

## 2020-2021 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 belonging.
- 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; and/or
  3. Any other person enrolled in at least one credit-earning course offered by Bowling Green State University, including dual-enrolled students and those enrolled in the College Credit Plus program.
- 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 Provost and Senior Vice President for Academic and Student Affairs or designee shall determine a person's status as a member of the University community.
- F. 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.
- G. The terms "shall" and "will" are used in the imperative sense.
- H. The term "may" is used in the permissive sense.
- I. 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.
- J. 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.
- K. The term "Respondent" means a student or recognized student organization against whom an Incident Report of alleged misconduct has been filed under this Code.
- L. The term "health" means physical or mental well-being.
- M. 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.

- N. 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 Provost and Senior Vice President for Academic and Student Affairs 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 Provost and Senior Vice President for Academic and Student Affairs or designee.

**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 recognized student 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 recognized student organization has violated the Code is the Preponderance of the Evidence or “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, parking and traffic regulations, policies governing recognized 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 conduct or communication that are intended to threaten, harass, or injure a person(s):
  - a. Harm to Others – 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.

2. Hazing – When done intentionally, knowingly, or recklessly, for the purpose of initiating, admitting, or affiliating an individual into or with a band, athletic team, club, or recognized student organization, or for the purpose of continuing or enhancing an individual's membership or status in an a band, athletic team, club, or recognized student organization, the Code prohibits causing, coercing, or forcing an individual to do any of the following:
  - a. Consume any food, liquid, drug, or other substance.
  - b. Endure any act of a physical nature including, but not limited to, whipping, beating, branding, paddling, kicking, pushing, shoving, tackling, calisthenics, or exposure to the elements.
  - c. Endure any act which may adversely affect the mental health or dignity of the individual including, but not limited to, sleep deprivation, exclusion from social contact, or conduct that could result in extreme embarrassment or degradation.
  - d. Any activity which has the potential to be frightening, degrading, or unduly deceptive, including deception designed to convince the individual of impending pain, injury, or non-initiation including, but not limited to, promoting servitude, berating or verbally harassing individuals, throwing items at or on individuals, forcing individuals to carry items, forcing individuals to yell when entering or departing a physical structure or in the presence of designated individuals, forcing individuals to use designated entrances or exits, requiring individuals to run personal errands, intentionally creating labor or clean-up work, and requiring individuals to wear scant clothing or to be nude.
  - e. Endure or participate in any act of a sexual nature.
  - f. Any activity which endangers or has the potential to endanger the academic performance of the individual, such as not allowing adequate time for or interfering with academic commitments.
  - g. Any destruction or removal of public or private property.
  - h. Any violation of federal, state, or local law or rule or University policy.

Hazing does not include reasonable and customary athletic, law enforcement or military training, contests, competitions, or events that are explicitly relevant to the mission of the band, athletic team, club, or recognized student organization.

Expressed or implied consent to hazing does not prevent the behavior from being considered a violation of this policy.

Failing to intervene to prevent, failing to discourage, and/or failing to report those acts may also violate this Code of Student Conduct.

3. 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.
4. Sexual Harassment, Dating Violence, and Stalking:
  - a. Sexual Assault: See University Policy 3341-2-41: Title IX Sexual Harassment and Policy and Procedures.
  - b. Sexual Harassment: See University Policy 3341-2-41: Title IX Sexual Harassment and Policy and Procedures.
  - c. Stalking: See University Policy 3341-2-41: Title IX Sexual Harassment and Policy and Procedures.
  - d. Dating Violence: See University Policy 3341-2-41: Title IX Sexual Harassment and Policy and Procedures.
  - e. Domestic Violence: See University Policy 3341-2-41: Title IX Sexual Harassment and Policy and Procedures.
  - f. Retaliation: See University Policy 3341-2-41: Title IX Sexual Harassment and Policy and Procedures.
  - g. Violation of Mutual Restrictions on Contact Between Parties: See University Policy 3341-2-41: Title IX Sexual Harassment and Policy and Procedures.
5. Sexual Misconduct: Sexual misconduct is a term which may include any intentional touching of a sexual nature or attempted touching of a sexual nature without consent that is not prohibited by the Title IX Sexual Harassment and Policy and Procedures. Sexual misconduct may also include touching for the purposes of sexual gratification in

areas of the body that does not include breasts, buttocks, groin, or genitals. Sexual misconduct may also include sexual exploitation (such as voyeurism or non-consensual recording of sexual activity), and lewd or obscene sexual behavior (such as public masturbation or exposure of oneself without another's consent).

**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 premises.
4. Unauthorized presence in or unauthorized use of property, resources, or facilities.
5. Theft or other abuse of computer facilities, accounts, or 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 computing facilities, accounts, or resources to interfere with the work of others.
  - e. Use of computing facilities, accounts, or resources to send obscene or abusive messages.
  - f. Use of computing facilities, accounts, or e-mail to send unsolicited or unauthorized messages with the intention of reaching a mass of users.
  - g. Use of computing facilities, accounts, or resources to interfere with normal operation of the Bowling Green State University computing system.
  - h. Use of computing facilities, accounts, or resources in violation of copyright laws.
  - i. Any violation of Bowling Green State University's Information Technology Policies.
6. Littering.

**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.
  - f. Misconduct under the influence of drugs including, but not limited to operating a vehicle under the influence of drugs or disorderly conduct due to the influence of drugs.
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, or public intoxication.
  - d. Failure of a recognized 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
  - a. Failing to properly evacuate during a fire alarm.
  - b. Falsely reporting a fire-related emergency.
  - c. Tampering with, or improperly engaging a fire alarm, smoke detector, or sprinkler system.
  - d. Improper use or possession of fire safety equipment.
  - e. Intentionally or recklessly causing a fire, regardless of whether it damages property, or causes injury to another.
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.
  - b. Causing, inciting, or participating in any conduct that unnecessarily disturbs others or disrupts local municipalities, 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.
  - e. Urinating in public.

**E. Violation of State, Federal, or Local Laws**

Any act or omission that constitutes a violation of federal, state, or local laws, 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.
6. Intentionally delaying a conduct investigation, meeting, or hearing.

**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 recognized 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. Interim Measures**

When the Provost and Senior Vice President for Academic and Student Affairs 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. If the student or student organization poses a threat to the safety and/or well-being of others or if significant disruption to normal operations of the University may occur; and/or
2. 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;
3. Or when otherwise provided by the law.

**B. Interim Actions**

Interim actions may include but are not limited to: no contact directives(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; 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 Provost and Senior Vice President for Academic and Student Affairs or designee may impose a University or Residence Hall Suspension on a student prior to a conduct meeting or hearing. The Provost and Senior Vice President for Academic and Student Affairs or designee may suspend the registration of an organization prior to a conduct meeting or hearing.

1. 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.
2. 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.

**9. 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 Provost and Senior Vice President for Academic and Student Affairs or designee 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 Title IX and Sexual Misconduct 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. An attorney can be used as an advisor but is subject to the aforementioned stipulations. 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; and
  - 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. As permitted by FERPA, victims of crimes of violence will be notified of the resolution and the sanctions.
5. Guidelines for the implementation of sanction(s) are outlined in Section 11 of this Code of Student Conduct.

## **D. Formal Disposition**

### **1. 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.

#### *Composition of UCC*

- a. The UCC shall be composed of faculty, students, and staff members. Members shall be appointed by the Provost and Senior Vice President for Academic and Student Affairs or designee 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. No committee members hearing a case should have a direct, firsthand knowledge of the case before the UCC.
- f. The Provost and Senior Vice President for Academic and Student Affairs or designee may remove a member from the UCC when the member has failed or refused to perform their 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 to 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 Provost and Senior Vice President for Academic and Student Affairs or designee. 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. No committee members hearing a case should have a direct, firsthand knowledge of the case before the ARB.
- f. A 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) 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) 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) days prior to the hearing and 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" (i.e., a Preponderance of the Evidence) 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 individual 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 allegation(s) of 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 access 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 Respondent to be responsible.

#### **4. 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 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.

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

### **10. 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) days of the decision. The Dean's decision shall be final.

## **11. 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 return 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 recognized student organization found in violation of the Code:
1. Any of the sanctions listed in Section 11.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.

## **12. Appeals**

### **A. Right to Appeal**

A Respondent may appeal the sanction imposed by a staff member of 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 recognized student 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 recognized student 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**

1. An appeal is confined to the criteria set in Grounds for Appeal.
2. No appeal may be taken when disciplinary action is not imposed.
3. 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.
4. The written appeal and the supporting documents will be reviewed in determining the outcome.
5. 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. Potential Appeal Outcomes**

1. Uphold, modify, or eliminate the original sanction(s) in both the informal and formal disposition processes;
2. Dismiss the case or individual charge(s) against the student or recognized student organization in the formal disposition process; or
3. Refer the case to a new hearing board to be reheard in the formal disposition process. This process includes a new finding on responsibility and, if applicable, sanctions.

**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.

### **13. Intersection with Title IX Sexual Harassment and Policy and Procedures**

The Title IX Sexual Harassment and Policy and Procedures, Policy 3341-2-41, has certain jurisdictional limitations. An allegation of Prohibited Conduct as defined under that Policy that is outside the scope of that Policy's jurisdiction, but within the jurisdiction of the University under the Code, will be treated as an allegation of prohibited conduct under Section 6.B.4. of the Code.

A matter may be referred for jurisdictional reasons from the Title IX process to the Code process at any time or may originate in the Office of the Dean of Students. Interim measures under Section 8 of the Code may be applied as warranted. The Code process for a referred matter will begin with Section 9 (Conduct Procedures). The Dean of Students (or designee) will review each referred matter to determine if additional incident reporting, conduct meetings, or investigation are needed.

If the Respondent disputes an allegation of prohibited conduct under Section 6.B.4. or Section 6.B.5. of the Code, the case will be assigned to the Title IX and Sexual Misconduct Board for hearing and resolution. The Board will conduct the hearing in accordance with the hearing procedure set forth in Policy 3341-2-41 and make a written determination of hearing outcome and sanctions in accordance with that Policy. All subsequent steps (including appeal) will be accomplished in accordance with the Code.

### **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 Provost and Senior Vice President for Academic and Student Affairs or designee. In addition, the Student Affairs Advisory Committee shall conduct an annual review of the Code of Student Conduct and make recommendations to the Provost and Senior Vice President for Academic and Student Affairs or designee 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.

### **17. 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, by either 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 ensure 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 or is found responsible by the Residential Conduct Committee for violations of the Code of Student Conduct, one or more of the following sanctions may be imposed:

1. Residential Warning – Residential warning status 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 – Residential 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. Educational Sanctions – Work assignments, service to the University, classes, workshops, papers, or other related educational assignments.
4. 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 halls for a defined period of time.
5. Restitution – Compensation for loss, damage, or injury. 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:
  - i. Were the procedures of the Code of Student Conduct followed?
  - ii. If a procedural error occurred, were the rights of the student violated to the extent that the student did not receive a fair hearing?
  - iii. 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?
  - iv. Was the information presented at the meeting or hearing sufficient to justify the decision and/or sanctions reached?
  - v. 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

- a. An appeal is confined to the criteria set forth in 17.C.2. 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.

**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.

**D. 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.

**E. 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.