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 is 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) 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 Sexual Misconduct & Relationship Violence Board.

(f) If a Respondent 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 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 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 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 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.

(c) An individual will maintain Complainant rights even when the incident is filed by a third party.

(d) Respondents will be provided up to two 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.

(3) Informal Disposition - Conduct Meeting

Respondents 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 Party will receive, via electronic mail, written notice of the incident report prior to the conduct meeting.

(b) The Respondent 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 through email.

(d) The right to appeal sanctions as part of the informal disposition as defined in Section 11 of the Code.
(e) Victims of crimes of violence, including sexual misconduct and relationship violence, will be notified of the resolution, the sanctions, and any rights to the appeal.

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

Respondents 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 (5) members, one each from the faculty and administrative staff members and three (3) from the student members, are necessary to hold a hearing. In the event quorum cannot be reached the complainant and 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. 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.

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

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

(vi) A Complainant or 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.

(b) 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 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. Quorum for a hearing is three
members. 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 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) Conduct Formal Hearing Procedures

The following procedures are followed in all formal hearings:

(i) The Complainant and Respondent will receive written notice of the 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 and Respondent 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 and Respondent 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 and Respondent, and the hearing board prior to the hearing.

(iii) The Complainant and 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 Complainant and Respondent 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 or Respondent; however, an advisor may consult with the Complainant and 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.

(iv) In the event that the university chooses to proceed through legal counsel, the Complainant, Reporting Party and Respondent 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 Respondent.

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

(vi) The Complainant or Respondent may request alternative accommodations in lieu of being physically present at the hearing.
(vii) Witnesses, other than the Complainant or Respondent, 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 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, Respondent, and hearing board may examine the information accepted by the chairperson and may question all witnesses.

(xii) Respondents 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.

(xiii) The Complainant and Respondent will be given an opportunity to recommend any potential sanctions should the respondent be found responsible for any violation of the Code. The Respondent’s prior conduct record may be considered only to recommend an appropriate sanction.

(xiv) The hearing will be recorded and the recording will remain the property of the university.

(xv) Within three days of the hearing, the hearing board’s outcome will be forwarded in writing to the Dean of Students or designee. The Dean of Students or
designee will inform the Complainant and Respondent of the final decision in writing through email.

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

(xvii) Appeals shall be made to the Vice President for Student Affairs and Vice Provost or designee 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 10-B of the Code of Student Conduct.

(xviii) Guidelines for the implementation of sanction(s) are outlined in Section 10-G of this Code of Student Conduct.

(d) Medical Amnesty Policy

(i) Bowling Green State University strives to maintain a balance between student support and accountability. The University believes in addressing student health concerns directly and confronting dangerous behaviors. The Medical Amnesty policy is part of Bowling Green State University’s comprehensive approach to reducing harmful consequences caused by the use of alcohol and/or other drugs. The policy represents the University’s commitment to increasing the likelihood that community members will call for assistance when faced with an alcohol or drug emergency. Under the Medical Amnesty policy, those who call for help and those who receive help in an alcohol or drug-related emergency can be protected from having a violation on their educational record. In order for this policy to apply,
the individual seeking assistance must contact emergency personnel such as the Bowling Green State University Police Department, Bowling Green City Police Department, 911 or a staff member on campus who is in a position to directly respond (e.g., Hall Director or Resident Advisor).

(ii) BGSU students who receive amnesty will meet with an Office of the Dean of Students staff member. The staff member will require the student(s) to complete educational requirements including an alcohol and drug assessment or workshop through the BGSU Counseling Center. The incident will not be considered part of the students’ educational record as long as all educational requirements are completed. The policy provides education for individuals in order to reduce the likelihood of future occurrences. Staff from the Office of the Dean of Students will determine if the Medical Amnesty policy applies to a student.