action as appropriate.

The Title IX Coordinator will keep records of all matters referred to alternative resolution and review them to assess pattern or systemic behavior.

(i) Principles Common to all Forms of Alternative Resolution

Because alternative resolution is always voluntary, either the Reporting Party or the Responding Party can ask the Title IX Coordinator to end it and refer the matter to the formal resolution process at any time.

BGSU will not compel a Reporting Party or a Responding Party to engage in any form of alternative resolution or to directly confront each other.

Mediation, even though voluntary, will not be used in cases involving sexual assault unless governing interpretation by the U.S. Department of Education's Office of Civil Rights allows it.

Any individual who wishes to participate in an alternative resolution process must first confer with a representative of the Office of the Dean of Students.

Upon request, any participating individual may be accompanied by an advisor.

Information given during alternative resolution will be treated as private and confidential to the extent permitted by law. It will not result in any subsequent disciplinary action by the university unless required by law.

(j) Restorative Justice Principles

Alternative resolution may include restorative justice principles that are designed to allow the Responding Party to accept responsibility for their misconduct and acknowledge harm to the Reporting Party and/or the university community. A restorative justice form of alternative resolution may only be used with the express consent of both parties, following a determination by the Title IX Coordinator that the matter is appropriate for that approach.

The circle of people affected by an act alleged to be Prohibited Conduct includes not only the Reporting Party and the Responding Party but their friends and other members of the university community (who may also be witnesses), their families, and others.

It may be beneficial for the Reporting Party and other affected persons to meet with a Responding Party who is willing to acknowledge the substance of the underlying events and who recognizes that harm was reported. Furthermore, structured interactions among the affected persons can facilitate long-term healing and reduce recidivism.

(k) When Alternative Resolution Options May Be Used

Before any form of alternative resolution may be used, the Title IX Coordinator must have reviewed the matter and confirmed that it is appropriate for an alternative resolution process. As part of the review, the Title IX Coordinator will ensure that the Reporting Party's request and the participating Responding Party's agreement to use alternative resolution were each made without pressure or compulsion from others and that the parties were advised that they may withdraw from the process at any time.

With the Title IX Coordinator's approval, alternative resolution options may be used at any of the following times:

- In the assessment phase, to address the conduct, prevent its recurrence, and remedy its effects without a formal finding of a Policy violation;
- In the sanctioning phase, to create appropriate sanctions after a formal finding of responsibility; or
- In reintegration phase, to help reintegrate the Responding Party into the university community and address any community concerns.

The time for completion of alternative resolution may vary, but in all cases, BGSU will initiate action within thirty (30) business days of the request.

(l) Alternative Resolution Agreements

If the parties voluntarily reach consensus as to the terms of an agreement through an alternative resolution process, the agreement will be documented and submitted to the Title IX Coordinator for review and approval.

The Title IX Coordinator will review the agreement to ensure consistency with the university's obligations under Title IX.

If the Title IX Coordinator approves the agreement, the university will require the Responding Party to comply with it. Failure to comply may be submitted as a violation of the Code of Student Conduct.

If no agreement is reached, the matter may be referred to the Title IX Coordinator for further action.

(m) Remedies for the University Community

Whether or not the university undertakes an investigation or any formal disciplinary action, the Title IX Coordinator may initiate specific remedial steps, such as:

- Having a university entity provide training to its staff or members;
- Continuing previously-established protective or supportive measures;

- Identifying whether there is a need for any additional or ongoing measures, supports, or remedies; and,
- Revising university policies or practices.

(n) **Records Retention**

BGSU will retain all records relating to the investigation of a report of Prohibited Conduct for the period specified in its official retention schedule for student discipline files. Files of investigations that resulted in suspension or expulsion will be maintained permanently per the records retention schedule for student conduct records at:

<http://www.bgsu.edu/library/cac/rm/retentionschedules/departmental.html>

13. Interim Measures

When the Vice President for Student Affairs and Vice Provost or designee has reasonable cause to believe that a student(s) or student organization(s) may pose a risk to the safety or well-being of those involved or others in the university community, the student(s) or student organization(s) may be issued an interim measure.

(a) **Interim measures may be imposed only:**

1. To ensure the safety and well-being of members of the University community or preservation of University property;
2. If the student or organization poses a definite threat of disruption or interference with the normal operations of the University;
3. If a student or organization is criminally charged with one or more of the following offenses of violence: aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault, permitting child abuse, aggravated menacing, menacing by stalking, menacing, kidnapping, abduction, extortion, rape, sexual battery, gross sexual imposition, aggravated arson, arson, terrorism, aggravated robbery, robbery, aggravated burglary, burglary, inciting to violence, aggravated riot, riot, inducing panic, domestic violence, intimidation, intimidation of crime victim or witness, escape, improperly discharging a firearm at or into a habitation or school, endangering children or felonious penetration.

(b) **Interim Actions**

Interim actions may include but are not limited to: no contact order(s); restriction from specific classes, campus facilities, activities, or locations; change of housing assignment; restrictions from entering certain institutional property; requirement to secure a psychological evaluation; cease and desist mandates; restriction from facilitating or participating in student organization business or activities; suspension of student status or student organization recognition; other measures designed to promote the safety or well-being of the parties and BGSU community, etc.

An interim action shall remain in effect until removed or altered by the Dean of Students or designee or as the result of the student conduct process. Students or student organizations may challenge an interim action in writing to the Dean of Students or designee. Failure to comply with an interim action may result in a referral to the Office of the Dean of Students and/or the Bowling Green State University Police Department.

(c) **Interim Suspension**

The Vice President for Student Affairs and Vice Provost or designee may impose a University or Residence Hall Suspension on a student prior to a conduct meeting or hearing. The Vice President for Student Affairs and Vice Provost or designee may suspend the registration of an organization prior to a conduct meeting or hearing.

- A. During an interim suspension, a student may be denied access to a living unit and/or to the campus, including classes, and/or all other University activities or privileges for which the student might otherwise be eligible. An organization shall discontinue all activities during an interim suspension.
- B. An interim suspension takes effect immediately upon issuance. A student or organization will receive written notice of the interim suspension, including a description of the suspected misconduct. A hearing will take place within ten (10) days or such other time as may be specified in the notice of interim suspension of the student's or the organization's receipt of written notice of the interim suspension. The student or organization may within three (3) days of the imposition of the suspension, petition the Dean of Students or designee for reinstatement. The petition must be in writing and must include supporting documentation or evidence that the student or organization does not pose, or no longer poses, a significant risk of substantial harm to the health or safety of self, others or property.

14. Conduct Records

Other than suspension and expulsion, conduct sanctions shall not be made part of the student's permanent academic record, but shall become part of the student's conduct record. All incidents involving the imposition of sanctions other than suspension and expulsion shall be removed from the student's conduct record seven (7) years from the year in which the offense occurred.

15. Refund Policy

In the event of a suspension, expulsion, residence hall suspension, or residence hall expulsion, the University will follow the regular tuition refund schedule outlined by the Office of Registration and Records. In the case of a student residing on campus, the University will follow the regular refund schedule outlined by the Office of Residence Life.

16. Code of Student Conduct Review

The Code of Student Conduct shall be reviewed annually under the direction of the Vice President for Student Affairs and Vice Provost. In addition, the Student Affairs Advisory Committee shall conduct an annual review of the Code of Student Conduct and make recommendations to the Vice President for Student Affairs and Vice Provost regarding omissions, clarifications, constructive changes, and other matters germane to the proper interpretation and operation of the Code of Student Conduct. Questions of interpretation regarding the Code of Student Conduct or Student Handbook shall be referred to the Office of the Dean of Students. In keeping with normal University policy approval processes, the Code of Student Conduct and Student Handbook may, at the sole discretion of the University, be amended at any time.

Residential Conduct Process

Members of the University's residential community are responsible for their own actions as well as for the actions of their guests. It is the expectation of the University community that each member of the community will respect all community members and their property. However, some members of the community may, either by error or intent, violate community standards. At these times it will be necessary to hold the community members responsible for their actions. It is the intent of the University to approach these violations from an educational perspective, when appropriate. However, other sanctions or requirements may be necessary to insure that the residential community continues to be a positive living and learning environment. It is the responsibility of each student to be aware of the policies and expectations the University community has for individual action.

Any resident who violates a policy faces the possibility of being charged with allegedly violating the Code of Student Conduct. When students are allegedly involved in incidents, which occur in University residences and violate the Code of Student Conduct, they will be involved in the Residential Conduct Process.

A. Resolution Options

1. *Informal Disposition*

The conduct meeting is the first step toward informal resolution. Informal disposition provides an opportunity for the student and the Residence Life staff member to quickly resolve the student's alleged misconduct. Informal disposition of a conduct matter occurs when:

- a. The student does not dispute the facts leading to the charge made by the residence staff. Therefore, a formal hearing or further proceeding may not be required.
- b. Neither suspension nor expulsion is a possible sanction and the student wishes to resolve the case informally.

2. *Formal Disposition*

If the student disputes the investigative findings that a violation(s) has been committed or rejects an informal disposition, the case shall be resolved through the formal disposition procedures as follows:

- a. Following a conduct meeting with a member of the Residence Life staff where a student has requested a Residential Conduct Committee (RCC) hearing, the student shall be contacted by the Assistant Dean of Students or designee by phone or email, to schedule a time to discuss the hearing process and receive additional hearing information.
- b. The Residential Conduct Committee shall be composed of at least three (3) students who live in University-owned housing and is chaired by a staff member from the Office of the Dean of Students.
- c. The case is heard by the RCC. The RCC serves as a conduct body for the formal resolution option. Depending upon the nature of the misconduct, formal resolution may involve the presentation of witness information, the presentation of information by the accused resident and the questioning of all involved parties. RCC hearings are recorded and the recording remains the property of the University.
- d. The RCC forwards a recommendation regarding its findings along with recommended sanctions, if appropriate, to the Assistant Dean of Students or designee. The Assistant Dean of Students reviews the recording of the hearing, the contents of the conduct file and the written RCC recommendation and finalizes the decision, which is then forwarded in writing to the Respondent.
- e. Students' Rights in the Residential Conduct Committee
 - i. The Complainant and the Respondent have the right to inspect before the hearing any documents that are to be submitted at the hearing.
 - ii. The Complainant and the Respondent may bring witnesses to testify on their own behalf. The coordinator of the RCC process must be provided with the names of all witnesses and their expected testimony no later than 24 hours prior to the RCC hearing.
 - iii. The Respondent and the Complainant may be accompanied by an advisor of their choice. An advisor is anyone who will provide the Respondent or the Complainant with support throughout the hearing. Advisors are not permitted to speak or to participate in the hearing.
 - iv. The Respondent is under no obligation to make any statement(s) relevant to the charge(s) nor answer any questions relevant to the charge(s), and this cannot be used to the Respondent's detriment.

B. Sanctions

If a student accepts responsibility for violations of the Code of Student Conduct, one or more of the following sanctions may be imposed:

1. *Written Warning*

A written warning is a formal and official recognition of misconduct with the condition that further violations of the Code of Student Conduct may result in more severe conduct action.

2. *Residential Conduct Probation*

Probationary status whereby any further violations of the Code of Student Conduct during a specified period of time may result

in referral to the University-level of the student conduct process. Student is considered not in good standing with the Office of Residence Life.

3. *Residence Hall Suspension*
Separation of the student from a living unit for a definite period of time, after which the student is eligible to return.
4. *Residence Hall Expulsion*
Permanent separation of the student from residence units.
5. *Educational Sanctions*
Work assignments, service to the University or other related educational assignments.
6. *Residence Hall Restriction and/or Loss of Privileges*
Denial or restriction of certain privileges including but not limited to visitation privileges in one or more residence hall(s) for a defined period of time.
7. *Restitution*
Compensation, within a specified period of time, for loss or damage. This may take the form of appropriate service and/or monetary or material replacement.

C. Appeals

1. Right to Appeal

A Respondent may appeal the sanction imposed by a staff member in the Office of Residence Life (informal disposition) or the decision rendered by the Assistant Dean of Students or designee (formal disposition.)

2. Grounds for Appeal

- a. Appeals must be based on the issue of substantive or procedural errors which are prejudicial and which were committed during the conduct meeting or hearing.
- b. The specifics to be addressed on appeal are:
 1. Were the procedures of the Code of Student Conduct followed?
 2. If a procedural error occurred, were the rights of the student violated to the extent that the student did not receive a fair hearing?
 3. Was the meeting or hearing conducted in a way that permitted the student adequate notice and the opportunity to present their version of the facts?
 4. Was the information presented at the meeting or hearing sufficient to justify the decision and/or sanctions reached?
 5. Was there information existing at the time of the meeting or hearing that was not discovered until after the hearing?

3. Appeal of Informal Disposition (Individual Hearing Officer)

Appeals shall be made to the Senior Associate Director for Residence Life or designee within five (5) days of the date that the Respondent was emailed the sanction notification letter rendered by a staff member in the Office of Residence Life. The appeal shall be in writing, stating the ground(s) for appeal. The decision of the Senior Associate Director for Residence Life or designee is final.

4. Appeal of Formal Disposition (RCC)

Appeals shall be made to the Senior Associate Director for Residence Life or designee within five (5) days of the date that the Respondent was emailed the sanction notification letter of the decision of the Assistant Dean of Students or designee. The appeal shall be in writing, stating the ground(s) for appeal. The decision of the Senior Associate Director for Residence Life or designee is final.

5. Appeal Proceedings

- g. An appeal is confined to the criteria set forth in Grounds for Appeal
- h. No appeal may be taken when disciplinary action is not imposed.
- i. An appeal is confined to the subjects presented at the hearing. No new matters may be presented on appeal except those which, through the exercise of reasonable diligence the appellant could not have discovered prior to the hearing.
- j. The written appeal and the supporting documents will be reviewed in determining the outcome.
- k. There will typically be no oral argument before the appeal officer. However the appeal officer may choose to meet with the Respondent before determining the outcome.

The appeal officer's review is confined to reviewing the proceedings below to determine if there were violations of the procedure or if there was substantial error.

6. Potential Appeal Outcomes

- a. Uphold, modify, or eliminate the original sanction(s) in both the informal and formal disposition processes;
 - b. Dismiss the case or individual charge(s) against the student in the formal disposition process; or
 - c. Refer the case to a new hearing board to be reheard in the formal disposition process. This process includes a new recommendation on responsibility and, if applicable, sanctions.
- Potential Appeal Outcomes (a-c) are final and may not be appealed.

7. Implementation of Sanction(s)

Sanctions are effective immediately upon notice. Upon submission of appeal, sanctions will be placed on hold until the appeal process has been exhausted. New deadlines may be reassigned as necessary.

D. Referral to the University Level of the Student Conduct Process

In the event that the alleged behavior is deemed egregious and/or repeated misconduct, the case may be referred to the University level of the student conduct process.