3341-2-7 Conduct Procedures.

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(A) Policy Statement and Purpose

The purpose is to outline the process utilized when a written Incident Report is filed with the university alleging that students and/or student organizations have engaged in violations of university policy. This includes how the Incident Report will be investigated and in the informal and formal resolution options available when students and/or student organizations are charged with a violation of the Code of Student Conduct including the definition of and procedures used by the formal hearing boards.

(B) Policy

(1) Filing an Incident Report

(a) Any person may file an Incident Report against a student or organization alleging violation(s) of the Code of Student Conduct. An Incident Report shall be made in writing and directed to the Office of the Dean of Students or designee.

(b) A Complainant or reporting party is normally expected to participate in the conduct meeting or hearing and to present relevant information.

(c) Incident Reports should be submitted as soon as possible after the event takes place, preferably during the semester in which the event took place.
(d) 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 the Dean of Students 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.

(e) A staff member in the Office of the Dean of Students or designee will conduct a preliminary review of the Incident Report to determine whether the alleged misconduct may result in suspension or expulsion from the university. A staff member in the Office of the Dean of Students or designee will also determine whether the Respondent/Responding Party disputes the facts that form the basis of the Incident Report. Respondents/Responding Parties not subject to expulsion and those who do not dispute the facts of the Incident Report are entitled to an informal conduct meeting with a staff member in the Office of the Dean of Students or designee. Respondents/Responding Parties subject to expulsion and those disputing the facts of the Incident Report are entitled to a hearing before the university Conduct Committee. The Vice President for Student Affairs and Vice Provost reserves the right to refer any Incident Reports to a university official or committee other than the Office of the Dean of Students, the university Conduct Committee, Alternative Resolution Board, or Title IX Board.

(f) If a Respondent/Responding Party fails to keep a meeting with a staff member in 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.

(2) Investigation

(a) Respondents/Responding Parties 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/Responding Parties will receive:

(i) Reasonable access to the Incident Report filed;

(ii) 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/Responding Party has the opportunity to request an advisor from a staff member in the Office of the Dean of Students or designee if they are unable to identify one on their own;

(iii) An opportunity to respond to the Incident Report and to present relevant information and/or witnesses.

(b) Based on the information presented by the Complainant, Reporting Party, and the Respondent/Responding Party, a determination will be made whether or not the information presented warrants a charge.

(c) A victim will maintain Complainant rights when reporting alleged misconduct of another student(s) or organization(s) including when the incident is filed by a third party.

(d) Respondents/Reporting Parties will be provided up to two days to choose between the informal and formal disposition options. Should the Respondent/Responding Party fail to make a decision, the case may be resolved without the
input from the Respondent/Responding Party which also may waive the right to a formal hearing.

(3) Informal Disposition - Conduct Meeting

Respondents/Responding Parties who are not subject to expulsion and those not disputing the incident report may choose the informal process for resolution of one or more violations of the Code.

(a) The Respondent/Responding Party will receive, via electronic mail, written notice of the incident report at least three days prior to the conduct meeting.

(b) The Respondent/Responding Party will have the opportunity to discuss sanctions with a staff member in the Office of the Dean of Students or designee.

(c) A final determination of sanctions will be provided in writing to the Respondent/Responding Party through email.

(d) The right to appeal sanctions as part of the informal disposition as defined in Section 11 of the Code.

Victims of crimes of violence, including sexual misconduct, will be notified of the resolution and the sanctions. Title IX information can be found at http://www.bgsu.edu/title-ix.html.

(4) Formal Disposition- University Conduct Committee (UCC)

Respondents/Responding Parties subject to expulsion and those who dispute the Incident Report are entitled to a formal hearing before the UCC or one of the affiliate hearing boards.

(a) Composition of the UCC

(i) The UCC shall be composed of full-time faculty, full-time students and full-time administrative staff members. Members shall be appointed by the Vice President for Student Affairs and Vice Provost for a one year term and may be reappointed.
(ii) A staff member in the Office of the Dean of Students or designee shall chair all UCC hearings. Quorum for a hearing is five members, one each from the faculty and administrative staff members and three from the student members, are necessary to hold a hearing. Recommendations from the UCC to the Dean of Students or designee shall be made by majority vote. In the event of a tie, the chair will have a vote.

In the event quorum cannot be reached the complainant and the respondent can waive the five member requirement. A hearing will not be conducted without a minimum of four UCC members.

(iii) A staff member in the office of the Dean of Students or designee is responsible for coordinating hearings and assigning Incident Reports.

(iv) 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.

(v) A Complainant or Respondent/Responding Party 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.

(b) Alternative Resolution Board (ARB)

In an effort to more effectively deal with student behaviors directed toward oneself or others, which adversely affect or
disrupt the campus community, Bowling Green State University may choose to utilize an alternative formal process. Respondents/Responding Parties subject to expulsion, those who refute the Incident Report, and those who have caused serious disruptions to the community may be assigned to the ARB for resolution of the case.

(i) Composition of the ARB

(a) The ARB shall be composed of one staff member each from the Falcon Health Center, 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) A staff member in the Office of the Dean of Students or designee shall chair all ARB hearings. All members, except the chair, shall have voting rights. Recommendations from the ARB to the Dean of Students or designee shall be made by majority vote. In the event of a tie the chair will have a vote.

(c) A staff member in the Office of the Dean of Students or designee is responsible for coordinating ARB hearings and assigning Incident Reports.

(d) All committee members hearing a case should not have a direct, firsthand knowledge of the case before the ARB.

(e) A Complainant, Reporting Party or Respondent/Responding Party 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.

(c) Title IX Board

(i) In an effort to more effectively deal with student behaviors that fall under Title IX of the Education Amendment of 1972, which prohibits discrimination on the basis of a person's gender in educational programs or activities operated by recipients of federal financial assistance, Bowling Green State University may choose to utilize an alternative formal resolution process. Respondents subject to expulsion or those who refute the Incident Report may be assigned to the Title IX Board for resolution of the case. The Title IX Board may adjudicate student cases related to any of the following, but not limited to:

(a) Sexual harassment
(b) Sexual assault
(c) Sexual misconduct
(d) Stalking
(e) Intimate partner and relationship violence
(f) Intimidation or harassment, including bullying or cyber-bullying
(g) Domestic Violence

(ii) Composition of the Title IX Board

(a) The Title IX Board shall be composed of faculty and staff members appointed by the Vice President for Student Affairs and Vice Provost or designee who have received training and
certifications related to sexual misconduct and incidents related to discrimination based on gender.

(b) A staff member in the Office of the Dean of Students or designee shall chair all Title IX Board hearings. Recommendations from the Title IX Board to the Dean of Students or designee shall be made by majority vote. Quorum for a hearing is three members.

(c) A staff member in the Office of the Dean of Students or designee is responsible for coordinating Title IX Board hearings and assigning Incident Reports.

(d) All committee members hearing a case should not have a direct, firsthand knowledge of the case before the hearing.

(e) A Complainant, Reporting Party or Respondent/Responding Party may challenge a Title IX Board member on the grounds of a conflict of interest that might affect impartial consideration of the Incident Report. The remaining members of the Title IX Board will conduct a secret ballot vote to determine if the challenged member shall be recused from the hearing.

(d) Formal Hearing Procedures

The following procedures are followed in all formal hearings:

(i) The Complainant, Reporting Party, and Respondent/Responding Party will receive written notice of the Incident Report and hearing date at least five days prior to the hearing.
(ii) On a date specified by a staff member in the Office of the Dean of Students or designee, the Complainant, Reporting Party, and Respondent/Responding Party will submit to a staff member in 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 Complainant, Reporting Party, and Respondent/Responding Party expect to present at the hearing. A staff member in the Office of the Dean of Students or designee will make copies of this information available to the Complainant, Reporting Party, Respondent/Responding Party, and the hearing board prior to the hearing.

(iii) The Complainant, Reporting Party, or Respondent/Responding Party 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 Complainant, Reporting Party, or Respondent/Responding Party shall notify a member of the Office of the Dean of Students or designee of their advisor’s name and telephone number at least three days prior to the hearing. Advisors may not appear in lieu of the Complainant, Reporting Party, or Respondent/Responding Party; however, an advisor may consult with the Complainant, Reporting Party and Respondent/Responding Party 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.

(iv) In the event that the university chooses to proceed through legal counsel, the Complainant, Reporting Party and Respondent/Responding Party will be
notified three days prior to the hearing and also shall have the right to proceed through counsel. Counsel may not appear in lieu of the Complainant, Reporting Party or Respondent/Responding Party.

(v) If a Complainant, Reporting Party or Respondent/Responding Party fails to appear for a hearing, the hearing may proceed without the Complainant, Reporting Party or Respondent/Responding Party presence.

(vi) The Complainant, Reporting Party or Respondent/Responding Party may request alternative accommodations in lieu of being physically present at the hearing.

(vii) Witnesses, other than the Complainant, Reporting Party or Respondent/Responding Party, will be excluded from the hearing during the testimony of other witnesses.

(viii) The chairperson will exercise control over the proceedings. Any person disputing a hearing or who fails to abide by the decisions of the chairperson may be removed or excluded from the hearing.

(ix) Violations will be determined on the basis of whether it is “more likely than not” that the Respondent/Responding Party violated the Code.

(x) The chairperson shall determine what information the hearing board will consider. 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.

(xi) The Complainant, Reporting Party, Respondent/Responding Party, and hearing board may examine the information accepted by the chairperson and may question all witnesses.
Respondents/Responding Parties may speak on their own behalf; however, they will not be forced to speak against themselves and their silence shall not be used to their detriment.

Should the Respondent/Responding Party be recommended responsible for any violation of the Code, the Complainant, Reporting Party and Respondent/Responding Party will be given the opportunity to provide relevant information regarding possible sanction outcomes. The Respondent/Responding Party’s prior conduct record may be considered only to recommend an appropriate sanction.

Recommendations by the hearing board shall be by majority vote. The hearing will be recorded and the recording will remain the property of the university.

Within three days of the hearing, the hearing board’s recommendation will be forwarded in writing to the Dean of Students or designee. The Dean of Students or designee will inform the Complainant, Reporting Party and Respondent/Responding Party of the final decision in writing through email.

Victims of crimes of violence, including sexual misconduct, will be notified of the resolution and the sanctions.

Appeals shall be made to the Vice President for Student Affairs and Vice Provost in writing stating the grounds of the appeal within five days of the date that the decision letter was emailed to the respondent and/or complainant. The decision of the Vice President for Student Affairs and Vice Provost or designee is final. Grounds for appeal are found in Section 11-D of the Code of Student Conduct.

Registered Date: March 12, 2015
Amended Dates: February 16, 2016, September 15, 2016, November 2, 2017