

## **Student Code of Conduct Task Force Recommendations**

### **INTRODUCTION**

The Student Code of Conduct Task Force has worked for months to develop recommendations in response to Penn State President Eric J. Barron's June 10 message to help address both the immediate issues and longstanding problems of racism, bias and intolerance. With significant participation by student leaders, including a student in the role of co-chair, the task force was charged to find ways to improve Penn State's Student Code of Conduct and to help provide the Penn State community with a full understanding of the code's purpose and provisions.

The task force responded to the charge across five key areas to:

- Establish the purpose of the code of conduct.
- Determine appropriate application of the code as part of University efforts to create a welcoming and inclusive campus climate.
- Consider legal constraints.
- Identify strengths and weaknesses of the code.
- Recommend changes to the code in alignment with the University's mission and incorporate restorative justice practices.

The task force has conducted a review of the code and identified opportunities to update the code to better reflect [Penn State's values](#) related to inclusivity, individuals' rights, and accountability for behavior. Since proposing preliminary recommendations and a 'redlined' version of the code in September 2020 with suggested language alterations, the task force has engaged in numerous discussions with Dr. Barron and University leaders within Student Affairs and the General Counsel's office. The task force co-chairs have also engaged and presented on their progress and the September 2020 submission with the President's Council and the Board of Trustees and one time with the University Park Undergraduate Association (UPUA). Its proposed recommendations and changes to the code have been largely supported by the University, with some modifications made based on feasibility and acknowledgement of legal limits related to First Amendment rights and more.

As a key goal, the task force strived to better understand where hateful speech may turn into misconduct and to clarify how conduct that contradicts community values can be addressed while working within the law. The task force studied the impact of the First Amendment, privacy laws and other legal constraints on the University's implementation of the code to address offensive or hateful expression. As part of this, it researched the different legal limitations for public and private institutions as well as benchmarked Penn State's code of conduct against those of other schools.

Focusing on the code's application in response to hateful acts and expressions directed at others' race, religion, nationality, sexual orientation, and more, the task force sought to propose changes that improve the equity and safety for all students at Penn State. In addition, the task force proposed new language to the code to encompass discriminatory bias and behavior not previously addressed clearly stating that "Acts of Bias" constitute conduct that are antithetical to the values of the University, harmful to the community and a potential violation of the student code if outside of First Amendment protections. Additionally, the task force raised the need for University support of "Impacted Parties" in cases where a student's behavior has an adverse impact on other people but falls outside of Title IX and non-Title IX sexual misconduct or Crimes of Violence, where victim rights are already clearly established.

The task force also recommended a voluntary restorative justice process intended to help parties resolve disagreements, take ownership of behavior, and engage in acts of empathy and forgiveness with a focus on supporting the impacted individual, group or community. While restorative justice has already been an unofficial practice of Penn State's Office of Student Conduct, it has not been formalized. The task force recognized that voluntary restorative justice practices would help the University address both the acts of bias that violate the code as well as those that do not rise to the level of a violation or are protected by the First Amendment.

Just as the student experience extends beyond the physical boundaries of the University's campuses, so does the jurisdiction of the code of conduct as long as the behavior is of "Substantial University Interest." Simply put, any student's behavior that affects a Substantial University Interest, as defined in the Procedures document, and violates the code is subject to conduct action following standard University procedures. Thus, the task force suggested that the definition of substantial university interest be expanded to encompass behavior that impacts students' "physical and mental" health and educational "climate."

To best support the University's ability to create and sustain a welcoming, inclusive and safe community for all, the task force also considered underlying principles and processes. As a key example, the task force requested University commitment to greater representation of staff members and volunteers in the Office of Student Conduct from historically underrepresented groups. This recommendation is intended to help foster staff make-up that reflects the diversity of the student population. The task force also proposed implementation of a mandatory module to educate students about the code as well as increased education regarding student rights and responsibilities during the conduct process. Further, the task force recommended the publication of an annual report of code violations to the University community to promote transparency.

## **NEXT STEPS**

The preliminary report was presented to the University for additional legal analysis and consideration. A final draft was presented to President Barron with a discussion around the rationale and adjustments, where needed. Below is a summary:

### **Code Purpose and Educational Module**

The task force recommended modifying the purpose and introduction to the code incorporating language that promotes equity and inclusion and a culture where there is student endorsement and that establishes a mandatory training module about the code for students. The University is enacting this recommendation through the leadership of Student Affairs and the Office of General Counsel.

### **"Acts of Bias" Language**

The task force recommended language to emphasize that discriminatory bias and behavior may violate the code and are not in alignment with University values. These changes were made by clearly stating that "Acts of Bias" are antithetical to the values of the University, and clarifying students who engage in Acts of Bias that violate the code will be sanctioned more severely. Further, while harassment that was motivated by bias or discrimination was already addressed by the code under "Harassment," to clarify the University's commitment to addressing such conduct, the term was bifurcated with a new definition of "Discriminatory Harassment" added to the code. Further, language was added communicating the

University's commitment to address Acts of Bias that do not rise to a violation through voluntary restorative justice practices.

#### **Align with Language in Policy AD91**

The task force recommended adding and/or expanding the types of conduct included in the code, to align with existing University policy language in [Policy AD91](#). The University is enacting this recommendation.

#### **"Substantial University Interest" Language**

The task force recommended incorporating the impact on campus climate and community as a "Substantial University Interest" as listed in the code and expanded the scope of jurisdiction for these related matters to include off-campus conduct and "physical and mental" health. The University is enacting this recommendation.

#### **"Impacted Parties" Language**

The task force recommended "Impacted Parties" language to account for cases where a student's behavior has an adverse impact on other people but falls outside of Title IX and non-Title IX sexual misconduct or Crimes of Violence. The University recognized that the current Procedures document did not address support, resources, or options for involvement for individuals, outside of Complainants in Title IX/Sexual Harassment or Crimes of Violence cases, who were negatively impacted by student behavior ("Impacted Parties"). The University suggested adding a specific section related to Impacted Parties that communicates its commitment to supporting them, ensuring they were made aware of campus and community support resources, educating them about their options for involvement in the conduct process, and encouraging them to be involved.

#### **Restorative Justice**

The task force recommended a voluntary restorative justice process, and it suggested language about community, healing, and learning throughout the code. Proposed practices include mediation services, restorative circles, relevant courses, or training and community service. Many staff in the Office of Student Conduct and the Office of Sexual Misconduct Prevention and Response have already been trained in facilitating restorative justice practices, but in light of the recommendations, those offices will partner with the Restorative Justice Institute and others formally enact this recommendation and explore the adoption of a formal restorative justice process.

#### **Commitment to Diversity**

The task force recommended that the University commit to representation of staff members and volunteers in the Office of Student Conduct — who work with and support students through the conduct process — from historically underrepresented groups. The University is enacting this recommendation and in addition to the Office of Student Conduct enacting language changes in its recruitment materials and website presence, Student Affairs is creating a half-time position to focus on diversity, equity and inclusion issues among its staff members

#### **Increased Reporting**

The task force recommended increased reporting, in line with federal and privacy laws, to share code-related incidences and outcomes with the University community with the goal of increasing transparency. The Office of Student Conduct, in consultation with the task force, will create a template for an annual report to share information (to be implemented by the recommended deadline of Summer 2021).

## **SUMMARY REPORTS**

- In a Sept. 13 report, the task force shared its methodology, preliminary recommendations and a redlined version of the code:  
[Preliminary Draft from Penn State University's Student Code of Conduct Task Force](#)
- Nov. 23 version of the code, based on University feedback:  
[Draft Penn State Office of Student Conduct Procedures and Code of Conduct](#)

Preliminary Draft from Penn State University's Student Code of Conduct  
Task Force

*Submitted to President Barron September 14, 2020*

**SUBMITTED BY**

SHOBA SIVAPRASAD WADHIA AND NYLA CORYN HOLLAND, CO-CHAIRS OF  
THE STUDENT CODE OF CONDUCT TASKFORCE AT PENN STATE UNIVERSITY

Enclosed please find:

1. Taskforce Membership
2. Background and Methodology
3. Redlined Version of the Code
4. Appendices
  - A. Charge from Dr. Barron
  - B. Summary of Changes and Rationale for Redline to Student Code of Conduct
  - C. Benchmarking of Student Codes of Conducts at Public Universities and at Universities with Progressive Codes
  - D. Summary of First Amendment Case Law

## 1. TASKFORCE MEMBERS

Nyla Holland – Co-Chair, Undergraduate Student, President of Penn State Black Caucus, Penn State - University Park

Shoba Sivaprasad Wadhia - Co-Chair, Faculty, Associate Dean for Diversity, Equity and Inclusion, Penn State Law - University Park

Lamont Wade – Undergraduate Student, Penn State Football, Penn State - University Park

Erin Brown - Undergraduate Student, Schreyer Honors College, Paterno Fellows Program, Penn State - University Park

Cassandra Nunez - Undergraduate Student, Electrical Engineering, Millennium Scholars Program, Latinx Leadership Institute, Penn State - University Park

Tylah Wells - Undergraduate Student, President of Association of Black Collegians, Penn State - Erie

Sidnee McDonald - J.D. Candidate, Black Law Students Association, Student Bar Association, Penn State Law - University Park

Lestine Paye - Undergraduate Student, VP of Berks Student Government Association, Penn State - Berks

Kade Crittenden - Graduate Student, Master of Higher Education Administration, Penn State - University Park

Gabby Falzone - Post-Doc, Restorative Justice Initiative, College of Education, Penn State - University Park

Nicole Jara Andrade - Undergraduate Student, Political Science, President of Penn State Latino Caucus, Penn State - University Park

Sarthak Vij - Undergraduate Student, Economics and Mathematics, Former President of College of Liberal Arts Student Council, Penn State - University Park

Patricia Birungi - Undergraduate Student, Chair of Academic Affairs in UPUA, Penn State - University Park

Darius Williams-McKenzie - Graduate Student, Student Fee Board, UPAC, Penn State - University Park

Allie Ryave, Undergraduate Student, Penn State Hillel, Presidential Leadership Academy, Penn State University – University Park

Jennifer Sabourin - Director of Student Conduct, Penn State-Altoona

Juan Castro - University Police Sergeant, University Police and Public Safety, Penn State - Harrisburg

Keisha Johnson - Conduct Standards Coordinator, Student Affairs, Penn State - Abington

Nate Brown - Faculty, Professor of Mathematics, STEM Diversity Lab, Penn State - University Park

Eleanor Brown - Faculty, Professor of Law and International Affairs and Senior Scientist, Rock Ethics Institute, Penn State - University Park

Erica Frankenberg - Faculty, Professor of Educational Leadership, Director of the Center for Education and Civil Rights in the College of Education, Penn State - University Park

Danny Shaha - Assistant Vice President for Student Affairs, Penn State - University Park

Alina Wong - Associate Vice Provost for Educational Equity, Penn State - University Park

Tamla J. Lewis - Associate General Counsel, Penn State - University Park

Brad Kovaleski - Director of Student Services & Engagement, Penn State – Scranton

Andrew Mitchell - Associate Director of Student Conduct and Residence Life, Penn State - University Park

## 2. BACKGROUND AND METHODOLOGY

On June 10, 2020, President Eric Barron announced the creation of a Student of Code of Conduct Taskforce. Shoba Sivaprasad Wadhia and Nyla Holland were appointed as co-chairs of the taskforce, and responsible for reviewing nominations and selecting taskforce members. Some taskforce members were named by the Office of the President. Based on more than 130 nominations, the co-chairs selected 26 members of the taskforce. The taskforce is a diverse group, situated on campuses across the Commonwealth and with different areas of expertise. Many taskforce members have lived experiences having worked with the Student Code of Conduct or experienced instances of bias and discrimination without accountability. The composition of the taskforce is as follows: 14 students; 8 staff members; 4 faculty members; 8 men; 18 women; and 16 people of color.

The charge of the taskforce was to 1) State the purpose of the Code of Conduct; 2) Determine appropriate uses of the Code of Conduct; 3) Consider legal restraints; 4) Identify strengths and weaknesses of the Code of Conduct; and 5) Recommend changes to the Code that a) Are consistent with the University's mission and b) Incorporate restorative justice.

Beginning on July 8, 2020 the taskforce met weekly on Wednesdays through August 19, 2020 and twice again on August 28, 2020 and September 4, 2020. Meetings were held through Zoom, lasting from 60-90 minutes per session. At least two-thirds of the taskforce were present at all meetings. Two of the meetings were focused on specific topics led by subject matter experts—these two topics include the First Amendment and models of restorative and transformative justice. Taskforce members had work assigned in between meetings—this work included reimagining the idea of “Substantial University Interest” as listed in the Student Code of Conduct; reviewing case law involving code violations; reviewing Student Codes of Conduct at other universities; compiling the work of individual members into summary documents (see Appendices). All taskforce meetings were focused on responding or informing specific questions included in the charge by Dr. Barron. Minutes were taken at every meeting and stored in Microsoft Teams, which was the platform employed for storing all documents or uploading files. In addition to taskforce meetings, weekly office hours were held on Wednesdays through August 19 in order to provide a space for members of the university and surrounding communities who expressed an interest in joining the taskforce but were not selected, or just those interested in sharing opinions about the Student Code of Conduct to weigh in. Progress reports were made to the Board of Trustees Member Brandon Short, the Board of Trustees Oversight Group, Dr. Eric Barron, and Damon Sims throughout the process.

Beginning in mid-August, the co-chairs set out to prepare this preliminary draft that includes a “redline” to the Student Code of Conduct incorporating feedback from taskforce meetings. The redlined version of the Student Code of Conduct is preliminary. The suggested changes do not necessarily reflect unanimous consent from the taskforce. Further, the redlined version of the code is intentionally partial, in that the taskforce focused on certain aspects of the code and university conduct as opposed to its entirety. As such, sections of the Student Code of Conduct left untouched by the taskforce does not necessarily mean that taskforce concedes to the current language. Some of the major suggestions include:

- 1) Modify purpose and introduction that includes a mandatory module for students about the Code of Conduct
- 2) Reimagine and modify “substantial university interest”
- 3) Include acts of bias as a Code violation
- 4) Align language from AD91 into the Code of Conduct
- 5) Create more equitable conduct procedures for students
- 6) Include restorative justice practices
- 7) Diversify staff and volunteers for the Office of Student Conduct
- 8) Incorporate explicit public reporting requirements

### 3. REDLINED VERSION OF THE CODE

#### REDLINED VERSION OF THE STUDENT CODE OF CONDUCT PRELIMINARY DRAFT

DATE: SEPTEMBER 13, 2020, 1:45pm

**ITEMS REMOVED ARE MARKED IN RED**

**ITEMS ADDED ARE HIGHLIGHTED IN YELLOW**

#### Section I: Introduction

The following document outlines the standard procedures and practices of the University conduct process. To be fully aware of their individual and organizational rights and responsibilities, individuals and student organizations are ~~encouraged to review all materials on the Office of Student Conduct website.~~ mandated to participate in a module explaining this document and provide a written acknowledgement after completing the module.

The Office of Student Conduct strives to deliver a conduct process that is equitable, educational, effective and expeditious; and to provide a process that promotes individual, ~~and~~ organizational, and community growth through ~~responsibility learning and accountability.~~ ~~in which the success of its educational endeavors is characterized by increased civility.~~ We are committed to creating a Code of Conduct that is inclusive to misconduct on our campus and off campus.

The Office of Student Conduct supports the University's educational mission by promoting an inclusive, safe, ~~orderly~~ and positive University climate through enforcing behavioral standards, ~~empowering complainants~~ educating impacted parties, enacting and facilitating intervention efforts, managing conduct proceedings, mentoring students, developing leadership, delivering informational programming, ~~and~~ fostering peer education, considering nonpunitive models of resolution. ~~We hope to create a University culture that is self-disciplined, where civility is embraced, and the norms and foundational beliefs validate the essential values of Penn State University.~~

#### Section II: Important Terms and Definitions

1. The term "administrative directive" is a mandate that a student or student organization have no contact with another person(s) or that restricts a student's or student organization's access from a specific location, activity, or program. Administrative directives are utilized in situations where there is concern that ongoing contact between individuals that may result in physical harm or significant emotional distress. A directive may be issued for a specific time period (e.g., during an ongoing conduct process) or may be issued indefinitely while the student or organization are recognized as such by the University. The violation of a directive will be evaluated through a conduct process and can result in additional conduct action from the University.

2. The term “Administrative Hearing Officer” is defined as the faculty, staff or students authorized by the Senior Director to conduct Administrative Hearings.
3. The term “advisor” is defined as any person selected by the Respondent or Complainant to assist and accompany them at any point throughout the University conduct process. Parties may choose from a list of trained advisors available at the Office of Student Conduct website, may choose a person of their choice, or may choose to proceed without an advisor. A party shall not select an advisor with the actual or effective purpose of disrupting or attempting to disrupt the proceedings, or of causing emotional distress to the other party or parties. The advisor, upon a party’s request may (1) accompany the party in any meeting/proceeding, (2) advise the party in the preparation and presentation of sharing of information, and (3) advise the party in the preparation of any appeals or sanction reviews. The advisor shall not perform any function in the process other than advising the party and may not make a presentation or represent the party. The parties must ask and respond to questions on their own behalf, without interruptions or presentations by their advisor. The advisee may consult with their advisor quietly or in writing during a session, or outside during breaks, but the advisor may not speak on behalf of the advisee or directly participate otherwise in the proceeding. Delays in the conduct process will not normally be allowed due to scheduling conflicts with advisors. If, at any point, an advisor becomes disruptive or fails to follow the rules for participation as set forth in this document, the University reserves the absolute and non-appealable right to remove the advisor from the proceeding, and, if appropriate, any future meetings/proceedings.
4. The term “case manager” is defined as any University official who is authorized by the Senior Director of the Office of Student Conduct to meet with students regarding alleged violations of the Code of Conduct, to recommend charge(s) and sanction(s), to serve as University presenters in hearings, and to monitor and mandate the completion of assigned sanctions. This includes staff in the Offices of Student Conduct and Residence Life, and others designated by the Senior Director.
5. The term “charge” is defined as an identification of the Code of Conduct section(s) that the Respondent is alleged to have violated.
6. The term “Complainant” is defined as any person alleging they were adversely affected by a student or student organization who participated in a crime of violence and/or Sexual Harassment and Misconduct or Title IX incident (Special procedures exist in Section VI). If the Complainant is identified to the University through other means (e.g. third party report) and the University proceeds with the management of the conduct allegation, the University conveys the same rights of a Complainant to that individual as enumerated in Section VI, E and Section VI, F.

7. The term “conduct conversation” is defined as an informal meeting intended to allow the case manager to explain the conduct process and discuss an alleged incident with the respondent to determine appropriate next steps.
8. The term “consideration statement” is a written statement from the Complainant and/or Respondent describing the mitigating or aggravating factors that may help inform sanctioning. The consideration statement may not exceed five (5) pages.
9. The term “crime of violence” is defined as any alleged behavior that may involve a crime of violence as defined in the Code of Federal Regulations, Title 34, Appendix A.
10. "Evidence" is any information that may be used in the student or student organization conduct process to determine whether an alleged behavior violates the Code of Conduct. This information may include, but is not limited to, witness statements, documents, communications, text messages, social media postings, photographs and other information collected as part of an investigative or conduct process.
11. The term “faculty member” refers to employees of the University with academic appointments as well as those with emeritus status.
12. The term “Impacted Parties” refers to students bringing a complaint (outside of allegations related to crimes of violence, Title IX, or non-Title IX sexual misconduct) and the Respondent responding to the complaint.
13. An act of intolerance refers to conduct that is in violation of a University policy, rule or regulation and is motivated by discriminatory bias against or hatred toward other individuals or groups based on characteristics such as age, ancestry, color, disability or handicap, genetic information, national origin, political belief, race, religious creed, sex, sexual orientation gender identity or veteran status. (Excerpt from AD29)
14. The term “Investigation Report” refers to the compiled information provided at the culmination of an investigative process.
15. The term “hearing” encompasses any matter brought before an Administrative Hearing Officer(s) or University Conduct Board for adjudication. A hearing is an independent review of the entirety of relevant information available at that time that will determine whether the Respondent is responsible for the charge(s). If so, the hearing authority will determine appropriate sanction(s), which may or may not be in alignment with those originally recommended in a conduct conversation by the case manager.
16. The term “hearing authority” encompasses Administrative Hearing Officers and University Conduct Boards.

17. The term “investigator” is defined as any person who is assigned by the Senior Director or Title IX Coordinator to conduct investigations in cases involving alleged violations of the Code of Conduct.
18. The term “preponderance of the evidence” describes the standard of evidence that is used to decide responsibility in a hearing and means that it is more likely than not, based upon the totality of all relevant evidence and reasonable inferences from the evidence that the Respondent violated the Code of Conduct.
19. The term “Respondent” is defined as a student or student organization who allegedly violated the Code of Conduct.
20. A "response to charges" is a statement that may be provided by the Respondent and/or Complainant that articulates their perspective on the recommended charge(s).
21. The term “Sanction Review Officer” is defined as the faculty or staff member who conducts sanction reviews. For individual cases, the Sanction Review Officer is an Associate or Assistant Vice President for Student Affairs at University Park, or designee, or the Campus Chancellor at other Penn State campuses, or designee. For student organization cases, the Sanction Review Officer is the Vice President for Student Affairs at University Park, or designee, or the Director of Student Affairs (or equivalent) at the Commonwealth Campuses, or designee.
22. The “Senior Director” is defined as the Senior Director of the Office of Student Conduct who is designated by the University President to be responsible for the administration of the Code of Conduct and the student and student organization conduct process.
23. The term “staff member” is defined as anyone hired by the University, apart from faculty members, with administrative or professional responsibilities.
24. The term "student" includes all individuals taking courses at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies, both degree and non-degree seeking, as well as individuals enrolled in non-credit courses and programs. In addition, for purposes of the Code of Conduct, Code jurisdiction also includes individuals who have accepted an offer of admission to the University; and students who withdraw after allegedly violating the Code of Conduct, who are on leave of absence from the University, or who are not officially registered and/or enrolled for a specific term but have a continuing relationship with the University.
25. The term “Student Conduct Appeals Officer” is defined as the University community member authorized to conduct Student Conduct appeals. For individual cases, the Student Conduct Appeals Officer at University Park is the Vice President for Undergraduate Education for Undergraduate students, the Senior Vice President for Research and Dean of the Graduate

School for Graduate students, or the campus Chancellor for students at Commonwealth Campuses, or their designees. For student organization cases, the Student Conduct Appeals Officer at University Park is the Vice President for Student Affairs, or the Director of Student Affairs (or equivalent) at the Commonwealth Campuses, or their designees.

26. The term “student organization” includes any organization or club sport that has received recognition by the University as a student organization.
27. The term “Title IX” refers to Title IX of the Education Amendment of 1972 and the related regulations and guidance, specifically as they relate to sexual harassment, gender discrimination and harassment, sexual assault and sexual violence, including dating violence, domestic violence, and stalking. Special procedures exist for cases involving potential Title IX violations (See Section VI, F)
28. The term “University” means The Pennsylvania State University (including its campuses).
29. The term “University Conduct Board Chair” is defined as the faculty or staff member authorized by the Senior Director to serve as chairperson of the University Conduct Board during a University Conduct Board hearing.
30. The term “University premises” is defined as any building, facility, land, or other property owned, used or controlled by the University, including adjacent streets and sidewalks.
31. The “University Presenter” is defined as the University representative responsible for introducing materials to the hearing authority.
32. The term “witness” is defined as an individual, known to the University, who has had direct involvement in an incident and/or who was provided with information directly from an individual involved in the incident. This also includes individuals who in their professional capacity have contributed information which led to University charges (e.g., University investigator or faculty/staff member who provided professional knowledge/guidance). Private investigators will not typically be permitted in the University’s conduct process. The Senior Director (or designee) or hearing authority may exclude witnesses if they are deemed duplicative, irrelevant, or inappropriate. In student organization cases, individuals who provide information as part of an investigation may remain anonymous throughout the conduct process, provided their identities are known to the University and the investigative entity serves as a witness.

### Section III: Authority of the Senior Director and the Office of Student Conduct

#### A. Authority

1. The Senior Director and their designees are specifically authorized by the President of the University to have the responsibility and authority to carry out, interpret, and direct the

student and student organization conduct process. The Senior Director shall develop policies for the administration of the student and student organization conduct process and procedures for a University hearing that are consistent with the provisions of the Code of Conduct (Code).

2. The Senior Director, or their designee, in consultation with the Senior Director, may review and/or modify any resolution of a conduct conversation.
3. The Senior Director may review, modify, and/or reverse any resolution of an Administrative Hearing.
4. The Senior Director may make minor modifications to sanction(s) assigned by a University Conduct Board.
5. In situations where a Respondent chose to have an Administrative Hearing in lieu of a University Conduct Board, the Senior Director may make minor modifications to sanction(s) assigned by the hearing authority but may not reverse any resolution.
6. The Senior Director or designee reserves the right to issue, in writing, an administrative directive or condition that requires adherence to specific behavioral actions.
7. The Senior Director or designee may restrict an individual from participating as an advisor when they determine that an advisor's presence, based on the advisor's prior relationship or interactions with either the Respondent or Complainant, is reasonably likely to cause significant emotional distress to any party or to create significant disruption.
8. The Senior Director has the authority to delay a student's graduation and/or hold or recommend revocation of degrees until, or after, a pending conduct matter has been resolved.
9. The Senior Director or designee reserves the right to convene a conduct conversation and/or hearing, prior to re-enrollment, for a student facing pending University charges. This will typically take place after criminal proceedings.
10. On behalf of the University, in limited circumstances, the Senior Director or designee may appeal the decision(s) of a University hearing within five (5) University business days following the date that the Respondent and/or Complainant receives official notification of the results of the hearing. (See Section VI, D, 5, b)

#### B. Jurisdiction

1. The Code shall apply to conduct that occurs on University premises; at University sponsored activities; at functions, activities, or events hosted by recognized student organizations, on or off campus; and other off-campus conduct that warrants a Substantial University Interest.

2. Residence Life: At the direction of the Senior Director of the Office of Student Conduct and in coordination with the Senior Director of Residence Life, minor to moderate level incidents that occur in or around the residence halls that involve students living in on-campus housing will typically be managed by Residence Life staff. Incidents involving repeated behaviors or more severe allegations of violations and all incidents involving allegations of major violations will typically be managed by the Office of Student Conduct.
3. Off-Campus Misconduct: While the University has a primary duty regarding behavior on its premises, there are many circumstances that the off-campus behavior of students or student organizations is of Substantial University Interest and warrants conduct action.
4. The Pennsylvania State University expects students and organizations to conduct themselves in accordance with the law. Student behavior off the premises of the campus that may have violated any local, state, or federal law, or yields a complaint from others alleging violations of the law or the Code will be reviewed by the University. Upon receipt of a complaint alleging off-campus student misconduct, the Senior Director or their designee will review the allegations to determine the appropriate course of action by the University.
5. Any student's off-campus behavior that affects a Substantial University Interest and violates the Code is subject to conduct action following standard University procedures.
6. Prohibited conduct that affects a "Substantial University Interest" is behavior that
  1. Constitutes a violation of local, state or federal law;
  2. Indicates that the student or student organization may present a danger or threat to the physical or mental health or safety of themselves or others; or
  3. ~~Significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder~~
  4. Is detrimental to the educational interests or climate of the University or its students.

#### Section IV: The Code of Conduct

The Code of Conduct (Code) describes behaviors that are inconsistent with the essential values of the University community: integrity, respect, responsibility, discovery, excellence and community. Any student or student organization found to have committed, to have attempted to commit, or to have assisted in the prohibited behavior(s) listed in the Code may be subject to the conduct sanctions as outlined in Section VI, G. A student or student organization engages in an attempt when, with intent to commit a specific violation of the Code, they perform any act that constitutes a substantial step toward the commission of that violation.

Student organizations may be found responsible for violations when behaviors include but are not limited to those listed below:

- The conduct is endorsed by the student organization (SO) or any of its officers including, but not limited to, active or passive consent or support, having prior knowledge that the conduct was likely to occur and not taking any substantive action to prevent it (e.g., canceling the event, notifying the Office of Student Conduct, University or local police, etc.), or helping to plan, advertise, or promote the conduct;
- The conduct is committed during an activity paid for by the SO, or paid for as a result of one or more members of the SO contributing personal funds in lieu of or in addition to organizational funds to support the activity or conduct in question;
- The conduct occurred on property owned, controlled, rented, leased, or used by the SO or any of its members for an organizational event;
- The purpose of the activity was related to initiation, admission into, affiliation with, or as a condition for continued membership in the SO;
- Non-members of the SO learned of the activity through members, advertisements, or communications associated with the SO, or otherwise formed a reasonable belief that the conduct or activity was affiliated with or endorsed by the SO;
- Members of the SO attempted to conceal the activity of other members who were involved; or
- One or more officer(s) of the SO had prior knowledge or reasonably should have known that the conduct would take place.

It is important to note that when persons are functioning in the capacity of members of a recognized student organization, a student organization and its leaders (elected, appointed, or volunteer) may be held collectively and individually responsible for violations of the Code. Student organizations may be charged with violations of the Code without regard to whether members of such organizations are individually charged with violations arising from the same misconduct.

A position of leadership in a student organization entails responsibility. Student officers or leaders cannot knowingly plan, permit, condone, or participate in any violation of the Code by the group/organization. In their role as a student leader, they have a responsibility to act to prevent violations of the Code, and at minimum to notify the appropriate staff/advisor if they become aware of a potential violation of the Code. Failure to do so could implicate them in a Code violation.

#### A. The Code of Conduct

**1. ABUSE/ENDANGERMENT:** Physically harming or threatening to harm any person, intentionally or recklessly causing harm to any person or reasonable apprehension of such harm or creating a condition that endangers the health and safety of self or others.

**2. SEXUAL HARASSMENT AND MISCONDUCT:** Sexual harassment occurs when a student engages in unwelcome conduct of a sexual or gender-based nature that is sufficiently severe, persistent, or pervasive so as to substantially interfere with an individual's employment, education, or access to University programs, activities and opportunities, and such conduct would detrimentally affect

a reasonable person under the same circumstances. It also occurs when a student who has power or authority over another engages in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, and submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development, or performance. Sexual harassment may include, but is not limited to, sexual advances, requests for sexual favors, sexual exploitation, stalking, dating violence, and domestic violence (See [policy AD-85](#)).

Sexual misconduct refers to attempted or completed unwanted or non-consensual sexual contact or activity, including, but not limited to the following: rape, sexual assault, sexual battery, forcible sodomy, sexual penetration with an inanimate object, sexual intercourse (vaginal or anal penetration) without consent, sexual touching and fondling, the touching of an unwilling person's intimate parts (defined as genitalia, groin, breasts, anus, or buttock, or clothing covering those intimate parts), forcing an unwilling person to touch another's intimate parts, sexual exploitation, and sexual coercion.

**3. ACTS OF BIAS.** Bias incidents refer to behavior that is motivated by discriminatory bias against or hatred toward other individuals or groups based on characteristics including, but not limited to, age, ancestry, color, mental or physical disability, genetic information, national origin, political belief, race, religious creed, sex, sexual orientation, gender identity or veteran status. This includes acts of discrimination, intimidation, and gender-based harassment. Bias incidents may violate a University policy, rule or regulation, the Student Code of Conduct, and/or other local, State or Federal laws, while some acts of bias may be considered protected speech or expression. (See [policy AD91](#)).

**4. HARASSMENT:** Harassment means behavior consisting of physical or verbal conduct that is sufficiently severe or pervasive such that it substantially interferes and creates a hostile environment with an individual's employment, education or access to University programs, activities or opportunities and would detrimentally affect a reasonable person under the same circumstances. Harassment also includes physical or verbal conduct that is sufficiently severe and pervasive that it creates a hostile environment that is detrimental to an individual's educational interests or climate. Harassment may include, but is not limited to, verbal or physical attacks, stalking, graphic or written statements, electronic exploitation, threats, or slurs. Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved. These behaviors also include when said actions are directed at an individual because of the individual's age, race, color, ancestry, national origin, religion, creed, service in the uniformed services, veteran status, sex, sexual orientation, marital or family status, pregnancy, physical or mental disability, gender identity, genetic information or political ideas. Additionally, behaviors include engaging in a course of conduct or subjecting a person or group of persons to unwanted physical contact or threat of such. (See also, [policy AD 91](#))

**5. WEAPONS, EXPLOSIVES AND OTHER DANGEROUS ITEMS:** Possessing, storing, carrying, or using any weapon, ammunition, explosive, or dangerous chemical or gas is prohibited on all

University property except by authorized law enforcement officers and other persons specifically authorized by the University. Possessing, carrying, or using any fireworks on University property, except for those persons authorized by University and local governments to discharge such fireworks as part of a public display. Paintball guns and paintball markers may only be used on the property of the University in connection with authorized University activities and only at approved locations. (Also see policies [SY-08](#) and [SY-12](#).)

**6. FIRE SAFETY VIOLATIONS:** Tampering with fire or other safety equipment or setting unauthorized fires. Exhibiting behaviors that risk health and safety of self or others during a fire related incident. Burning candles, incense or other items in the Residence Halls or other University facilities, whether attended or unattended. (Also see policies [SY10](#), [SY28](#), and [SY30](#).)

**7. ALCOHOL AND/OR DRUGS:** Illegally possessing, using, distributing, manufacturing, selling, or being under the influence of alcohol or other drugs. Supplying alcohol to persons under 21, even by those under 21. Excessive consumption of alcohol occurs when a person is intoxicated to the degree that the person may endanger self, other persons, or property, or annoy persons in the vicinity. Using, possessing, or distributing beverages containing alcohol in any way that does not comply with the laws of the Commonwealth of Pennsylvania and/or University Regulations. (Also see policies [AD-18](#), [AD-33](#).)

**8. FALSE INFORMATION:** Intentionally providing false or inaccurate information or records to University or local authorities. Providing a false report of an emergency, University policy and/or Code violation. Knowingly providing false statements or testimony during an investigation or University proceeding. Falsely presenting oneself as an official of the University or a local authority. (Also see policy [AD-67](#).)

**9. THEFT AND POSSESSION OF STOLEN PROPERTY:** The taking, or possession of, items belonging to another individual or entity. The taking or attempting to take anything of value from the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**10. DISRUPTION OF OPERATIONS:** Obstruction or disruption of classes, research projects, conduct processes and/or investigations (University or police), University governance proceedings, or other activities or programs of the University; or obstructing access to University facilities, property, or programs. An action or combination of actions by one or more individuals that unreasonably interferes with, hinders, obstructs, or prevents the operation of the University or infringes on the rights of others to freely participate in its programs and services. (Also see [policy AD-57](#).)

**11. VIOLATIONS OF ACADEMIC INTEGRITY:** Academic integrity is the pursuit of scholarly activity in an open, honest and responsible manner. Academic integrity is a basic guiding principle for all academic activity at The Pennsylvania State University, and all members of the University community are expected to act in accordance with this principle. Consistent with this expectation, students should act with personal integrity, respect other students' dignity, rights

and property, and help create and maintain an environment in which all can succeed through the fruits of their efforts. Academic integrity includes a commitment not to engage in or tolerate acts of falsification, misrepresentation or deception. Such acts of dishonesty violate the fundamental ethical principles of the University community and compromise the worth of work completed by others.

1. Violations of Academic Integrity include, but are not limited to, copying, plagiarism, fabrication of information or citations, facilitation of acts of academic dishonesty by others, unauthorized possession of examinations, submitting work of another person or work previously used without informing the instructor, and tampering with the academic work of other students. (Also see [Faculty Senate Policy 49-20](#) and [G-9 Procedures](#).) Special Procedures are used to address violations of academic integrity (see Section VII).
  
- 12. FAILURE TO COMPLY:** Failing to comply with reasonable directives from University or other officials when directed to do so. This includes, but is not limited to failure to provide identification, to report to an administrative office, to complete sanctions assigned as part of the conduct process or, when reasonable cause exists, failure to leave University-controlled premises (both physical and virtual) or dangerous situations when directed to do so by properly authorized persons, including police and/or University faculty and staff.
  
- 13. FORGERY/ALTERATION:** Making, possessing and/or knowingly using or submitting any falsified official record or University document; altering or forging any University or official document or record, including identification, meal or access cards. This includes but is not limited to forging documents (signing another's name and/or ID number), manufacturing IDs or tickets, altering parking permits, and misuse of forms (e.g., medical forms/letters, letterhead stationery, University forms). This category includes both physical and electronic documents and records.
  
- 14. UNAUTHORIZED ENTRY OR USE:** Unauthorized entry into or use of property or University facilities, including private residences, businesses, offices, residence halls, classrooms, computers, computer networks, virtual University learning spaces and other restricted facilities. Unauthorized entry or use is considered any use or attempt to use without permission to do so (e.g. an unsecured door is not necessarily permission to enter said space). (Also see [policy AD-95](#))
  
- 15. DISORDERLY CONDUCT:** Engaging in disorderly, disruptive, lewd, or indecent conduct, including, but not limited to, creating unreasonable noise; pushing and shoving; creating a physically hazardous condition or a condition that requires restoration or clean-up; inciting or participating in a riot or group disruption; failing to leave the scene of a riot or group disruption when instructed by officials; or disruption of programs, classroom activities or functions, and processes of the University.

**16. VIOLATIONS OF UNIVERSITY REGULATIONS:** Violating written University policies or regulations contained in any official publications, administrative announcements, contracts (e.g., residence hall contracts or leases) and/or postings, including University websites.

**17. VIOLATION OF LAW:** When it is established that a student or student organization has violated federal, state, or local law and the violation of law affects a Substantial University Interest.

**18. RETALIATION:** Taking adverse action against any individual on the basis of a good faith report made by such individual, or based on said individual's participation in an investigation, hearing, or inquiry by the University or an appropriate authority, or the individual's participation in a court proceeding relating to suspected wrongful conduct. (Also see policy [AD-67](#) and policy AD 91.)

**19. HAZING OF A PERSON:** Hazing is when a person intentionally, knowingly or recklessly, for the purpose of initiating, admitting or affiliating a minor or student into or with an organization, or for the purpose of continuing or enhancing a minor or student's membership or status in an organization, causes, coerces or forces a minor or student to do any of the following:

- Violate Federal, State, or Municipal law or University policy or procedure;
- Consume any food, liquid, alcoholic liquid, drug or other substance which subjects the minor or student to a risk of emotional or physical harm;
- Endure brutality of a physical nature, including whipping, beating, branding, calisthenics or exposure to the elements;
- Endure brutality of a mental nature, including activity adversely affecting the mental health or dignity of the individual, sleep deprivation, exclusion from social contact or conduct that could result in extreme embarrassment;
- Endure brutality of a sexual nature;
- Endure any other activity that creates a reasonable likelihood of bodily injury to the minor or student.

Hazing shall not include reasonable and customary athletic, law enforcement or military training, contests, competitions or events.

Hazing also includes when a person commits a violation of hazing that results in serious bodily injury or death to the minor or student; and

1. the person acts with reckless indifference to the health and safety of the minor or students; or
2. the person causes, coerces or forces the consumption of an alcoholic liquid or drug by the minor or student. (Also see [policy AD-98](#).)

## **Section V: Code of Conduct and Violations of Law**

University student and student organization conduct proceedings may be instituted against a student or student organization charged with conduct that potentially violates both criminal law and this Code (that is, if both possible violations result from the same factual situation) without regard to the pending civil or criminal litigation in court or criminal arrest or prosecution. “Acts of bias” may alone constitute a violation of the Code. Other violations of the Code motivated by bias will be subject to extra sanctions by the University. Proceedings under this Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Senior Director or designee. Determinations made or sanctions assigned under this Code shall not be subject to change because criminal charges arising out of the same facts were dismissed, reduced or resolved in favor of or against the criminal law defendant.

#### A. Request for a Delay

For an incident in which there is a report of an alleged violation of the Code as well as a violation of law, the Respondent may request a short delay in the University conduct process. The decision to delay the process will be at the sole discretion of the Senior Director or designee. These delays will typically not be granted in cases which may involve an alleged Title IX violation. If the request is granted, the process may be delayed for a short period of time until some part or all the criminal or civil process has been completed. Interim actions may be imposed.

When a delay is granted, one or more of the following conditions may be implemented during the delay:

- Hold on their University accounts
- Loss of privilege to participate in University-related activities
- Cessation of organization processes or recruitment
- Prohibition from meeting as an organization
- Prohibition from hosting any events

#### B. Conduct Withdrawal

At the written request of a student, the Senior Director or designee may approve a conduct withdrawal in cases where a student is or may be charged both by the University and criminally for the same incident. Requests will be reviewed on a case by case basis. Reasons for denial include, but are not limited to, the nature and circumstances of the case, the status of the University investigation, or the reported impact of the behavior on other parties. The conduct process may be reinitiated at the discretion of the Senior Director.

If a conduct withdrawal is approved, a notation will be placed on the student’s transcript indicating that the student withdrew while conduct charges were pending, and the student will be prohibited from all University premises as well as from participating in any activity, class or program of the University. Depending upon the nature of the allegations, additional restrictions may be added.

### Section VI: Conduct Procedures

The following conduct procedures are intended to promote accountability, healing, learning, growth and fairness.

*For cases involving allegations of crimes of violence, also see Section VI, E; For cases involving allegations of Sexual Harassment and Misconduct and Title IX violations, also see Section VI, F; for Academic Integrity, see Section VII. For cases involving allegations involving acts of bias, see Section VI, I.* Reports, Conduct Conversations, Advisors and Charges

1. Anyone may file a report alleging that a student or student organization violated the Code. Any report should be submitted as soon as possible after the event takes place.
2. After a report is filed, an investigation may be conducted, either prior or subsequent to a conduct conversation. If conducted, the investigation is designed to gather information through interviews with relevant parties and the collection of additional evidence.
3. The University will typically contact students via their official University email account. Students are expected to regularly check their University email account as well as spam folder.
4. The Respondent will have the opportunity to meet with a case manager during a conduct conversation.
5. Impacted Parties will have the choice to meet with an advisor. The advisor, upon the party's request will (1) accompany the party to any meeting/proceeding, (2) advise the party regarding the conduct process, including appeals and sanction reviews.
6. If a Respondent, with notice, does not participate in the conduct conversation, the meeting will take place in their absence, and all available information will be reviewed by the case manager.
7. Respondents Impacted Parties may be accompanied by an advisor. An advisor should not be selected with the actual or effective purpose of disrupting or attempting to disrupt the conduct process, or of causing emotional distress to any party. The advisor, upon a party's request may (1) accompany the party in any meeting/proceeding, (2) advise the party in the preparation and presentation of sharing of information, and (3) advise the party in the preparation of any appeals or sanction reviews. The advisor shall not perform any function in the process other than advising the party and may not make a presentation or represent the party. The parties must ask and respond to questions on their own behalf, without interruptions or presentations by their advisor. The advisee may consult with their advisor quietly or in writing during a session, or outside during breaks, but the advisor may not speak on behalf of the advisee or directly participate otherwise in the proceeding. Delays in the conduct process will not normally be allowed due to scheduling conflicts with advisors. If, at any point, an advisor becomes disruptive or fails to follow the rules for participation as set forth in this document, the University reserves the absolute and non-appealable right to remove the advisor from the proceeding, and, if appropriate, any future meetings/proceedings.

8. Respondents are presumed to be not responsible. If the acquired information does not reasonably support that a violation of the Code occurred, then the case will be closed without charge(s), and the **Impacted Parties** will be notified **consistent with FERPA**.
9. ~~If the acquired information does not~~ **In every case, and without regard to whether the acquired information reasonably supports that a violation of the Code occurred, the Office of Student Conduct will offer resources, including counseling and psychological services, including trauma-informed services, to the Impacted Parties.**
10. If the acquired information reasonably supports a Code violation, the case manager may recommend charge(s), sanction(s), to the Respondent. Charge(s) shall be provided to the Respondent in written form. The decision to charge is based on a low standard of evidence and does not indicate if a Respondent will be found responsible in a hearing, should the Respondent contest the charge(s).
11. The Respondent may take three (3) business days to decide whether to accept the charge(s), and sanction(s), to contest the charge(s), or request a sanction review when appropriate. Failure to respond, in writing, in the three (3) business days allotted will result in the charge(s), and sanction(s) being implemented, unless the case manager has approved an alternative timeframe.
12. If the Respondent accepts the charge(s), sanction(s), the charge(s), sanction(s), and/or restorative practices will be implemented.
13. If the Respondent accepts the charge(s) but contests the sanction(s) (for sanctions of Probation with a Transcript Notation, Suspension, Indefinite Expulsion, Expulsion, or Loss of Housing for students, or Suspension or higher for student organizations), the matter will be referred to a sanction review. The sanction review will typically take place within five (5) business days of forwarding the review to the Sanction Review Officer. (Also see Section VI, C.)
14. If the Respondent contests the charge(s) (i.e., denies responsibility for the alleged violation(s)), the matter will be referred to a hearing. The hearing will take place as soon as reasonably possible, but not sooner than five (5) business days after the Respondent has been notified of the charge(s), unless the Respondent waives the five-day notice and the University can accommodate a shortened timeframe.

#### A. Hearings

*For cases involving allegations of crimes of violence, also see Section VI, E; for cases involving allegations of Sexual Harassment and Misconduct and Title IX violations, also see Section VI, F. **Every stage of the hearings process should comply with state and federal laws, including FERPA and the Privacy Act.***

1. If the Respondent is determined to be responsible as an outcome of the hearing, the hearing authority will determine appropriate sanction(s), which may or may not be in

alignment with those originally recommended by the case manager.

- An Administrative Hearing will typically be utilized in cases that will not result in sanctions ranging from Suspension to Expulsion unless specifically requested by the Respondent(s) and/or Complainant and agreed to by the Senior Director. For individual student cases, the hearing authority is a single faculty or staff hearing chair; in cases involving student organizations, a panel of three (3) students authorized by the Senior Director comprise the hearing authority.
  - The University Conduct Board (UCB) hearing will typically be utilized in cases in which there is a potential that the Respondent may be suspended or expelled from the University. The UCB is comprised of a specific group of faculty, staff and students authorized by the Senior Director to determine, through a hearing, whether a student or organization has violated the Code and to assign sanction(s) in response to violation(s).
2. Hearings normally shall be conducted in private unless the ~~Respondent~~ **one of the Impacted Parties** requests an open hearing. Even if an open hearing is requested, the Senior Director or designee may determine that a hearing be closed if, in their opinion, an open hearing would have an adverse impact on any participant; would disclose personal, psychological or medical information of a sensitive nature; or would otherwise jeopardize the privacy or welfare of any participant. An open hearing means that only current faculty, staff, or students who show a current PSU identification card, and are not participating or involved in the case, would be admitted. The hearing authority shall determine the number of persons to be admitted, and under no circumstances shall the hearing be open to more than the normal capacity of the typical hearing room.
  3. The hearing authority may accommodate concerns for the personal safety, well-being, and or fears of confrontation of the participant(s) during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, as determined in the sole judgment of the Senior Director (or designee) to be appropriate.
  4. The ~~Respondent~~ **Impacted Parties** will be allowed to submit a response to charges prior to the hearing that will be added to the hearing information.
  5. A student organization's representation during a hearing is one student representative (typically the president of the organization).
  6. ~~The Respondent~~ **An Impacted Party** may be assisted by an advisor.

7. In addition, ~~the Respondent~~ **an Impacted Party** may provide a consideration statement that will only be shared with the hearing authority should it find that the Respondent is responsible for violating the Code.
8. ~~The Respondent~~ **Impacted Parties** and their advisor will be allowed to attend the entire portion of the hearing excluding deliberations.
9. If a Respondent, with notice, does not appear before the hearing authority, the hearing will take place in their absence, and all available evidence will be reviewed by the hearing authority.
10. If the matter involves more than one Respondent, the Senior Director, in their discretion, may permit the hearing concerning each Respondent to be conducted either jointly or separately.
11. The Respondent, hearing authority, and University Presenter will be allowed to ask questions of all witnesses who participate in the hearing.
12. All witnesses will be considered University witnesses. Names of witnesses may be provided by the ~~Respondent~~ **Impacted Parties** and others who may have been involved with the case. Prior to the hearing, it is important that the case manager understand the role of each witness in the case. To assist this process, those who have not met with the investigator or case manager will be requested to provide a brief statement outlining the relevant information they will share at least two (2) business days in advance of the hearing. Note, witness participation in this process is voluntary.
13. The testimony of unknown or unidentified witnesses shall not be admissible. In student organization cases, individuals who provide information as part of an investigation may remain anonymous throughout the conduct process, provided their identities are known to the University and the investigative entity serves as a witness.
14. The Senior Director (or designee) and/or hearing authority may exclude witnesses if they are deemed duplicative, irrelevant or inappropriate.
15. Evidence not previously provided in advance of the hearing may be accepted for consideration at the discretion of the hearing authority.
16. Formal rules of process, procedure, and/or technical rules of evidence, such as those applied in criminal or civil court, are not used in these proceedings.
17. After the portion of the hearing concludes in which evidence has been received, the hearing authority shall determine whether the Respondent is responsible for each alleged violation of the Code. The determination shall be made using a preponderance

of the evidence standard.

18. Should the Respondent be found responsible of violating the Code, the hearing authority will review the consideration statement(s), if submitted, and other documentation relative to sanctioning, including any conduct history.
19. There shall be a single recording of all University Conduct Board hearings (not including deliberations), unless the Respondent requests the hearing not be recorded and the Senior Director approves. The recording shall be the property of the University and will be maintained as outlined in Section VIII: Conduct Records. Administrative Hearings are typically not recorded.
20. The hearing authority will typically submit its finding of responsibility or non-responsibility, sanction(s), if any, and rationale in writing to the case manager within five (5) business days of the hearing. The case manager will notify the Respondent in writing of the outcome.
21. Decisions made by a hearing authority are final pending the normal review and appeal process.
22. The Respondent will be notified in writing of the hearing authority's decision and their right to appeal as permitted in Section VI, D.
23. After any appeal process has been completed, the Respondent Impacted Parties will be notified in writing of the outcome.

## B. Sanction Reviews

*For cases involving allegations of crimes of violence, also see Section VI, E; for cases involving allegations of Sexual Harassment and Misconduct and Title IX violations, also see Section VI, F.*

1. Sanction reviews may be conducted when a Respondent accepts responsibility for the Code violation(s) through a conduct conversation, receives a sanction that includes Probation with a Transcript Notation or higher or a Loss of Housing and would like to have that sanction reviewed. Requests for a sanction review shall be in writing and shall be delivered to the Senior Director or designee.
2. When a Respondent requests a sanction review and submits accompanying rationale, the case shall be forwarded to the Sanction Review Officer for review and consideration. The scope of the sanction review will ordinarily be a review of the written record of the case, unless otherwise determined by the Sanction Review Officer.
3. The Sanction Review Officer may sustain the sanction(s) assigned by the case manager; or the Sanction Review Officer may modify the sanction(s) assigned by the case manager

when they determine that the sanction(s) recommended was outside the University's sanction range for such violations and/or not justified by the nature of the violation.

4. The Sanction Review Officer will typically forward a decision and rationale to the Senior Director or designee within five (5) business days of receiving the sanction review request. At the completion of the sanction review, there are no opportunities for further review or appeal.
5. The case manager will then share the outcome in writing with the Respondent Impacted Parties.

### C. Appeals

*For cases involving allegations of crimes of violence, also see Section VI, E; for cases involving allegations of Sexual Harassment and Misconduct and Title IX violations, also see Section VI, F. Every stage of the Appeals process should comply with state and federal laws, including FERPA and the Privacy Act.*

1. Cases resulting in sanctions of Suspension to Expulsion after a hearing may be appealed to the Student Conduct Appeals Officer by the Respondent within five (5) business days of receiving official notification of the results of the hearing. Such appeals shall be in writing and shall be delivered to the Senior Director or designee.
2. The appeal shall consist of a plain, concise, and complete written statement outlining the basis for appeal and all relevant information to substantiate the request. The Senior Director, in their discretion, may impose page limits for all written appeal statements.
3. An appeal may be requested on one or more of the following grounds:
  - the Respondent has been deprived of their rights and/or stated procedures were not followed that affected the outcome;
  - new evidence is presented, that was not available during the time of the original outcome, relevant to establishing whether it is more likely than not that the Respondent is responsible for the Code violation(s); and/or
  - the sanction(s) imposed was (were) outside the University's sanction range for such violations and/or not justified by the nature of the violation.
4. In addition, the Senior Director or designee, for all cases, may appeal the decision(s) of a University hearing on behalf of the University within five (5) business days following the date that the Respondent receives official notification of the results of the hearing.
  - The Respondent will be informed that an appeal is being requested.
  - The Senior Director may request an appeal based on the three (3) grounds listed above and one (1) additional ground:

- The hearing authority misapplied or misinterpreted the University's policies and related definitions.
5. The Student Conduct Appeals Officer will review the case records and any additional information that is submitted as may be requested by the Student Conduct Appeals Officer.
  6. The original decision(s) regarding responsibility and sanction(s) may be sustained, modified or reversed. No decision should be overturned or modified without consultation with the Vice President for Student Affairs, Senior Director, Title IX Coordinator, or Chancellor.
  7. If an appeal is granted, one of the following processes will take place:
    - When an appeal is granted on the grounds that the Respondent has been deprived of their rights and/or stated procedures were not followed that affected the outcome for the student(s), the matter will be referred to a new hearing authority to be reheard. If the error occurred as part of the investigative process, the matter will be referred back to the investigative process to address the error, and the process will resume from that stage.
    - When an appeal is granted on the grounds that new evidence is presented that was not available during the time of the original hearing or review and that is relevant to establishing whether it is more likely than not that the Respondent is responsible for misconduct, the Student Conduct Appeals Officer shall return the case to the investigative process or the original hearing authority to be reheard with the new evidence.
    - When an appeal is granted on the grounds that the sanction(s) imposed was (were) outside the University's sanction ranges for such violations and/or not justified by the nature of the offense, the Student Conduct Appeals Officer shall modify the sanction as they deem appropriate.
    - When, in the case of a Senior Director appeal, it is determined that the hearing authority misapplied or misinterpreted the University's policies and related definitions, the matter will be referred to a new hearing authority to be reheard with appropriate clarification or training provided by the OSC.
  8. The Appeals Officer will typically forward their decision and rationale to the Senior Director or designee within five (5) business days of receiving the appeal request.
  9. The ~~Respondent~~ Impacted Parties will be notified in writing.
  10. If an appeal is denied, there will be no opportunity for further review.

#### D. Special Protocols for Crimes of Violence

*In cases involving a potential crime of violence, excepting potential Sexual Harassment and Misconduct and Title IX violations (See Section VI, F), the following additional procedures will be followed:*

1. When a conduct process is enacted regarding a potential crime of violence, the first step will typically be a meeting between the Complainant and a case manager.
2. A conduct conversation will take place with the Respondent.
3. The Respondent and Complainant may be accompanied by an advisor.
4. If the Senior Director or designee determines that it is appropriate and necessary, an investigation prior to the determination of charge(s) and sanction(s) will occur.
5. If the acquired information does not reasonably support that a violation of the Code occurred, then the case will be closed without charge(s), and both parties will be notified.
6. If the acquired information reasonably supports a Code of Conduct violation, the case manager may recommend charge(s) and sanction(s) to the Respondent.
7. Both the Complainant and the Respondent may offer a brief written consideration statement to the case manager within (5) business days of receiving notice of charges. The Complainant or Respondent's decision whether to provide a consideration statement is completely voluntary. Information from these statements may be used to help determine appropriate sanctions.
8. If the Respondent accepts the charge(s) and sanction(s), the sanction(s) will be implemented. The Respondent and Complainant will be notified.
9. If the Respondent accepts the charge(s) but contests the sanction(s) (for sanctions of Probation with a Transcript Notation, Suspension, Indefinite Expulsion, Expulsion, or Loss of Housing), the case will be referred to a sanction review. The sanction review will typically take place within five (5) business days of forwarding the review to the Sanction Review Officer. The case manager will then share the outcome in writing with the Respondent and the Complainant (also see Section VI, C).
10. If the Respondent contests the charge(s), the matter will be forwarded to a hearing, and the Respondent and Complainant will be permitted to attend and participate fully in the hearing procedures.
  - The Respondent and Complainant may submit a response to charges prior to the hearing.

- The Respondent and Complainant may be assisted by an advisor.
- The Respondent and Complainant will be allowed to attend the entire portion of the hearing, with the exception of deliberations.
- Names of witnesses may be provided by the Respondent, Complainant, and others who may have been involved with the case.
- The Respondent, Complainant, hearing authority and University Presenter will be allowed to ask questions of all witnesses who choose to participate in the hearing process. Note, witness participation in this process is voluntary.
- Questions by both the Respondent and the Complainant may be posed to the other; however, questioning of the other party will be permitted only through the hearing authority.
- The Respondent and Complainant may submit a consideration statement that will be reviewed by the hearing authority to help inform sanctioning, should the Respondent be found responsible for violating the Code.
- If a Respondent and/or Complainant, with notice, does not appear before the hearing authority, the hearing will take place in their absence, and all available evidence will be reviewed by the hearing authority.
- There shall be a single recording of all University Conduct Board hearings (not including deliberations) unless the Respondent requests that the hearing not be recorded. If the Respondent requests the hearing not be recorded, the Senior Director will consult with the Complainant, and the Senior Director will determine whether or not the hearing will be recorded. The recordings shall be the property of the University and will be maintained as outlined in Section VIII. Administrative Hearings are typically not recorded.
- Both the Respondent and the Complainant will be notified in writing of the hearing outcome once the outcome has been submitted to the case manager by the hearing authority.
- The Respondent and/or Complainant may request an appeal when suspension, indefinite expulsion or expulsion is either assigned or was possible given the Code charge(s) recommended within five (5) business days of receiving official notification of the results of the hearing. Such appeals shall be in writing and shall be delivered to the Senior Director or designee. (See Section VI, D).
- Each party will be given the opportunity to review and respond in writing to the other party's appeal, should one be submitted. Any response by the opposing party must be submitted to OSC within three (3) business days of receiving the other party's appeal. All appeal documents from each party will be considered together in one appeal process.
- At the conclusion of any appeal process, both the Complainant and the Respondent will be notified, in writing, of the outcome.

#### E. Special Protocols for Sexual Harassment and Misconduct and Title IX Allegations

The University's Office of Sexual Misconduct Prevention and Response (OSMPR) has responsibility for investigating allegations of sexual harassment and misconduct and Title IX violations. The OSMPR will typically investigate such allegations utilizing the process articulated

at <http://titleix.psu.edu>. When OSMPR forwards its Investigation Report to the Office of Student Conduct and a conduct process is initiated, the following process will occur. (See also [AD-85](#)):

1. The case will be assigned to a case manager in the Office of Student Conduct.
2. The case manager will review the Investigation Report and will typically meet with the Complainant first.
3. Both the Respondent and the Complainant may be accompanied by an advisor.
4. If the Senior Director or designee, in consultation with the Title IX Coordinator, determines that it is appropriate and necessary, either the case manager or investigator will conduct additional investigation prior to the determination of charge(s) and sanction(s).
5. If the acquired information does not reasonably support that a violation of the Code occurred, then the case will be closed without charge(s), and both parties will be notified.
6. If the acquired information reasonably supports a Code violation, the case manager will recommend charge(s) and sanction(s) that are designed to eliminate the conduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and Title IX obligations. Sanctions or interventions may also serve to promote safety and/or deter students from similar future behavior.
7. Both the Complainant and the Respondent may offer a brief written consideration statement to the case manager within five (5) business days of receiving notice of charges. The Complainant or Respondent's decision whether to provide a consideration statement is completely voluntary. Information from these statements may be used to help determine appropriate sanctions.
8. The Respondent may take up to three (3) business days to decide whether to accept the charge(s) and sanction(s) or contest. Failure to respond, in writing, in the three (3) days allotted will result in the charge(s) and sanction(s) being implemented, unless the case manager approves an alternative timeframe.
9. If the Respondent accepts the charge(s) and sanction(s), the sanction(s) will be implemented. Both parties will be notified.
10. The Respondent and/or Complainant may request a sanction review when a Respondent accepts responsibility for the Code violation(s) and a sanction of Probation with a Transcript Notation or higher or a Loss of Housing was assigned or was possible given the charge(s) recommended (also see Section VI, C).

11. If the Respondent contests the charge(s) (i.e., denies responsibility for the violations), the case will be forwarded to a hearing authority along with the Investigation Report.
- The Respondent and Complainant will be permitted to attend and participate fully in the hearing procedures (excluding deliberations).
  - If the Respondent and/or Complainant, with notice, do not appear before the hearing authority, the hearing will take place in their absence, and all available evidence will be reviewed by the hearing authority.
  - In addition, both the Complainant and Respondent may provide a consideration statement, if not already provided. The statements will only be shared with the hearing authority should it find that the Respondent is responsible for violating the Code.
  - Prior to the hearing, the hearing authority will typically be permitted at least five (5) business days to individually review the Investigation Report.
  - Following the hearing authority's individual review of the Investigation Report and any required follow up investigation and responses, the hearing authority will convene a hearing.
  - If the matter involves more than one Respondent, the Senior Director of the Office of Student Conduct, in consultation with the Title IX Coordinator, in their discretion, may permit the hearing concerning each Respondent to be conducted either jointly or separately.
  - At the hearing, the Investigator will provide an overview of the investigation. The Complainant and Respondent may hear/observe the Investigator's interaction with the hearing authority in person or through remote audio or video access, if reasonably practicable.
  - Each party will have the option to hear/observe the other party's and witnesses' interactions with the hearing authority through remote audio or video access or in person, if reasonably practicable. The hearing authority may reasonably accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Respondent and/or Complainant during the hearing as determined in the sole judgment of the Senior Director (or designee) to be appropriate.
  - The parties may suggest questions to be posed to the other party by and through the board. Proposed questions will be submitted to the hearing authority. The rationale for not asking any proposed question will be documented.
  - All witnesses will be considered University witnesses. Names of witnesses not included in the investigative packet may be provided by the Respondent, Complainant and others who may have been involved with the case. Prior to the hearing, it is important that the case manager understand the role of each witness in the case. To assist this process, those who have not met with the investigator will need to provide a brief statement outlining the relevant information they will share at least two (2) business days in advance of the hearing. The University will contact witnesses regarding the date, time and location of the hearing.

- The Respondent, Complainant, case manager, and hearing authority will be allowed to ask questions of the investigator and all witnesses who participate in the hearing process. Note, witness participation in this process is voluntary.
- The Senior Director (or designee) and/or hearing authority may exclude witnesses if they are deemed duplicative, irrelevant, or inappropriate.
- Evidence may be accepted for consideration at the discretion of the hearing authority.
- Formal rules of process, procedure, and/or technical rules of evidence, such as those applied in criminal or civil court, are not used in these proceedings.
- After the portion of the hearing concludes in which all evidence has been received, the hearing authority shall determine whether the Respondent is responsible for each alleged violation of the Code. The determination shall be made using a preponderance of the evidence standard.
- Should the Respondent be found responsible of violating the Code, any consideration statements will be shared with the hearing authority. Other documentation relative to sanctioning, including any prior conduct history, may also be submitted at that time.
- There shall be a single recording of all UCB hearings (not including deliberations), unless the Respondent requests the hearing not be recorded and the Senior Director approves. The recording shall be the property of the University and will be maintained as outlined in Section VIII: Conduct Records. Administrative Hearings are typically not recorded.
- The hearing authority will typically submit its finding of responsibility or non-responsibility, sanction(s) (if any), and rationale, in writing, to the case manager within five (5) business day
- Decisions made by a hearing authority are final pending the normal review and appeal process. Both parties will be informed, in writing, of the hearing authority's decision and their rights to appeal as permitted in Section VI, D.
- The Respondent and/or Complainant may request an appeal when suspension, indefinite expulsion or expulsion is either assigned or was possible given the Code charge(s) recommended within five (5) business days of receiving official notification of the results of the hearing. Such appeals shall be in writing and shall be delivered to the Senior Director or designee. (See Section VI, D) Each party will be given the opportunity to review and respond in writing to the other party's appeal, should one be submitted. Any response by the opposing party must be submitted to OSC within three (3) business days of receiving the other party's appeal. All appeal documents from each party will be considered together in one appeal process.
- In addition to the Senior Director, the Title IX Coordinator or designee may appeal the decision(s) of a University hearing on behalf of the University within five (5) business days following the date that the Respondent receives official notification of the results of the hearing.
  - The Respondent will be informed that an appeal is being requested.
  - The Title IX Coordinator or designee may request an appeal based on the three (3) grounds listed in Section VI, D and one (1) additional ground:

- The hearing authority misapplied or misinterpreted the University’s policies and related definitions
- When, in the case of a Senior Director or Title IX Coordinator appeal, it is determined that the hearing authority misapplied or misinterpreted the University’s policies and related definitions, the matter will be referred to a new hearing authority to be reheard with appropriate clarification or training provided by the OSC or Title IX Coordinator.
- After any appeal process has concluded, both the Respondent and Complainant will be notified, in writing, of the outcome of the process.
- The University’s Title IX Coordinator will also be notified and may continue to work with the parties as appropriate.
- In addition, the Title IX Coordinator or designee, may appeal the decision(s) of a University hearing on behalf of the University within five (5) business days following the date that the Respondent receives official notification of the results of the hearing.
  - The Respondent will be informed that an appeal is being requested.
  - The Title IX Coordinator or designee may request an appeal based on the three (3) grounds listed above and one (1) additional ground:
    - The hearing authority misapplied or misinterpreted the University’s policies and related definitions.

#### F. Sanctions

The following sanctions may be imposed upon any student or student organization found to have violated the Code. More than one of the sanctions listed below may be imposed for any single violation.

The case manager is responsible for the implementation of sanctions. The hearing authority may assign sanctions; however, it is the responsibility of the case manager to ensure that the sanctions are imposed and communicated to the respondent.

##### 1. Primary Administrative Sanctions

**CONDUCT WARNING:** A conduct warning is an indication to a Respondent that their conduct violated the Code and that further misconduct will result in more severe conduct action.

**CONDUCT PROBATION:** Conduct probation is assigned for a specified time period and is intended to foster reflection, responsibility, and improved decision-making for the respondent. Additional conditions and/or educational programs may be assigned as a component of the probation. Future established misconduct, failure to comply with any conditions or to complete any assignments may lead to a more severe conduct action, including suspension or expulsion.

Conduct probation may be recorded on a student’s official University transcript when, either due to the serious nature of the behavior or when a student’s conduct history is significant, the Office of Student Conduct determines a notation is merited.

**CONDUCT SUSPENSION:** Conduct suspension from the University is assigned for a specified period of time. A suspended student is precluded from registration, participation in any class, activity or program of the University, and residence on campus. In addition, the student is

prohibited from using or visiting University facilities, including virtual facilities, unless special permission is obtained from the Senior Director or designee. During the period of the suspension, a notation will appear on the student's official University transcript.

A suspended student organization loses all rights and privileges associated with being a recognized student organization, must cease any organizational activity or function, and is prohibited from engaging in any organizational activity or function until the suspension is lifted by the Office of Student Conduct.

**INDEFINITE EXPULSION:** Indefinite expulsion from the University is for a period of not less than one calendar year, and re-enrollment must be approved by the Vice President for Student Affairs or designee at University Park or by the Chancellor or designee at the Commonwealth Campuses. During a period of indefinite expulsion, a student is precluded from registration, participation in any class, activity or program of the University, and residence on campus. In addition, the student is prohibited from using or visiting University facilities or properties unless special permission is obtained from the Senior Director or designee. If a student wishes to return to the University after the period of his or her indefinite expulsion, he/she must request re-enrollment (in writing) from the Senior Director or designee. During the period of the expulsion, a notation will appear on the student's official University transcript.

For student organizations, indefinite expulsion means that the student organization loses all rights and privileges with being a recognized student organization, must cease any organizational activity or function, and is prohibited from engaging in any organizational activity or function and is assigned for a period of not less than one calendar year. Re-recognition must be approved by the Vice President for Student Affairs or designee at University Park or the Director of Student Affairs (or equivalent) at the Commonwealth Campuses.

**EXPULSION:** Expulsion of a student from the University is permanent. A student is precluded from registration, participation in any class, activity or program of the University, and residence on campus. In addition, the student is prohibited from using or visiting University facilities unless special permission is obtained from the Senior Director or designee. Expulsion requires administrative review and approval by the President. The sanction of expulsion is permanently noted on a student's official University transcript.

For student organizations, expulsion means that the student organization permanently loses all rights and privileges with being a recognized student organization, must cease any organizational activity or function, and is permanently prohibited from engaging in any organizational activity or function.

**XF GRADE:** See the [G-9 Procedures](#) established by the Faculty Senate.

## 2. Secondary Administrative Sanctions

**HOUSING REVIEW:** Housing Review is implemented when an on-campus student has either breached the terms and conditions of their housing contract/lease agreement or has engaged in inappropriate behavior in or near the residence halls. This review is for a specified period of time

with the understanding that any further breach of the conditions of their housing contract/lease agreement, during the time specified, may result in an extension of review of housing contract or a termination of a student's housing contract, or a notice of non-renewal of a lease agreement. A housing review will typically be assigned in conjunction with other administrative sanctions.

For student organizations, housing review means the organization has violated the terms and conditions of their housing contract/lease agreement or has engaged in inappropriate behavior in or near the residence halls. This review is for a specified period of time with the understanding that any further breach of the conditions of their housing contract/lease agreement, during the time specified, may result in an extension of review of housing contract or a termination of a student organization's housing contract, or a notice of non-renewal of a lease agreement. A housing review will typically be assigned in conjunction with other administrative sanctions.

**ROOM REASSIGNMENT:** A student is relocated from one housing assignment to another residence hall assignment. This may be a temporary or permanent change of assignment.

For student organizations, room reassignment means the students living in a designated residential space may be relocated from one housing assignment to another residence hall assignment. This may be a temporary or permanent change of assignment.

This sanction should be made after consultation with the appropriate Residence Life staff member.

**LOSS OF HOUSING:** Loss of housing permanently separates a student from the University housing program. This separation is typically immediate.

**LOSS OF PRIVILEGE:** Loss of Privilege involves the withdrawal of the use of service, participation in an activity, or withdrawal of privileges consistent with offense(s). Loss of privilege may be imposed separately or in addition to other sanctions.

For student organizations, loss of privilege may involve an organization losing one or more privileges of being a recognized student organization. This sanction is generally for a specified period of time. Examples of privileges that can be lost include, but are not limited to, suspension of the student organization's funds, prohibition of hosting social functions, discontinuation or cancellation of new member processes, suspension of access to the organization's web space, suspension of the ability to reserve rooms on campus, suspension of the ability to apply for Student Activity Fee funding, suspension of fund-raising activities, suspension of access to office space, new member recruitment, participation in University-wide activities, loss of preferred housing space, which may or may not include the loss of organizational suite space, and others.

### 3. Active Sanctions

Active sanctions are sanctions that the University reserves the right to assign to respondents in addition to administrative sanctions. These include, but are not limited to, the following: administrative directives, alcohol or drug education, counseling, reflection papers, projects,

restorative activities, decision-making workshops/modules, educational workshops with required minimum attendance, meetings with staff or others, restitution, and sanctioned service.

#### 4. Other Sanctions

The University reserves the right to impose other sanctions in addition to those listed above in response to specific circumstances of a case.

### G. Interim Actions and Interim Suspension

#### 1. Interim Actions

In some situations, there is a need for immediate action to alleviate concerns for safety, to help ensure the well-being of members of the University community, or to prevent the disruption of normal campus operations, the University community, or management of a residential facility. In these situations, case managers may assign appropriate interim actions, except interim suspension (see Section VI, H, 2). Assigned interim actions should be reviewed by the Senior Director of Student Conduct or designee. Interim actions may include, but are not limited to, administrative directives, interim suspension, a loss of privilege, a residence hall room reassignment, a contract termination, a mandated assessment, or restriction from parts of campus. Respondents wishing to request a modification of any interim action, other than an interim suspension (see below), may do so through the Senior Director of Student Conduct or their designee. Interim actions do not replace the regular conduct process, which shall proceed on the normal schedule.

#### 2. Interim Suspension

On rare occasion, the Office of Student Conduct may become aware of a student or student organization whose continued participation within the University community or continued operation as an organization may pose an immediate threat to the student or others or may pose an imminent threat of disruption to normal campus operations. If the Senior Director or designee reasonably believes that such a threat is posed, an interim suspension may be assigned.

- Notification of an interim suspension will be sent to the respondent's University e-mail account and/or to the mailing address listed as their local and/or permanent address in the University records. If the respondent is a student organization, the organization's advisor of record will also be copied. The notification will include information regarding the alleged behavior that provided the rationale for the interim action. Respondents who are placed on interim suspension will have the opportunity to contest the action. (See Section VI, H, 1, c below.)
- An interim suspension will typically include, but is not limited to, all the following actions:
  - For individuals:
    - Restriction from all University premises, including on-campus housing; loss of privilege to participate in classes (either in person or electronically/virtually and including World Campus); loss of privilege to participate in all University-related activities; loss of access to University accounts (e.g., email, Canvas)
    - Registration hold

- Notation on the student's transcript
  - Graduation hold if student is on the graduation list or scheduled to graduate within the semester of the suspension
  - Potential notification to student's academic program
- For student organizations:
  - Other conditions as appropriate
  - Prohibited from hosting any events
  - Prohibition from meeting as an organization
  - Cessation of new member processes or recruitment
  - Loss of privilege to participate in all University-related activities
  - Hold on their University accounts
- Respondents wishing to contest an interim suspension action may do so through the designated Assistant Vice President for Student Affairs at University Park. At other Penn State locations, respondents may contest through the Director of Student Affairs (or equivalent) or Chancellor. The respondent's appeal must be in writing and include the following information:
  - Name (Student or Student Organization)
  - Student ID (not applicable in Student Organization related cases)
  - Rationale for the request
  - Any documentation that supports that the Respondent would not pose an immediate threat to the student or others or would not pose an imminent threat of disruption to normal campus operations
- The Respondent will typically be notified of the decision within five (5) business days of receipt of the request. The Interim Suspension will remain in effect while any review is pending. There will be no further appeals to this decision. If the Interim Suspension is lifted, other interim restrictions (e.g., removal from university housing, limited access to campus, cessation of any organizational activities, and cessation of new member processes) may be assigned until the outcome of any related conduct case.

#### I. Restorative Justice Practices

This section applies to all cases involving acts of bias and other allegations filed under the Student Code of Conduct, without regard to charge(s) against the Respondent being issued. Restorative Justice Practices will be offered to Impacted Parties and third parties affected by the violation(s). These voluntary practices are intended to promote accountability, learning, and reconciliation.

- A. Trained staff and volunteers in Restorative Justice Practices will administer the recommendations outlined in this section.
- B. The Office of Student Conduct may offer resources to Impacted Parties and third parties affected by the violation(s).
- C. One or more of the following recommendations can be given to Impacted Parties and third parties affected by the violation(s).

1. Administrative directives in which the Impacted Parties may not have contact with each other.
2. Mediation Services in which the Impacted Parties and third parties affected by the violation(s) engage in a resolution process to resolve conflicts and disagreements.
3. Restorative Circles in which trained facilitators, Impacted Parties, and third parties affected by the violation(s) engage in a process with the goal of finding resolution(s).
4. Class attendance in which the Respondent completes a relevant course or training relevant to the violation for which they are charged.
5. Community service in which the Respondent completes one or more tasks that benefit the Impacted Parties and broader community.

## Section VII: Protocol for Violations of Academic Integrity

### A. Initial Process

Although Violations of Academic Integrity are included in the Code, the management of these cases is handled by faculty and the college or campus academic integrity committee. All procedures must conform to the [G-9 Procedures](#) established by the Faculty Senate. The procedures may be found at <http://undergrad.psu.edu/aappm/G-9-academic-integrity.html>.

### B. Role of the Office of Student Conduct

When an academic integrity committee recommends that a student receive a conduct sanction in addition to the academic sanction assigned by the faculty or academic integrity committee, then a Student Conduct case manager will manage that aspect of the case. Consideration will be given to the sanction(s) recommended by the committee. The case manager will meet with the Respondent in a conduct conversation to discuss the additional conduct sanction(s). The student may request a sanction review for the conduct sanction(s) per the procedures outlined in Section VI, C.

## Section VIII: Conduct Records

### A. Maintenance of Respondent Records

1. All records related to cases involving Code violations or Academic Integrity are maintained by the Office of Student Conduct.
2. Typically, a conduct record is established when information on a student or organization is received and maintained by the Office of Student Conduct or the Office of Residence Life. An electronic database maintains all pertinent information required for government reporting indefinitely.
3. The conduct record will be maintained by the Office of Student Conduct for seven (7) years after the graduation date of the student or four (4) years from the date of the incident for student organizations and will normally be destroyed at that time. If a student or student organization is assigned the sanction of Expulsion, the conduct record will be maintained permanently in University Archives.

4. Electronic recordings of University hearings will typically be maintained through the resolution of the conduct process, after which they may be destroyed.
5. Conduct records for students who have left the University prior to graduation will be maintained for seven (7) years following the completion of their last semester of enrollment. For those students who have not completed their assigned sanction(s) but have not been enrolled at the University for over seven (7) years or have not been approved for return after an indefinite expulsion, or who voluntarily withdraw while a conduct process was pending, a decision regarding retention of the record may be made by the Senior Director or designee on a case by case basis.
6. If a student or organization is involved in litigation with the University, the conduct record may be kept indefinitely.
7. If the student has not met the conditions for re-enrollment after a separation from the University, or if they have completed all sanctions but have discontinued enrollment at the University, the conduct records may be maintained indefinitely but will not be destroyed prior to the seven (7) year time frame elapsing.
8. Accessibility to Student Conduct Records follows the University Policy on [Confidentiality of Student Records](http://www.registrar.psu.edu/confidentiality/confidentiality.cfm) (<http://www.registrar.psu.edu/confidentiality/confidentiality.cfm>).

#### B. Student Access to Student Conduct Records

In accordance with FERPA, a Respondent or Complainant may have access to their Student Conduct Record if they can be properly identified and provided that the original Student Conduct Record is not removed from the office. The Office of Student Conduct may take up to forty-five (45) days to provide the Student Conduct Record to the Respondent, and there may be a fee assessed to the respondent. (Also see [policy AD-11](#))

### Section IX: Interpretation and Review

#### A. Interpretation

Any question of interpretation or application of the Code shall be referred to the Senior Director for final determination.

#### B. Review

Feedback related to the Code or any student conduct procedure should be directed to the Senior Director.

A formal review of the Code and the student conduct process and procedures will occur at least every three years under the direction of the Senior Director.

### **SECTION X. COMMITMENT TO DIVERSITY AND EDUCATION IN THE OFFICE OF STUDENT OF CONDUCT**

Consistent with Penn State's support for diversity, equity, and inclusion, the Office of the Student of Conduct should commit to having a diverse office that includes employees and volunteers from historically marginalized backgrounds or groups and adhere to the principles of diversity, equity, and inclusion.

The Office has a responsibility is to educate Impacted Parties about their rights, responsibilities and available resources.

#### SECTION XI. REPORTING REQUIREMENTS

The Office of the Student Code of Conduct will report and publish statistics of complaints lodged and the outcome reached annually at the end of the academic year. Reports should be published by the Office of Student Conduct in a web format. Reporting should be maximized and in compliance with FERPA and other state and federal laws, and should include:

1. Specific conduct violation
2. Outcome of the allegation (pending, dismissed, resolved)
3. Sanction (if any) associated with the violation
4. Restorative practices applied

In addition, reporting should include:

1. Overall budget allocated for the Office of Student Conduct

## 5. APPENDICES

### A. CHARGE FROM DR. BARRON

#### *Proposed Context and Charge to the Task Group:*

In early June, following the death of George Floyd and the social unrest that came after, several social media postings showed Penn State students behaving or expressing themselves in ways that many found offensive. The University leadership responded by condemning hate and discrimination and restating its commitment to diversity and inclusion. Informal outreach to the offending students allowed conversation between them and the Vice President for Student Affairs, who conveyed the University's expectation that all members of the Penn State community be committed to sustaining an environment that is welcoming and supportive.

But students and others who were offended by the action and expression of these students found the University's response inadequate. They demanded disciplinary action, including expulsion, against the students involved, and broadly criticized the University for failing to act. For its part, the University said it could not pursue disciplinary action against students for speech that is protected under the First Amendment to the U.S. Constitution. Students responded by insisting on a thorough review of the *Code of Conduct*, with an eye toward changes that would allow stronger institutional action in response to hate speech.

Penn State's student *Code of Conduct* is intended to guide behavior in ways that are educational and encourage student wellbeing. The *Code's* reach extends beyond the physical boundaries of the University's campuses, just as the student experience, which impacts broader communities, does. This review of the *Code* should focus on its application in response to hateful acts and expressions directed at others' race, religion, nationality, sexual orientation, and more. But it should be broader, too, with due consideration for the underlying principles and processes involved and the ability of the University to create and sustain a welcoming, inclusive, and safe community for all.

#### Goals

1. Clarify and state the fundamental purposes of the *Code of Conduct*.
2. Determine the appropriate uses of the *Code of Conduct* in creating and sustaining a welcoming campus climate, particularly in response to behavior that is offensive or hateful.
3. Consider the impact of the First Amendment, privacy laws and other legal constraints on the University's use of the *Code of Conduct* to address offensive or hateful expression.
4. Identify strengths and weaknesses in the *Code's* provisions and related processes in terms of their ability to achieve the fundamental purposes and create and sustain a welcoming campus climate.
5. Recommend changes to the *Code* or related processes that are consistent with the University's mission and its obligations under the law and would improve relevant outcomes important to the University community.

## **B. Summary of Changes and Rationale for Redlines to Student Code of Conduct**

This document is non-exhaustive but includes the main rationale and purpose for proposed changes to the Student Code of Conduct. The overarching goal is to respond to the charges by Dr. Eric Barron to the Code of Conduct Taskforce; comply with all federal, state, and local laws; and offer a vision for change that improves equity and safety for all students at Penn State.

### **Section I. Introduction**

The main change made to this introduction is to include more language that promotes equity, and inclusion and a culture where there is student buy-in. Words or phrases that undermine these values are removed from this section. This section proposed language for a mandatory module for students to participate to establish this buy in and education each student about the code.

### **Section II. Important Terms and Definitions**

The primary change is to add a new definition of “Impacted Parties” to refer to students bringing a complaint as well as the Respondent responding to the complaint. The section also includes a new definition for “act of intolerance” that tracks the existing university definition. The purpose for these changes is to ensure that terms used in later sections of the code are defined early on, especially new terms.

### **Section III. B. Jurisdiction**

The main change to and goal for this section is to expand the scope of jurisdiction for off campus conduct for which the Code will apply and to reduce ambiguous terms. The language changes appear under “Substantial University Interest” and include “physical and mental” health and educational “climate”.

### **Section IV. Code of Conduct**

This section adds language to encompass discriminatory bias and behavior not previously addressed by the Code. These changes are made by adding “acts of bias” as specific conduct that may violate the code as well as expanding the language under “harassment.” The majority of the language changes are similar to existing university policy at AD91.

### **Section V. Code of Conduct and Violations of Law**

The new language confirms that bias incidents may alone violate the Code and that other violations of the code motivated by bias may result in broader consequences. The goal for the language is to promote transparency and to make the consequences for bias behavior clear and understandable.

### **Section VI. Conduct Procedures**

The language changes are aimed to promote equity of process for both the individual student bringing the complaint and the Respondent. Another goal is to outline a voluntary restorative process as a potential consequence for those who violate the Code.

## **Section VII. Protocol for Violations of Academic Integrity**

NO CHANGES

## **Section VIII. Conduct Records**

NO CHANGES

## **Section IX. Interpretation and Review**

NO CHANGES

## **Section X. Commitment to Diversity and Education in the Office of Student Conduct**

The goal for this new section is to include language in support of diversity, inclusion, and equity in the Office of Student Conduct. We believe that including staff and leadership in the office from historically underrepresented populations is beneficial to the fairness of the conduct process, as well as the trust of students. The language also aims so ensure that those who bring a code violation are educated about their rights and responsibilities and about the conduct process.

## **Section XI. Reporting Requirements**

This new section aims to improve transparency about the code and the steps taken by the Office of Student Conduct when complaints are filed. The language also aims to improve transparency around the budget allocated for processing complaints and implementing consequences permitted under the code.

## C. BENCHMARKING OF STUDENT CODES OF CONDUCT AT PUBLIC UNIVERSITIES AND AT UNIVERSITIES WITH PROGRESSIVE CODES

### Big 10 University Benchmarking

SCCTF August 3<sup>rd</sup>, 2020

In order to provide reasonable recommendations for changes to the Pennsylvania State University Student Code of Conduct and current assessment of standards for student codes of conduct in similar institutions, the Student Code of Conduct Task Force (SCCTF) set out to benchmark PSU's code against other codes within the Big Ten Conference. Different SCCTF members were assigned unique universities and asked to examine their codes in search of general policies or characteristics that differed from, were better than, or that could improve PSU's code of conduct. Each SCCTF member was also asked to identify what sanctions had been applied for hate speech and/or bias-motivated offenses at their assigned institutions. After discussing the merits of each Big Ten Universities code, the information gathered was used in the pages below to summarize the findings at each institution.

Based on the information found in subsequent pages and additional research, the following overall recommendations to improve PSU's Student Code of Conduct arose from the benchmarking:

- Update PSU's webpage where the code is housed to include student values, rights, responsibilities, a searchable version of the code, reports and statistics on misconduct and sanctioning, supplemental aids to help students understand the code, and an area for students to easily report misconduct.
- Provide modern vocabulary and sanctions in [section 6G](#) of PSU's code showing students the measures that can be taken, through sanctioning, to encourage restitution, restorative justice, and reform.
- Review bias and misconduct as separate charges and make bias motivated offences aggravating factors for sanctioning.
- Clarify code jurisdiction especially regarding "substantial university interests" and student conduct online.
- Broaden prohibited offences by including sections outside of harassment to address more specific misconduct (e.g., assaultive behavior, discrimination, bullying, riotous behavior).
- Refer to more PSU policies and statements within the code (e.g., [Nondiscrimination/Affirmative Action Statement](#), [AD40](#), [AD51](#)).

Include a statement of student support in code introduction.

These recommendations are supplementary recommendations offered to support the greater charge given to the SCCTF by President Barron. Further methodology will accompany this benchmarking and assist in responding to the charge.

## Benchmarking Big 10 University Codes of Conduct Compared to the Code at PSU

### Indiana University:

Notable Differences	Possible Advantages Over PSU Code	Recommendations
<p>Code was divided into subgroups helping students immediately distinguish what their rights and responsibilities were on campus. Clickable subgroups throughout code also provided additional clarity and facilitated reading and researching.</p> <p>Possible sanctions were listed in more detail.</p> <p>University seemed to emphasize importance of students enforcing code themselves.</p>	<p>Code had clear online presentation making it clear and accessible.</p> <p>Students Rights, Responsibilities, and Procedures upon violation of code were explicit and clear, as well as on the same webpage.</p> <p>Code listed sanctions in more detail, including sanctions such as restitution and participation in specific programs.</p>	<p>Update PSU Webpage where code is housed to be a one stop area where student values, rights, responsibilities, and code can be discovered.</p> <p>Provide more modern vocabulary in listed sanctions, showing students that measures may be taken to encourage restitution and individual improvements through sanctions.</p>

### University of Maryland:

Notable Differences	Possible Advantages Over PSU Code	Recommendations
<p>Code focused more on infringement of rights towards persons.</p> <p>Separate codes exist for sexual misconduct and matters of academic integrity.</p> <p>Webpage had a FAQs sections to answer common student questions.</p> <p>Academic integrity code has “honor statement” and honor pledge.”</p>	<p>FAQs sections.</p> <p>Honor statement and pledge.</p>	<p>Consider including a pledge/promise that students can take to commit to <a href="#">PSU values</a> and code.</p> <p>Create a one-stop spot of tracking/viewing biased incidents and statistics.</p>

### University of Michigan:

Notable Differences	Possible Advantages Over PSU Code	Recommendations
<p>Code is called “Statement of Student Rights &amp; Responsibilities.”</p>	<p>University values were made known through their code.</p>	<p>Refer to PSUs <a href="#">Nondiscrimination/Affirmative Action Statement</a> within code.</p>

<p>Code explicitly states the values of the University. There's an emphasis on accountability throughout the code. Bias motivated misconduct is explicitly known to enhance the sanctions/charges (misconduct and bias would be reviewed as two separate violations). They refer to university Nondiscrimination policy in the violations section (4V). Code separates harassment from bullying. Code heavily incorporates restorative justice throughout.</p>	<p>There is more emphasis on student accountability. Bias motivated misconduct enhances sanctions. Links to University statements are within code.</p>	<p>Place emphasis on student accountability to code. Review bias and misconduct as separate charges with separate/stackable sanctions. Incorporate pieces of restorative justice, above "restorative activities" currently mentioned under PSU's active sanctions section, throughout code and its sanctions.</p>
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**Michigan State University:**

Notable Differences	Possible Advantages Over PSU Code	Recommendations
<p>Uses student handbook "Spartan Life," to outline student rights, responsibilities, and code. MSU appears to use general policies, not a typical student code, to direct work of student conduct department. Separates student rights and responsibilities by school (e.g., medical student rights, law student rights). Policies offer suggestion for "Informal Resolution," encouraging students to work with advisor or other University representative to attempt to resolve a grievance informally (e.g., restorative justice, mediation).</p>	<p>Rights and responsibilities of students are made known in a student handbook. Suggestions for informal resolutions are incorporated in policies. Students are shown process of code amendments.</p>	<p>Better distribution of PSU code. Include suggestions to informally or formally resolve conflicts outside of grievances to code. Consider teaching students how code amendment processes occur.</p>

There are procedures for amending and revising code in student handbook.		
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**Ohio State University:**

Notable Differences	Possible Advantages Over PSU Code	Recommendations
<p>Code mentions that “misconduct motivated by bias... may be considered an aggravating factor for sanctioning.”</p> <p>Code describes where it applies off campus.</p> <p>Code explicitly state its jurisdiction over student’s online behavior.</p> <p>Code has section, under prohibited conduct, about endangering health or safety and defines endangering behavior.</p> <p>Code has section outlining misconduct with riotous behavior. It prohibits rioting designed to incite action that presents clear and present danger to others.</p> <p>Webpage where code is housed provided a “searchable document:” a document, like a pdf., that allows students to use computer functions to search for specific words and phrases throughout the code.</p>	<p>Code makes bias an aggravating factor for sanctioning</p> <p>Code is more explicit and clearer about its jurisdiction</p> <p>Code broadens prohibited actions by including sections like “endangering health or safety,” and “riotous behavior.”</p> <p>Student access to a searchable document version of the code.</p>	<p>Make bias motivated offences aggravating factors for sanctioning</p> <p>Clarify code jurisdiction especially in regard to online and “substantial university interests.”</p> <p>Broaden prohibited offences by including sections outside of “harassment” and similar to “endangering health or safety,” and “riotous behavior” sections of OSU Code.</p> <p>Post a searchable document version of the code on same webpage as student code.</p>

**Rutgers University:**

Notable Differences	Possible Advantages Over PSU Code	Recommendations
<p>Code has a resource section within it which holds links to University Policy and helpful websites.</p>	<p>More embracing preamble.</p> <p>Expanded harassment section.</p>	<p>Add more links for major university regulations/policies and helpful resources throughout code. This could help</p>

<p>Preamble “encourages students to be their authentic selves” and to “embrace inclusion.” It also mentions other satellite campuses by name.</p> <p>Harassment section also includes bullying, and intimidation in its section heading (6G).</p> <p>Code had note in section 6M offering students medical amnesty and assistance in cases of drug and alcohol abuse.</p> <p>Code has an undisclosed recording section (6Q).</p> <p>Code has a restorative sanction section (7D3).</p> <p>Webpage offers digital (pdf) version of code.</p>	<p>More access to resources listed explicitly in code (e.g., medical amnesty section).</p> <p>Undisclosed recording section.</p> <p>Sanctions providing detailed restorative justice options.</p>	<p>students better follow sections like section A15 of PSU Code.</p> <p>Consider providing a section offering help to those suffering with alcohol and drug misuse.</p> <p>List restorative justice measures as possible sanctions.</p> <p>Reference <a href="#">Policy AD40</a> in student code.</p>
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**University of Illinois:**

Notable Differences	Possible Advantages Over PSU Code	Recommendations
<p>Code is divided into three articles: Student Rights and Responsibilities, General Policies and Regulations, &amp; Academic Policies and Regulations.</p> <p>Code lists the procedure for amending the student code.</p> <p>Rights section includes campus expression rights, nondiscrimination policy, statement on consenting sexual relationships, accommodations for students with disabilities, and more.</p> <p>Listed protected statuses.</p> <p>Reserves right to deny admission.</p>	<p>Clarity of student rights and code amendment procedures.</p> <p>Links to and actual university statements within code.</p>	<p>Refer to PSUs <a href="#">Nondiscrimination/Affirmative Action Statement</a> within code.</p> <p>Add code section to express student rights</p>

**University of Iowa:**

Notable Differences	Possible Advantages Over PSU Code	Recommendations
<p>Code references “IOWA Challenge” frequently in introduction.</p> <p>Introduction makes purpose of code very clear.</p> <p>Code offers examples of its scope/jurisdiction</p> <p>Code has section defining “assaultive behavior” separate from their “undue harassment” section.</p> <p>Code has unauthorized audio/video section.</p> <p>Code has student rights and responsibilities sections.</p> <p>University offers supplemental flowchart showing how student misconduct procedures are handled.</p> <p>Code webpage has FAQs section</p> <p>Code provides information about legal assistance for students.</p> <p>Code has “complaints of discrimination” section which lists recourses and policies concerning discriminatory behavior and human rights.</p>	<p>References to campus slogans or pride and promises in introduction</p> <p>Clear introduction</p> <p>Audio/Video recording policies</p> <p>Expanded harassment styled sections</p> <p>Student rights section</p> <p>Supplemental aids to help students understand Code</p>	<p>Reference “We Are” campus moto and campus values in introduction/preamble</p> <p>Reference <a href="#">Policy AD40</a> in student code.</p> <p>Broaden prohibited offences by including sections outside of “harassment” and similar to “assaultive behavior” section of Iowa code.</p> <p>Add code section to express student rights</p> <p>Provide supplemental aids to help students understand code (e.g., flowcharts).</p>

**University of Minnesota:**

Notable Differences	Possible Advantages Over PSU Code	Recommendations
<p>Code of Conduct was very short.</p> <p>Webpage outside of code had additional resources to help understand code.</p> <p>Code has additional harm to person, bullying, and rioting sections.</p>	<p>Code has additional harm to person, bullying, and rioting sections.</p>	<p>Consider providing more insight into <a href="#">policy AD51</a> in code or adding a rioting section.</p> <p>Broaden prohibited offences by including sections in addition to “harassment” and similar to harm to person,</p>

		bullying and rioting sections of UMN Code.
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**University of Nebraska:**

Notable Differences	Possible Advantages Over PSU Code	Recommendations
<p>Code has a student statement in introduction.</p> <p>Code has extensive Appendix about responses to allegations of sexual misconduct.</p> <p>Code webpage has brief description of UNL’s policy not to discriminate near end of code.</p>	<p>Student Statement</p>	<p>Include a student statement of support to Code in its introduction.</p>

**Northwestern University:**

Notable Differences	Possible Advantages Over PSU Code	Recommendations
<p>Students are held to code off campus from point of putting in application to moment they are awarded their degree.</p> <p>Webpage has area where student can easily report a concern.</p> <p>Code is very user friendly.</p> <p>Code provides section describing where amnesty may be given through responsible action.</p> <p>Publishes all of overall sanctions each year including specifics on restorative justice and comparisons on it vs. punitive sanctions. (conduct records section of webpage).</p> <p>Sanctions are enhanced in bias related offences.</p> <p>Code has section on restorative sanctions.</p> <p>Harassment section is titled “discrimination and harassment”</p>	<p>Clear and organized webpage and code.</p> <p>More explicit in when code applies off campus.</p> <p>Code of Conduct records/statistics.</p> <p>Enhanced sanctions for bias related offences.</p> <p>More restorative sanctions.</p> <p>Discrimination explicitly connected to harassment.</p> <p>Ease in reporting.</p>	<p>Revise webpage to facilitate ways for students to report concerns, understand the code, and see statistics on past conduct records.</p> <p>Consider outlining when code applies in a similar way to Northwestern University.</p> <p>Enhance sanctions for bias related offences.</p> <p>Title Harassment section “Discrimination and Harassment.”</p>

**Purdue University:**

Notable Differences	Possible Advantages Over PSU Code	Recommendations
Code has student bill of rights section. Code includes statement of commitment to freedom of expression and statement of values.	Student bill of rights Explicit statement of values	Show student rights in code.

**University of Wisconsin:**

Notable Differences	Possible Advantages Over PSU Code	Recommendations
Code of Conduct is linked directly to Wisconsin State Legislature website. Definitions (e.g., Harassment) are defined in state law.	Immediate connections to State law	None

**References, Links, & Additional Research:**

Key: University Name - Student Code of Conduct Task Force (SCCTF) Member  
Assigned to research said institution:

Helpful links to access information on University Code and additional research by SCCTF members. (description of link)

Note: Not all information above was found exclusively by the SCCTF Member assigned to research said institution. All information was found as part of the collective efforts of the SCCTF.

**Indiana University** - Kade Crittenden:

- <https://studentcode.iu.edu/> (Code)
- [Indiana University Student Code Research .docx](#) (additional research)

**University of Maryland** – Juan Castro:

- <https://policies.umd.edu/assets/section-v/V-100B.pdf> (Student Code)
- <https://policies.umd.edu/assets/section-iii/III-100A.pdf> (Academic Integrity Code)
- [https://policies.umd.edu/assets/section-vi/VI-160A\\_Policy\\_and\\_Procedures.pdf](https://policies.umd.edu/assets/section-vi/VI-160A_Policy_and_Procedures.pdf) (Sexual Misconduct Code)

**University of Michigan** – Nyla Holland:

- [https://oscr.umich.edu/sites/oscr.umich.edu/files/ssrr\\_july\\_1\\_2019.pdf](https://oscr.umich.edu/sites/oscr.umich.edu/files/ssrr_july_1_2019.pdf) (Statement of Student Rights)
- [University of Michigan Student Code Research.docx](#) (additional research)

**Michigan State University** – Tylah Wells:

- <http://splife.studentlife.msu.edu/> (Student Handbook)
- <https://hr.msu.edu/policies-procedures/university-wide/documents/AppH-Sanctions-Discipline.pdf> (Sanctions)

**Ohio State University** – Sarthak Vij:

- <https://trustees.osu.edu/bylaws-and-rules/code> (Student Code)
- [https://trustees.osu.edu/sites/default/files/documents/2019/08/CodeStudentConduct\\_0.pdf](https://trustees.osu.edu/sites/default/files/documents/2019/08/CodeStudentConduct_0.pdf) (Searchable Document)

**Rutgers University** – Allie Ryave:

- <http://studentconduct.rutgers.edu/student-conduct-processes/university-code-of-student-conduct/#1495568867850-25be8ded-eda6> (Student Code)

**University of Illinois** – Nicole Jara Andrade:

- <https://studentcode.illinois.edu/> (Student Code)
- [Univ. of Illinois Code.docx](#) (additional research)

**University of Iowa** – Lamont Wade:

- <https://dos.uiowa.edu/policies/code-of-student-life/> (Student Code)

**University of Minnesota** – Lestine Paye:

- [https://regents.umn.edu/sites/regents.umn.edu/files/2020-01/policy\\_student\\_conduct\\_code.pdf](https://regents.umn.edu/sites/regents.umn.edu/files/2020-01/policy_student_conduct_code.pdf) (Student code)

**University of Nebraska** – Brad Kovaleski:

- <https://studentconduct.unl.edu/student-code-conduct> (Student Code)

**Northwestern University** – Erin Brown:

- <https://www.northwestern.edu/student-conduct/student-code-of-conduct/> (Student Code)
- <https://www.northwestern.edu/student-conduct/conduct-records/student-conduct-data-statistics/overall-sanctions-assigned/index.html> (Sanction Statistics)

**Purdue University** – Erica Frankenberg:

- <https://catalog.purdue.edu/content.php?catoid=13&navoid=15921> (Student Code)
- [Purdue.docx](#) (additional research)

**University of Wisconsin** – Andrew Mitchell:

- [https://docs.legis.wisconsin.gov/code/admin\\_code/uws/17/10](https://docs.legis.wisconsin.gov/code/admin_code/uws/17/10) (Student Code)
- [Overall notes - Wisconsin.docx](#) (additional research)

## D. SUMMARY OF FIRST AMENDMENT CASELAW

### First Amendment Summary

SCCTF August 12<sup>th</sup>, 2020

In response to the Student Code of Conduct Task Force (SCCTF) charge, to consider the impact the First Amendment has on PSU's use of the Code of Conduct to address offensive or hateful expression, the SCCTF has worked to understand the First Amendment's application to public university campuses. Studying caselaw, Title VI, and holding group discussions has helped the SCCTF to understand what impact the First Amendment has on the use of PSU's code to address offensive or hateful expression. This understanding will help the SCCTF as it prepares recommendation for improvements to PSU's code.

The First Amendment states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." Although, "freedom of speech" is a constitutionally protected right it is not an absolute right. The Supreme Court has acknowledged that the government has the authority to regulate speech with some limitations and such regulations are not an infringement on one's First Amendment rights. Furthermore, courts have generally accepted five categories of speech as not deserving of sweeping First Amendment protection: (1) true threats/fighting words; (2) obscenity; (3) defamation; (4) insubordination in the workplace; (5) commercial speech. Furthermore, reasonable time, place, and manner restrictions may be imposed even upon generally permissible free expression. Time, place, and manner restrictions must generally: (1) be content-neutral; (2) be narrowly tailored to serve significant governmental interests (which would be achieved less effectively absent the regulation; and, (3) leave open ample alternative channels for communication of the information.

There are three notable cases that will guide our recommendations for changes to PSU's Code of Conduct. Those cases are, *Tinker v. Des Moines*, 393 U.S. 503 (1969), *Saxe v. State College Area School District*, 240 F.3d 200 (3d Cir. 2001), and *Keefe v. Adams*, 840 F.3d 523 (8th Cir. 2016). In *Tinker v. Des Moines*, the court held that public schools can regulate student expression when it "substantially interferes with the work of the school or impinges upon the rights of other students." (*Tinker*, at 509). In *Saxe v. State College Area School District*, the court held although speech is defined as "harassing" under federal anti-discrimination statutes, this does not automatically exclude such speech from First Amendment protection. In addition, the court held State College Area School District's anti-harassment policy was unconstitutionally overbroad. The court reasons, "[t]here is no categorical 'harassment exception' to the First Amendment's free speech clause." (*Saxe*, at 204). "[T]he free speech clause protects a wide variety of speech that listeners may consider deeply offensive, including statements that impugn another's race or national origin or that denigrate religious beliefs." (*Id.* at 206). Finally, in *Keefe v. Adams*, the court held the First Amendment does not prohibit a school from dismissing a student for off-

campus/personal speech that violates a code of conduct incorporated into a program; “The University simply imposes an adverse consequence on the student for exercising his right to speak at the wrong place and time” (*Keefe*, at 531). The SCCTF looked to these three cases to ensure that recommendations for revisions to the Code of Conduct will not infringe upon constitutionally protected First Amendment rights.

As a recipient of federal assistance for its programs and activities, PSU is subject to Title VI of the Civil Rights Act of 1964 (“Title VI”), which prohibits discrimination on the basis of race, color, and national origin in university programs and activities. 42 U.S.C. § 2000d; see also 34 CFR § 100.3. Title VI also prohibits intentional discrimination as well as harassment deemed sufficient to create a hostile environment. PSU’s non-discrimination policy found at AD91 is designed to encompass Title VI and other prohibitions on discrimination and harassment at PSU. PSU’s Code of Conduct may address offensive or hateful expression by further incorporating policy, AD91.

SCCTF group discussions of First Amendment rights are constant and helpful in determining what positive changes can be made to PSU’s code. It is the goal of the SCCTF to discover where speech turns into conduct and how conduct contradicting PSU’s values can be reprimanded. As the SCCTF continues to respond to its charge it is searching for solutions that can work to keep campus safe from offensive and hateful expression, regardless of the circumstances.

*End of report to President Barron*

# **DRAFT** Penn State Office of Student Conduct Procedures and Code of Conduct

**November 23, 2020**

## Section I: Introduction

This document outlines the standard procedures and practices of the University conduct process. To be fully aware of their individual and organizational rights and responsibilities, all students are mandated to participate in an educational module explaining the contents of this document and to provide a written acknowledgement they have done so.

Penn State and the Office of Student Conduct are committed to, and accountable for, advancing diversity, equity, and inclusion in all its forms. We embrace individual uniqueness, foster a culture of inclusive excellence that supports both broad and specific diversity initiatives, leverage the educational and institutional benefits of diversity, and engage all individuals to help them thrive.

The Office of Student Conduct strives to deliver a conduct process that is equitable, educational, effective, and expeditious; and to provide a process that promotes individual, organizational, and community growth through learning and accountability. The Office of Student Conduct is committed to the development of a safe and inclusive living-learning community that fosters academic, social, cultural, and personal growth. We strive to enable students to develop respect and responsibility for themselves and their community.

The Office of Student Conduct supports the University's educational mission by promoting an inclusive, safe, and positive University climate through enforcing behavioral standards, managing conduct proceedings, educating impacted parties, enacting and facilitating intervention efforts and nonpunitive models of resolution, mentoring students, developing leadership, delivering informational programming, and fostering peer education.

## Section II: Important Terms and Definitions

- A. The term "administrative directive" is a mandate that a student or student organization have no contact with another person(s) or that restricts a student's or student organization's access from a specific location, activity, or program. Administrative directives are utilized in situations where there is concern that ongoing contact between individuals that may result in physical harm or significant emotional distress. A directive may be issued for a specific time period (e.g., during an ongoing conduct process) or may be issued indefinitely while the student or organization are recognized as such by the University. The violation of a directive will be evaluated through a conduct process and can result in additional conduct action from the University.
- B. The term "Administrative Hearing Officer" is defined as the faculty, staff or students authorized by the Senior Director to conduct Administrative Hearings.

- C. The term “advisor” is defined as any person selected by the Respondent or Complainant to assist and accompany them at any point throughout the University conduct process. Parties may choose from a list of trained advisors available at the Office of Student Conduct website, may choose a person of their choice, or may choose to proceed without an advisor. A party shall not select an advisor with the actual or effective purpose of disrupting or attempting to disrupt the proceedings, or of causing emotional distress to the other party or parties. The advisor, upon a party’s request may (1) accompany the party in any meeting/proceeding, (2) advise the party in the preparation and presentation of sharing of information, and (3) advise the party in the preparation of any appeals or sanction reviews. The advisor shall not perform any function in the process other than advising the party and may not make a presentation or represent the party. The parties must ask and respond to questions on their own behalf, without interruptions or presentations by their advisor. The advisee may consult with their advisor quietly or in writing during a session, or outside during breaks, but the advisor may not speak on behalf of the advisee or directly participate otherwise in the proceeding. Delays in the conduct process will not normally be allowed due to scheduling conflicts with advisors. If, at any point, an advisor becomes disruptive or fails to follow the rules for participation as set forth in this document, the University reserves the absolute and non-appealable right to remove the advisor from the proceeding, and, if appropriate, any future meetings/proceedings.
- D. The term “Act of Bias” refers to behavior that is motivated by discriminatory bias against or hatred toward other individuals or groups based on characteristics including, but not limited to, age, ancestry, color, mental or physical disability, genetic information, national origin, political belief, race, religious creed, sex, sexual orientation, gender identity or veteran status. This includes acts of discrimination, intimidation, and gender-based harassment. Acts of Bias may violate a University policy, rule or regulation, the Student Code of Conduct, and/or other local, State or Federal laws, while some Acts of Bias may be considered protected speech or expression. (See policy AD91).
- E. The term “case manager” is defined as any University official who is authorized by the Senior Director of the Office of Student Conduct to meet with students regarding alleged violations of the Code of Conduct, to recommend charge(s) and sanction(s), to serve as University presenters in hearings, and to monitor and mandate the completion of assigned sanctions. This includes staff in the Offices of Student Conduct and Residence Life, and others designated by the Senior Director.
- F. The term “Complainant” is defined as any person alleging they were adversely affected by a student or student organization who participated in a crime of violence and/or Sexual Harassment and Misconduct or Title IX incident (Special procedures exist in Section VI). If the Complainant is identified to the University through other means (e.g. third party report) and the University proceeds with the management of the conduct allegation, the

University conveys the same rights of a Complainant to that individual as enumerated in Section VI, E and Section VI, F.

- G. The term “conduct conversation” is defined as an informal meeting intended to allow the case manager to explain the conduct process and discuss an alleged incident with the Respondent to determine appropriate next steps. Typically, a majority of cases are resolved at this stage of the conduct process.
- H. The term “consideration statement” is a written statement from the Complainant and/or Respondent describing the mitigating or aggravating factors that may help inform sanctioning. The consideration statement may not exceed five (5) pages.
- I. The term “crime of violence” is defined as any alleged behavior that may involve a crime of violence as defined in the Code of Federal Regulations, Title 34, Appendix A.
- J. The term "evidence" refers to any information that may be used in the student or student organization conduct process to determine whether an alleged behavior violates the Code of Conduct. This information may include, but is not limited to, witness statements, documents, communications, text messages, social media postings, photographs and other information collected as part of an investigative or conduct process.
- K. The term “faculty member” refers to employees of the University with academic appointments as well as those with emeritus status.
- L. The term “hearing” encompasses the part of the conduct process when a matter is brought before a hearing authority for adjudication. A hearing is an independent review of the entirety of relevant information available at that time that will determine whether the Respondent is responsible for a University conduct violation(s). If so, the hearing authority will determine appropriate sanction(s), which may or may not be in alignment with those originally recommended in a conduct conversation by the case manager.
- M. The term “hearing authority” refers to Administrative Hearing Officers and University Conduct Boards.
- N. The term “Impacted Parties” refers to the individual(s) directly impacted by behaviors of Respondents.
- O. The term “Investigation Report” refers to the compiled information provided at the culmination of an investigative process.

- P. The term “investigator” is defined as any person who is assigned by the Senior Director or Title IX Coordinator to conduct investigations in cases involving alleged violations of the Code of Conduct.
- Q. The term “preponderance of the evidence” describes the standard of evidence that is used to decide responsibility in a hearing and means that it is more likely than not, based upon the totality of all relevant evidence and reasonable inferences from the evidence that the Respondent violated the Code of Conduct.
- R. The term “recommended Code violation” is defined as the Code of Conduct section(s) determined by a case manager that the Respondent is alleged to have violated.
- S. The term “Respondent” is defined as a student or student organization who allegedly violated the Code of Conduct.
- T. A "response to alleged violations" is a statement that may be provided by the Respondent and/or Complainant that articulates their perspective on the recommended charge(s).
- U. The term “Sanction Review Officer” is defined as the faculty or staff member who conducts sanction reviews. For individual cases, the Sanction Review Officer is an Associate or Assistant Vice President for Student Affairs at University Park, or designee, or the Campus Chancellor at other Penn State campuses, or designee. For student organization cases, the Sanction Review Officer is the Vice President for Student Affairs at University Park, or designee, or the Director of Student Affairs (or equivalent) at the Commonwealth Campuses, or designee.
- V. The “Senior Director” is defined as the Senior Director of the Office of Student Conduct who is designated by the University President to be responsible for the administration of the Code of Conduct and the student and student organization conduct process.
- W. The term “staff member” is defined as anyone hired by the University, apart from faculty members, with administrative or professional responsibilities.
- X. The term "student" includes all individuals taking courses at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies, both degree and non-degree seeking, as well as individuals enrolled in non-credit courses and programs. In addition, for purposes of the Code of Conduct, Code jurisdiction also includes individuals who have accepted an offer of admission to the University; and students who withdraw after allegedly violating the Code of Conduct, who are on leave of absence from the University, or who are not officially registered and/or enrolled for a specific term but have a continuing relationship with the University.

- Y. The term “Student Conduct Appeals Officer” is defined as the University community member authorized to conduct Student Conduct appeals. For individual cases, the Student Conduct Appeals Officer at University Park is the Vice President for Undergraduate Education for Undergraduate students, the Senior Vice President for Research and Dean of the Graduate School for Graduate students, or the campus Chancellor for students at Commonwealth Campuses, or their designees. For student organization cases, the Student Conduct Appeals Officer at University Park is the Vice President for Student Affairs, or the Director of Student Affairs (or equivalent) at the Commonwealth Campuses, or their designees.
- Z. The term “student organization” includes any organization or club sport that has received recognition by the University as a student organization.
- AA. The term “University” means The Pennsylvania State University (including its campuses, premises, and property).
- BB. The term “University Conduct Board Chair” is defined as the faculty or staff member authorized by the Senior Director to serve as chairperson of the University Conduct Board during a University Conduct Board hearing.
- CC. The term “University premises” is defined as any building, facility, land, or other property owned, used or controlled by the University, including adjacent streets and sidewalks.
- DD. The “University Presenter” is defined as the University representative responsible for introducing the alleged conduct violation(s) and hearing materials to the hearing authority.
- EE. The term “witness” is defined as an individual, known to the University, who has had direct involvement in an incident and/or who was provided with information directly from an individual involved in the incident. This also includes individuals who in their professional capacity have contributed information which led to University charges (e.g., University investigator or faculty/staff member who provided professional knowledge/guidance). Private investigators will not typically be permitted in the University’s conduct process.

### Section III: Authority of the Senior Director and the Office of Student Conduct

#### C. Authority

- 11. The Senior Director and their designees are specifically authorized by the President of the University to have the responsibility and authority to carry out, interpret, and direct the student and student organization conduct process. The Senior Director shall develop policies for the administration of the student and student organization conduct process

and procedures for a University hearing that are consistent with the provisions of the Code of Conduct (Code).

12. The Senior Director, or their designee, in consultation with the Senior Director, may review and/or modify any resolution of a conduct conversation.
13. The Senior Director may review, modify, and/or reverse any resolution of an Administrative Hearing.
14. The Senior Director may make minor modifications to sanction(s) assigned by a University Conduct Board.
15. In situations in which a Respondent chose to have an Administrative Hearing in lieu of a University Conduct Board, the Senior Director may make minor modifications to sanction(s) assigned by the hearing authority but may not reverse any resolution.
16. The Senior Director or designee has a responsibility to provide for an equitable conduct process and to provide parties with appropriate reporting resources to include the [Resources for Report Wrongdoing website](#).
17. The Senior Director or designee reserves the right to issue, in writing, an administrative directive or condition that requires adherence to specific behavioral actions.
18. The Senior Director or designee may restrict an individual from participating as an advisor when they determine that an advisor's presence, based on the advisor's prior relationship or interactions with either the Respondent or Complainant, is reasonably likely to cause significant emotional distress to any party or to create significant disruption.
19. The Senior Director has the authority to delay a student's graduation and/or hold or recommend revocation of degrees until, or after, a pending conduct matter has been resolved.
20. The Senior Director or designee reserves the right to convene a conduct conversation and/or hearing, prior to re-enrollment, for a student facing pending University charges. This will typically take place after criminal proceedings.
21. On behalf of the University, in limited circumstances, the Senior Director or designee may appeal the decision(s) of a University hearing within five (5) University business days following the date that the Respondent and/or Complainant receives official notification of the results of the hearing. (See Section VI, D, 5, b)

#### D. Jurisdiction

7. The Code shall apply to conduct that occurs on University premises; at University sponsored activities; at functions, activities, or events hosted by recognized student

organizations, on or off campus; through University-supported virtual platforms; and other off-campus conduct that warrants a Substantial University Interest.

8. Residence Life: At the direction of the Senior Director of the Office of Student Conduct and in coordination with the Senior Director of Residence Life, minor to moderate level incidents that occur in or around the residence halls that involve students living in on-campus housing will typically be managed by Residence Life staff. Incidents involving repeated behaviors or more severe allegations of violations and all incidents involving allegations of major violations will typically be managed by the Office of Student Conduct.
9. Off-Campus Misconduct: While the University has a primary duty regarding behavior on its premises, there are many circumstances that the off-campus behavior of students or student organizations is of Substantial University Interest and warrants conduct action.
10. The Pennsylvania State University expects students and organizations to conduct themselves in accordance with the law. Student behavior off the premises of the campus that may have violated any local, state, or federal law, or yields a complaint from others alleging violations of the law or the Code will be reviewed by the University. Upon receipt of a complaint alleging off-campus student misconduct, the Senior Director or their designee will review the allegation(s) to determine the appropriate course of action by the University.
11. Any student's off-campus behavior that affects a Substantial University Interest *and* violates the Code is subject to conduct action following standard University procedures.
12. Prohibited conduct that affects a "Substantial University Interest" is behavior that
  1. Constitutes a violation of local, state or federal law;
  2. Indicates that the student or student organization may present a danger or threat to the physical or mental health or safety of themselves or others; or
  3. Is detrimental to the educational interests or climate of the University or its students.

#### Section IV: The Code of Conduct

The Code of Conduct (Code) describes behaviors that are inconsistent with the essential [values of the University community](#) (integrity, respect, responsibility, discovery, excellence and community) and that are inconsistent with [Penn State's Statement](#) on Diversity, Equity, and Inclusion. Any student or student organization found to have committed, to have attempted to commit, or to have assisted in the prohibited behavior(s) listed in the Code may be subject to the conduct sanctions as outlined in Section VI, H. A student or student organization engages in an attempt when, with intent to commit a specific violation of the Code, they perform any act that constitutes a substantial step toward the commission of that violation.

Acts of Bias are antithetical to the values of the University and harmful to the community. The University will hold students accountable for violations of the Code that constitute Acts of Bias, and sanctions will be elevated for those violations. Acts of Bias that do not rise to the level of a

violation or are protected by the First Amendment will be addressed through voluntary restorative justice practices.

Student organizations may be found responsible for violations when behaviors include but are not limited to those listed below:

- The conduct is endorsed by the student organization (SO) or any of its officers including, but not limited to, active or passive consent or support, having prior knowledge that the conduct was likely to occur and not taking any substantive action to prevent it (e.g., canceling the event, notifying the Office of Student Conduct, University or local police, etc.), or helping to plan, advertise, or promote the conduct;
- The conduct is committed during an activity paid for by the SO, or paid for as a result of one or more members of the SO contributing personal funds in lieu of or in addition to organizational funds to support the activity or conduct in question;
- The conduct occurred on property owned, controlled, rented, leased, or used by the SO or any of its members for an organizational event;
- The purpose of the activity was related to initiation, admission into, affiliation with, or as a condition for continued membership in the SO;
- Non-members of the SO learned of the activity through members, advertisements, or communications associated with the SO, or otherwise formed a reasonable belief that the conduct or activity was affiliated with or endorsed by the SO;
- Members of the SO attempted to conceal the activity of other members who were involved; or
- One or more officer(s) of the SO had prior knowledge or reasonably should have known that the conduct would take place.

It is important to note that when persons are functioning in the capacity of members of a recognized student organization, a student organization and its leaders (elected, appointed, or volunteer) may be held collectively and individually responsible for violations of the Code. Student organizations may be charged with violations of the Code without regard to whether members of such organizations are individually charged with violations arising from the same misconduct.

A position of leadership in a student organization entails responsibility. Student officers or leaders cannot knowingly plan, permit, condone, or participate in any violation of the Code by the group/organization. In their role as a student leader, they have a responsibility to act to prevent violations of the Code, and at minimum to notify the appropriate staff/advisor if they become aware of a potential violation of the Code. Failure to do so could implicate them in a Code violation.

#### A. The Code of Conduct

**ABUSE/ENDANGERMENT:** Physically harming or threatening to harm any person, intentionally or recklessly causing harm to any person or reasonable apprehension of such harm or creating a condition that endangers the health and safety of self or others.

**HARASSMENT:** Harassment means behavior consisting of physical or verbal conduct that is sufficiently severe or pervasive such that it substantially interferes and creates a hostile environment with an individual's employment, education or access to University programs, activities or opportunities and would detrimentally affect a reasonable person under the same circumstances. Harassment also includes physical or verbal conduct that is sufficiently severe and pervasive that it creates a hostile environment that is detrimental to the educational interests or climate of an individual(s). Harassment may include, but is not limited to, verbal or physical attacks, stalking, graphic or written statements, electronic exploitation, threats, or slurs. Whether the alleged conduct constitutes prohibited harassment depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved. Additionally, behaviors include engaging in a course of conduct or subjecting a person or group of persons to unwanted physical contact or threat of such. (See policy AD-91)

**SEXUAL HARASSMENT AND MISCONDUCT:** Sexual harassment occurs when a student engages in unwelcome conduct of a sexual or gender-based nature that is sufficiently severe, persistent, or pervasive so as to substantially interfere with an individual's employment, education, or access to University programs, activities and opportunities, and such conduct would detrimentally affect a reasonable person under the same circumstances. It also occurs when a student who has power or authority over another engages in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, and submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development, or performance. Sexual harassment may include, but is not limited to, sexual advances, requests for sexual favors, sexual exploitation, stalking, dating violence, and domestic violence. Sexual Harassment and Misconduct rises to the level of "Title IX Sexual Harassment" if it is determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the University's Education Programs or Activities. (See [policies AD-85 and AD-91](#))

Sexual misconduct refers to attempted or completed unwanted or non-consensual sexual contact or activity, including, but not limited to the following: rape, sexual assault, sexual battery, forcible sodomy, sexual penetration with an inanimate object, sexual intercourse (vaginal or anal penetration) without consent, sexual touching and fondling, the touching of an unwilling person's intimate parts (defined as genitalia, groin, breasts, anus, or buttock, or clothing covering those intimate parts), forcing an unwilling person to touch another's intimate parts, sexual exploitation, and sexual coercion.

**DISCRIMINATORY HARASSMENT:** Discriminatory harassment occurs when a student engages in unwelcome conduct of a discriminatory nature that is sufficiently severe, persistent, or pervasive so as to substantially interfere and creates a hostile environment with an individual's employment, education, or access to University programs, activities and opportunities, and such conduct would detrimentally affect a reasonable person under the same circumstances. Discriminatory harassment also includes physical or verbal conduct that is sufficiently severe and pervasive that it creates a hostile environment that is detrimental to the

educational interests or climate of an individual(s). Discriminatory describes conduct of any nature that denies an individual the opportunity to participate in or benefit from a University program or activity, or otherwise adversely affects a term or condition of an individual's employment, education, or living environment, because of the individual's age, race, color, ancestry, national origin, sex, sexual orientation, gender, perceived gender, gender identity, physical or mental disability, religion, creed, service in the uniformed services (as defined in state and federal law), veteran status, marital or family status, pregnancy, pregnancy-related conditions, genetic information or political ideas. (Also see policy AD-91)

**WEAPONS, EXPLOSIVES AND OTHER DANGEROUS ITEMS:** Possessing, storing, carrying, or using any weapon, ammunition, explosive, or dangerous chemical or gas is prohibited on all University property except by authorized law enforcement officers and other persons specifically authorized by the University. Possessing, carrying, or using any fireworks on University property, except for those persons authorized by University and local governments to discharge such fireworks as part of a public display. Paintball guns and paintball markers may only be used on the property of the University in connection with authorized University activities and only at approved locations. (Also see policies [SY-08](#) and [SY-12](#).)

**FIRE SAFETY VIOLATIONS:** Tampering with fire or other safety equipment or setting unauthorized fires. Exhibiting behaviors that risk health and safety of self or others during a fire related incident. Burning candles, incense or other items in the Residence Halls or other University facilities, whether attended or unattended. (Also see policies [SY10](#), [SY28](#), and [SY30](#).)

**ALCOHOL AND/OR DRUGS:** Illegally possessing, using, distributing, manufacturing, selling, or being under the influence of alcohol or other drugs. Supplying alcohol to persons under 21, even by those under 21. Excessive consumption of alcohol occurs when a person is intoxicated to the degree that the person may endanger self, other persons, or property, or annoy persons in the vicinity. Using, possessing, or distributing beverages containing alcohol in any way that does not comply with the laws of the Commonwealth of Pennsylvania and/or University Regulations. (Also see policies [AD-18](#), [AD-33](#).)

**FALSE INFORMATION:** Intentionally providing false or inaccurate information or records to University or local authorities. Providing a false report of an emergency, University policy and/or Code violation. Knowingly providing false statements or testimony during an investigation or University proceeding. Falsely presenting oneself as an official of the University or a local authority. (Also see policy [AD-67](#).)

**THEFT AND POSSESSION OF STOLEN PROPERTY:** The taking, or possession of, items belonging to another individual or entity. The taking or attempting to take anything of value from the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**DISRUPTION OF OPERATIONS:** Obstruction or disruption of classes, research projects, conduct processes and/or investigations (University or police), University governance proceedings, or

other activities or programs of the University; or obstructing access to University facilities, property, or programs. An action or combination of actions by one or more individuals that unreasonably interferes with, hinders, obstructs, or prevents the operation of the University or infringes on the rights of others to freely participate in its programs and services. (Also see [policy AD-57](#).)

**VIOLATIONS OF ACADEMIC INTEGRITY:** Academic integrity is the pursuit of scholarly activity in an open, honest and responsible manner. Academic integrity is a basic guiding principle for all academic activity at The Pennsylvania State University, and all members of the University community are expected to act in accordance with this principle. Consistent with this expectation, students should act with personal integrity, respect other students' dignity, rights and property, and help create and maintain an environment in which all can succeed through the fruits of their efforts. Academic integrity includes a commitment not to engage in or tolerate acts of falsification, misrepresentation or deception. Such acts of dishonesty violate the fundamental ethical principles of the University community and compromise the worth of work completed by others.

2. Violations of Academic Integrity include, but are not limited to, copying, plagiarism, fabrication of information or citations, facilitation of acts of academic dishonesty by others, unauthorized possession of examinations, submitting work of another person or work previously used without informing the instructor, and tampering with the academic work of other students. (Also see [Faculty Senate Policy 49-20](#) and [G-9 Procedures](#).) Special Procedures are used to address violations of academic integrity (see Section VII).

**FAILURE TO COMPLY:** Failing to comply with reasonable directives from University or other officials when directed to do so. This includes, but is not limited to failure to provide identification, to report to an administrative office, to complete sanctions assigned as part of the conduct process or, when reasonable cause exists, failure to leave University-controlled premises (both physical and virtual) or dangerous situations when directed to do so by properly authorized persons, including police and/or University faculty and staff.

**FORGERY/ALTERATION:** Making, possessing and/or knowingly using or submitting any falsified official record or University document; altering or forging any University or official document or record, including identification, meal or access cards. This includes but is not limited to forging documents (signing another's name and/or ID number), manufacturing IDs or tickets, altering parking permits, and misuse of forms (e.g., medical forms/letters, letterhead stationery, University forms). This category includes both physical and electronic documents and records.

**UNAUTHORIZED ENTRY OR USE:** Unauthorized entry into or use of property or University facilities, including private residences, businesses, offices, residence halls, classrooms, computers, computer networks, virtual University learning spaces and other restricted facilities. Unauthorized entry or use is considered any use or attempt to use without permission to do so (e.g. an unsecured door is not necessarily permission to enter said space). (Also see [policy AD-95](#))

**DISORDERLY CONDUCT:** Engaging in disorderly, disruptive, lewd, or indecent conduct, including, but not limited to, creating unreasonable noise; pushing and shoving; creating a physically hazardous condition or a condition that requires restoration or clean-up; inciting or participating in a riot or group disruption; failing to leave the scene of a riot or group disruption when instructed by officials; or disruption of programs, classroom activities or functions, and processes of the University.

**VIOLATIONS OF UNIVERSITY REGULATIONS:** Violating written University policies or regulations contained in any official publications, administrative announcements, contracts (e.g., residence hall contracts or leases) and/or postings, including University websites.

**VIOLATION OF LAW:** When it is established that a student or student organization has violated federal, state, or local law and the violation of law affects a Substantial University Interest.

**RETALIATION:** Taking adverse action against any individual on the basis of a good faith report made by such individual, or based on said individual's participation in an investigation, hearing, or inquiry by the University or an appropriate authority, or the individual's participation in a court proceeding relating to suspected wrongful conduct. (Also see policies [AD-67](#), [AD85](#) and AD 91.)

**HAZING OF A PERSON:** Hazing is when a person intentionally, knowingly or recklessly, for the purpose of initiating, admitting or affiliating a minor or student into or with an organization, or for the purpose of continuing or enhancing a minor or student's membership or status in an organization, causes, coerces or forces a minor or student to do any of the following:

- Violate Federal, State, or Municipal law or University policy or procedure;
- Consume any food, liquid, alcoholic liquid, drug or other substance which subjects the minor or student to a risk of emotional or physical harm;
- Endure brutality of a physical nature, including whipping, beating, branding, calisthenics or exposure to the elements;
- Endure brutality of a mental nature, including activity adversely affecting the mental health or dignity of the individual, sleep deprivation, exclusion from social contact or conduct that could result in extreme embarrassment;
- Endure brutality of a sexual nature;
- Endure any other activity that creates a reasonable likelihood of bodily injury to the minor or student.

Hazing shall not include reasonable and customary athletic, law enforcement or military training, contests, competitions or events.

Hazing also includes when a person commits a violation of hazing that results in serious bodily injury or death to the minor or student; and

3. the person acts with reckless indifference to the health and safety of the minor or students; or
4. the person causes, coerces or forces the consumption of an alcoholic liquid or drug by the minor or student. (Also see [policy AD-98](#).)

#### Section V: Code of Conduct and Violations of Law

University student and student organization conduct proceedings may be instituted against a student or student organization charged with conduct that potentially violates both criminal law and this Code (that is, if both possible violations result from the same factual situation) without regard to the pending civil or criminal litigation in court or criminal arrest or prosecution. Proceedings under this Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Senior Director or designee. Determinations made or sanctions assigned under this Code shall not be subject to change because criminal charges arising out of the same facts were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

#### **C. Request for a Delay**

For an incident in which there is a report of an alleged violation of the Code as well as a violation of law, the Respondent may request a short delay in the University conduct process. The decision to delay the process will be at the sole discretion of the Senior Director or designee. These delays will typically not be granted in cases which may involve an alleged Title IX violation. If the request is granted, the process may be delayed for a short period of time until some part or all the criminal or civil process has been completed. Interim actions may be imposed.

When a delay is granted, one or more of the following conditions may be implemented during the delay:

- Hold on their University accounts
- Loss of privilege to participate in University-related activities
- Cessation of organization processes or recruitment
- Prohibition from meeting as an organization
- Prohibition from hosting any events

#### **D. Conduct Withdrawal**

At the written request of a student, the Senior Director or designee may approve a conduct withdrawal in cases where a student is or may be charged both by the University and criminally for the same incident. Requests will be reviewed on a case by case basis. Reasons for denial include, but are not limited to, the nature and circumstances of the case, the status of the University investigation, or the reported impact of the behavior on other parties. The conduct process may be reinitiated at the discretion of the Senior Director.

If a conduct withdrawal is approved, a notation will be placed on the student's transcript indicating that the student withdrew while conduct charges were pending, and the student will be prohibited from all University premises as well as from participating in any activity, class or

program of the University. Depending upon the nature of the allegations, additional restrictions may be added.

### Section VI: Conduct Procedures

The following conduct procedures are intended to promote accountability, healing, learning, growth and fairness.

*For cases involving allegations of crimes of violence, also see Section VI, E; for cases involving allegations of Sexual Harassment and Misconduct, also see Section VI, F; for Academic Integrity, see Section VII. For cases involving Impacted Parties, see Section VI, G.*

#### A. Reports, Conduct Conversations, Advisors and Charges

15. Anyone may file a report alleging that a student or student organization violated the Code. Any report should be submitted as soon as possible after the event takes place.
16. Complainants or Impacted Parties are encouraged to review Sections VI, E, F, and G.
17. After a report is filed, an investigation may be conducted, either prior or subsequent to a conduct conversation. If conducted, the investigation is designed to gather information through interviews with relevant parties and the collection of additional evidence.
18. During the initial stages of the conduct process, there may be the opportunity for parties to consider an informal resolution process. If determined to be appropriate by the Senior Director or designee, available options will be discussed with the parties.
19. The University will typically contact students via their official University email account. Students are expected to regularly check their University email account as well as spam folder.
20. The Respondent will have the opportunity to meet with a case manager during a conduct conversation.
21. If a Respondent, with notice, does not participate in the conduct conversation, the meeting will take place in their absence, and all available information will be reviewed by the case manager.
22. Respondents may be accompanied by an advisor.
23. Respondents are presumed to be not responsible.
24. If the acquired information does not reasonably support that a violation of the Code occurred, then the case will be closed without charge(s), and the respondent will be notified.

25. In every case, and without regard to whether the acquired information reasonably supports that a violation of the Code occurred, the Office of Student Conduct will offer support resources, that may include counseling and psychological and trauma-informed services, to Complainants, Respondents, and Impacted Parties.
26. If the acquired information reasonably supports a Code violation, the case manager will identify the specific Code violation(s) and recommended sanction(s) to the Respondent, in writing. The decision is based on a low standard of evidence and does not indicate if a Respondent will be found responsible in a hearing, should the Respondent deny responsibility for the identified Code violation(s) and request a hearing.
27. The Respondent may take three (3) business days to decide whether to accept the charge(s), and sanction(s), to contest the charge(s), or request a sanction review when appropriate. Failure to respond, in writing, in the three (3) business days allotted will result in the charge(s), and sanction(s) being implemented, unless the case manager has approved an alternative timeframe.
28. If the Respondent accepts responsibility for the Code violation(s), and sanction(s), they will be finalized and implemented.
29. If the Respondent accepts responsibility for the Code violation(s) but contests the sanction(s) (for sanctions of Probation with a Transcript Notation, Suspension, Indefinite Expulsion, Expulsion, or Loss of Housing for students, or Suspension or higher for student organizations), the matter will be referred to a sanction review. The sanction review will typically take place within five (5) business days of forwarding the review to the Sanction Review Officer. (Also see Section VI, C.)
30. If the Respondent contests responsibility for the Code violation(s), the matter will be referred to a hearing. The hearing will take place as soon as reasonably possible, but not sooner than five (5) business days after the Respondent has been notified of the identified Code violation(s), unless the Respondent waives the five-day notice and the University can accommodate a shortened timeframe.

## B. Hearings

*For cases involving allegations of crimes of violence, also see Section VI, E; for cases involving allegations of Sexual Harassment and Misconduct, also see Section VI, F. Every stage of the hearings process should comply with state and federal laws, including FERPA.*

24. A hearing is a formal meeting. The hearing type is based upon the potential sanction(s). If the Respondent is determined to be responsible as an outcome of the hearing, the hearing authority will determine appropriate sanction(s), which may or may not be in alignment with those originally recommended by the case manager.
  - An Administrative Hearing will typically be utilized in cases that will not result in sanctions ranging from Suspension to Expulsion unless specifically requested by the

- Respondent(s) and/or Complainant and agreed to by the Senior Director. For individual student cases, the hearing authority is a single faculty or staff hearing chair; in cases involving student organizations, a panel of three (3) students authorized by the Senior Director comprise the hearing authority.
- The University Conduct Board (UCB) hearing will typically be utilized in cases in which there is a potential that the Respondent may be suspended or expelled from the University. The UCB is comprised of a specific group of faculty, staff and students authorized by the Senior Director.
25. Hearings normally shall be conducted in private unless the Respondent requests an open hearing. Even if an open hearing is requested, the Senior Director or designee may determine that a hearing be closed if, in their opinion, an open hearing would have an adverse impact on any participant; would disclose personal, psychological or medical information of a sensitive nature; or would otherwise jeopardize the privacy or welfare of any participant. An open hearing means that only current faculty, staff, or students who show a current PSU identification card, and are not participating or involved in the case, would be admitted. The hearing authority shall determine the number of persons to be admitted, and under no circumstances shall the hearing be open to more than the normal capacity of the typical hearing room.
26. The hearing authority may accommodate concerns for the personal safety, well-being, and or fears of confrontation of the participant(s) during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, as determined in the sole judgment of the Senior Director (or designee) to be appropriate.
27. The Respondent will be allowed to submit a response to charges prior to the hearing that will be added to the hearing information.
28. A student organization's representation during a hearing is one student representative (typically the president of the organization).
29. The Respondent may be assisted by an advisor.
30. In addition, the Respondent may provide a consideration statement that will be shared only with the hearing authority should it find that the Respondent is responsible for violating the Code.
31. The Respondent and their advisor will be allowed to attend the entire portion of the hearing, excluding deliberations.
32. If a Respondent, with notice, does not appear before the hearing authority, the hearing will take place in their absence, and all available evidence will be reviewed by the

hearing authority.

33. If the matter involves more than one Respondent, the Senior Director, in their discretion, may permit the hearing concerning each Respondent to be conducted either jointly or separately.
34. The Respondent, hearing authority, and University Presenter will be allowed to ask questions of all witnesses who participate in the hearing.
35. All witnesses will be considered University witnesses. Names of witnesses may be provided by the Respondent and Impacted Parties and others who may have been involved with the case. Prior to the hearing, it is important that the case manager understand the role of each witness in the case. To assist this process, those who have not met with the investigator or case manager will be requested to provide a brief statement outlining the relevant information they will share at least two (2) business days in advance of the hearing. Note, witness participation in this process is voluntary.
36. The testimony of unknown or unidentified witnesses shall not be admissible. In student organization cases, individuals who provide information as part of an investigation may remain anonymous throughout the conduct process, provided their identities are known to the University and the investigative entity serves as a witness.
37. The Senior Director (or designee) and/or hearing authority may exclude witnesses if they are deemed duplicative, irrelevant, or inappropriate.
38. Evidence not previously provided in advance of the hearing may be accepted for consideration at the discretion of the hearing authority.
39. Formal rules of process, procedure, and/or technical rules of evidence, such as those applied in criminal or civil court, are not used in these proceedings.
40. After the portion of the hearing concludes in which evidence has been received, the hearing authority shall determine whether the Respondent is responsible for each alleged violation of the Code. The determination shall be made using a preponderance of the evidence standard.
41. If the hearing authority determines that the information provided during the hearing should have resulted in a different recommended Code of Conduct violation, the hearing authority, in consultation with the Senior Director or designee, may provide the Respondent with revised recommended Code violation(s) and sanction(s). The Respondent may then avail themselves of the full conduct process related to the newly identified Code violation(s).

42. Should the Respondent be found responsible of violating the Code, the hearing authority will review the consideration statement(s), if submitted, and other documentation relative to sanctioning, including any conduct history.
43. There shall be a single recording of all University Conduct Board hearings (not including deliberations), unless the Respondent requests the hearing not be recorded and the Senior Director approves. The recording shall be the property of the University and will be maintained as outlined in Section VIII: Conduct Records. Administrative Hearings are typically not recorded.
44. The hearing authority will typically submit its finding of responsibility or non-responsibility, sanction(s), if any, and rationale in writing to the case manager within five (5) business days of the hearing. The case manager will notify the Respondent in writing of the outcome.
45. Decisions made by a hearing authority are final pending the normal review and appeal process.
46. The Respondent will be notified in writing of the hearing authority's decision and their right to appeal as permitted in Section VI, D.
47. After any appeal process has been completed, the Respondent will be notified in writing of the outcome.

### C. Sanction Reviews

*For cases involving allegations of crimes of violence, also see Section VI, E; for cases involving allegations of non-Title IX Sexual Harassment and Misconduct, also see Section VI, F.*

1. Sanction reviews may be conducted when a Respondent accepts responsibility for the Code violation(s) through a conduct conversation, receives a sanction that includes Probation with a Transcript Notation or higher or a Loss of Housing and would like to have that sanction reviewed. Requests for a sanction review shall be in writing and shall be delivered to the Senior Director or designee.
2. When a Respondent requests a sanction review and submits accompanying rationale, the case shall be forwarded to the Sanction Review Officer for review and consideration. The scope of the sanction review will ordinarily be a review of the written record of the case, unless otherwise determined by the Sanction Review Officer.
3. The Sanction Review Officer may sustain the sanction(s) assigned by the case manager; or the Sanction Review Officer may modify the sanction(s) assigned by the case manager when they determine that the sanction(s) recommended was outside the University's

sanction range for such violations and/or not justified by the nature of the violation.

4. The Sanction Review Officer will typically forward a decision and rationale to the Senior Director or designee within five (5) business days of receiving the sanction review request. At the completion of the sanction review, there are no opportunities for further review or appeal.
5. The case manager will then share the outcome in writing with the Respondent.

#### D. Appeals

*For cases involving allegations of crimes of violence, also see Section VI, E; for cases involving allegations of non-Title IX Sexual Harassment and Misconduct, also see Section VI, F. Every stage of the Appeals process should comply with state and federal laws, including FERPA.*

11. Cases resulting in sanctions of Suspension to Expulsion after a hearing may be appealed to the Student Conduct Appeals Officer by the Respondent within five (5) business days of receiving official notification of the results of the hearing. Such appeals shall be in writing and shall be delivered to the Senior Director or designee.
12. The appeal shall consist of a plain, concise, and complete written statement outlining the basis for appeal and all relevant information to substantiate the request. The Senior Director, in their discretion, may impose page limits for all written appeal statements.
13. An appeal may be requested on one or more of the following grounds:
  - the Respondent has been deprived of their rights and/or stated procedures were not followed that affected the outcome;
  - new evidence is presented, that was not available during the time of the original outcome, relevant to establishing whether it is more likely than not that the Respondent is responsible for the Code violation(s); and/or
  - the sanction(s) imposed was (were) outside the University's sanction range for such violations and/or not justified by the nature of the violation.
14. In addition, the Senior Director or designee, for all cases, may appeal the decision(s) of a University hearing on behalf of the University within five (5) business days following the date that the Respondent receives official notification of the results of the hearing.
  - The Respondent will be informed that an appeal is being requested.
  - The Senior Director may request an appeal based on the three (3) grounds listed above and one (1) additional ground:
    - The hearing authority misapplied or misinterpreted the University's policies and related definitions.

15. The Student Conduct Appeals Officer will review the case records and any additional information that is submitted as may be requested by the Student Conduct Appeals Officer.
16. The original decision(s) regarding responsibility and sanction(s) may be sustained, modified or reversed. No decision should be overturned or modified without consultation with the Vice President for Student Affairs, Senior Director, Title IX Coordinator, or Chancellor.
17. If an appeal is granted, one of the following processes will take place:
  - When an appeal is granted on the grounds that the Respondent has been deprived of their rights and/or stated procedures were not followed that affected the outcome for the student(s), the matter will be referred to a new hearing authority to be reheard. If the error occurred as part of the investigative process, the matter will be referred back to the investigative process to address the error, and the process will resume from that stage.
  - When an appeal is granted on the grounds that new evidence is presented that was not available during the time of the original hearing or review and that is relevant to establishing whether it is more likely than not that the Respondent is responsible for misconduct, the Student Conduct Appeals Officer shall return the case to the investigative process or the original hearing authority to be reheard with the new evidence.
  - When an appeal is granted on the grounds that the sanction(s) imposed was (were) outside the University's sanction ranges for such violations and/or not justified by the nature of the offense, the Student Conduct Appeals Officer shall modify the sanction as they deem appropriate.
  - When, in the case of a Senior Director appeal, it is determined that the hearing authority misapplied or misinterpreted the University's policies and related definitions, the matter will be referred to a new hearing authority to be reheard with appropriate clarification or training provided by the OSC.
18. The Appeals Officer will typically forward their decision and rationale to the Senior Director or designee within five (5) business days of receiving the appeal request.
19. The Respondent will be notified in writing.
20. If an appeal is denied, there will be no opportunity for further review.

#### E. Special Protocols for Crimes of Violence

*In cases involving a potential crime of violence, excepting potential Sexual Harassment and Misconduct (See Section VI, F), the following additional procedures will be followed:*

1. When a conduct process is enacted regarding a potential crime of violence, the first step will typically be a meeting between the Complainant and a case manager.
2. A conduct conversation will take place with the Respondent.
3. The Respondent and Complainant may be accompanied by an advisor. (See Section VI, A, 7)
4. If the Senior Director or designee determines that it is appropriate and necessary, an investigation prior to the determination of charge(s) and sanction(s) will occur.
5. If the acquired information does not reasonably support that a violation of the Code occurred, then the case will be closed, and both parties will be notified.
6. If the acquired information reasonably supports a Code of Conduct violation, the case manager may identify the specific policy violation(s) and sanction(s) to the Respondent.
7. Both the Complainant and the Respondent may offer a brief written consideration statement to the case manager withing (5) business days of receiving notice of charges. The Complainant or Respondent's decision whether to provide a consideration statement is completely voluntary. Information from these statements may be used to help determine appropriate sanctions.
8. If the Respondent accepts the charge(s) and sanction(s), the sanction(s) will be implemented. The Respondent and Complainant will be notified.
9. If the Respondent accepts the charge(s) but contests the sanction(s) (for sanctions of Probation with a Transcript Notation, Suspension, Indefinite Expulsion, Expulsion, or Loss of Housing), the case will be referred to a sanction review. The sanction review will typically take place within five (5) business days of forwarding the review to the Sanction Review Officer. The case manager will then share the outcome in writing with the Respondent and the Complainant (also see Section VI, C).
10. If the Respondent contests responsibility for the identified Code violation(s), the matter will be forwarded to a hearing, and the Respondent and Complainant will be permitted to attend and participate fully in the hearing procedures.
  - The Respondent and Complainant may submit a response to the identified policy violation(s) prior to the hearing.
  - The Respondent and Complainant may be assisted by an advisor.
  - The Respondent and Complainant will be allowed to attend the entire portion of the hearing, except for deliberations.
  - Names of witnesses may be provided by the Respondent, Complainant, and others who may have been involved with the case.

- The Respondent, Complainant, hearing authority and University Presenter will be allowed to ask questions of all witnesses who choose to participate in the hearing process. Note, witness participation in this process is voluntary.
- Questions by both the Respondent and the Complainant may be posed to the other; however, questioning of the other party will be permitted only through the hearing authority.
- The Respondent and Complainant may submit a consideration statement that will be reviewed by the hearing authority to help inform sanctioning, should the Respondent be found responsible for violating the Code.
- If a Respondent and/or Complainant, with notice, does not appear before the hearing authority, the hearing will take place in their absence, and all available evidence will be reviewed by the hearing authority.
- There shall be a single recording of all University Conduct Board hearings (not including deliberations) unless the Respondent requests that the hearing not be recorded. If the Respondent requests the hearing not be recorded, the Senior Director will consult with the Complainant, and the Senior Director will determine whether or not the hearing will be recorded. The recordings shall be the property of the University and will be maintained as outlined in Section VIII. Administrative Hearings are typically not recorded.
- Both the Respondent and the Complainant will be notified in writing of the hearing outcome once the outcome has been submitted to the case manager by the hearing authority.
- The Respondent and/or Complainant may request an appeal when suspension, indefinite expulsion or expulsion is either assigned or was possible given the Code charge(s) recommended within five (5) business days of receiving official notification of the results of the hearing. Such appeals shall be in writing and shall be delivered to the Senior Director or designee. (See Section VI, D).
- Each party will be given the opportunity to review and respond in writing to the other party's appeal, should one be submitted. Any response by the opposing party must be submitted to OSC within three (3) business days of receiving the other party's appeal. All appeal documents from each party will be considered together in one appeal process.
- At the conclusion of any appeal process, both the Complainant and the Respondent will be notified, in writing, of the outcome.

#### F. Special Protocols for Sexual Harassment and Misconduct and Title IX Allegations

The University's Office of Sexual Misconduct Prevention and Response (OSMPR) has responsibility for investigating allegations of sexual harassment and misconduct and Title IX violations. The OSMPR will typically investigate such allegations utilizing the process articulated at <http://titleix.psu.edu>. When OSMPR forwards its Investigation Report to the Office of Student Conduct and a conduct process is initiated, the following process will occur for allegations of non-Title IX sexual harassment. (See also [AD-85 for Title IX sexual harassment procedures](#)):

12. The case will be assigned to a case manager in the Office of Student Conduct.
13. The case manager will review the Investigation Report and will typically meet with the Complainant first.
14. Both the Respondent and the Complainant may be accompanied by an advisor.
15. If the Senior Director or designee, in consultation with the Title IX Coordinator, determines that it is appropriate and necessary, either the case manager or investigator will conduct additional investigation prior to the determination of charge(s) and sanction(s).
16. If the acquired information does not reasonably support that a violation of the Code occurred, then the case will be closed without charge(s), and both parties will be notified.
17. If the acquired information reasonably supports a Code violation, the case manager will recommend charge(s) and sanction(s) that are designed to eliminate the conduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and Title IX obligations. Sanctions or interventions may also serve to promote safety and/or deter students from similar future behavior.
18. Both the Complainant and the Respondent may offer a brief written consideration statement to the case manager within five (5) business days of receiving notice of charges. The Complainant or Respondent's decision whether to provide a consideration statement is completely voluntary. Information from these statements may be used to help determine appropriate sanctions.
19. The Respondent may take up to three (3) business days to decide whether to accept the charge(s) and sanction(s) or contest. Failure to respond, in writing, in the three (3) days allotted will result in the charge(s) and sanction(s) being implemented, unless the case manager approves an alternative timeframe.
20. If the Respondent accepts the charge(s) and sanction(s), the sanction(s) will be implemented. Both parties will be notified.
21. The Respondent and/or Complainant may request a sanction review when a Respondent accepts responsibility for the Code violation(s) and a sanction of Probation with a Transcript Notation or higher or a Loss of Housing was assigned or was possible given the charge(s) recommended (also see Section VI, C).
22. If the Respondent contests the charge(s) (i.e., denies responsibility for the violations), the case will be forwarded to a hearing authority along with the Investigation Report.

- The Respondent and Complainant will be permitted to attend and participate fully in the hearing procedures (excluding deliberations).
- If the Respondent and/or Complainant, with notice, do not appear before the hearing authority, the hearing will take place in their absence, and all available evidence will be reviewed by the hearing authority.
- In addition, both the Complainant and Respondent may provide a consideration statement, if not already provided. The statements will only be shared with the hearing authority should it find that the Respondent is responsible for violating the Code.
- Prior to the hearing, the hearing authority will typically be permitted at least five (5) business days to individually review the Investigation Report.
- Following the hearing authority's individual review of the Investigation Report and any required follow up investigation and responses, the hearing authority will convene a hearing.
- If the matter involves more than one Respondent, the Senior Director of the Office of Student Conduct, in consultation with the Title IX Coordinator, in their discretion, may permit the hearing concerning each Respondent to be conducted either jointly or separately.
- At the hearing, the Investigator will provide an overview of the investigation. The Complainant and Respondent may hear/observe the Investigator's interaction with the hearing authority in person or through remote audio or video access, if reasonably practicable.
- Each party will have the option to hear/observe the other party's and witnesses' interactions with the hearing authority through remote audio or video access or in person, if reasonably practicable. The hearing authority may reasonably accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Respondent and/or Complainant during the hearing as determined in the sole judgment of the Senior Director (or designee) to be appropriate.
- The parties may suggest questions to be posed to the other party by and through the board. Proposed questions will be submitted to the hearing authority. The rationale for not asking any proposed question will be documented.
- All witnesses will be considered University witnesses. Names of witnesses not included in the investigative packet may be provided by the Respondent, Complainant and others who may have been involved with the case. Prior to the hearing, it is important that the case manager understand the role of each witness in the case. To assist this process, those who have not met with the investigator will need to provide a brief statement outlining the relevant information they will share at least two (2) business days in advance of the hearing. The University will contact witnesses regarding the date, time and location of the hearing.
- The Respondent, Complainant, case manager, and hearing authority will be allowed to ask questions of the investigator and all witnesses who participate in the hearing process. Note, witness participation in this process is voluntary.

- The Senior Director (or designee) and/or hearing authority may exclude witnesses if they are deemed duplicative, irrelevant, or inappropriate.
- Evidence may be accepted for consideration at the discretion of the hearing authority.
- Formal rules of process, procedure, and/or technical rules of evidence, such as those applied in criminal or civil court, are not used in these proceedings.
- After the portion of the hearing concludes in which all evidence has been received, the hearing authority shall determine whether the Respondent is responsible for each alleged violation of the Code. The determination shall be made using a preponderance of the evidence standard.
- Should the Respondent be found responsible of violating the Code, any consideration statements will be shared with the hearing authority. Other documentation relative to sanctioning, including any prior conduct history, may also be submitted at that time.
- There shall be a single recording of all UCB hearings (not including deliberations), unless the Respondent requests the hearing not be recorded and the Senior Director approves. The recording shall be the property of the University and will be maintained as outlined in Section VIII: Conduct Records. Administrative Hearings are typically not recorded.
- The hearing authority will typically submit its finding of responsibility or non-responsibility, sanction(s) (if any), and rationale, in writing, to the case manager within five (5) business day
- Decisions made by a hearing authority are final pending the normal review and appeal process. Both parties will be informed, in writing, of the hearing authority's decision and their rights to appeal as permitted in Section VI, D.
- The Respondent and/or Complainant may request an appeal when suspension, indefinite expulsion or expulsion is either assigned or was possible given the Code charge(s) recommended within five (5) business days of receiving official notification of the results of the hearing. Such appeals shall be in writing and shall be delivered to the Senior Director or designee. (See Section VI, D) Each party will be given the opportunity to review and respond in writing to the other party's appeal, should one be submitted. Any response by the opposing party must be submitted to OSC within three (3) business days of receiving the other party's appeal. All appeal documents from each party will be considered together in one appeal process.
- In addition to the Senior Director, the Title IX Coordinator or designee may appeal the decision(s) of a University hearing on behalf of the University within five (5) business days following the date that the Respondent receives official notification of the results of the hearing.
  - The Respondent will be informed that an appeal is being requested.
  - The Title IX Coordinator or designee may request an appeal based on the three (3) grounds listed in Section VI, D and one (1) additional ground:
    - The hearing authority misapplied or misinterpreted the University's policies and related definitions
- When, in the case of a Senior Director or Title IX Coordinator appeal, it is determined that the hearing authority misapplied or misinterpreted the University's policies and

related definitions, the matter will be referred to a new hearing authority to be reheard with appropriate clarification or training provided by the OSC or Title IX Coordinator.

- After any appeal process has concluded, both the Respondent and Complainant will be notified, in writing, of the outcome of the process.
- The University's Title IX Coordinator will also be notified and may continue to work with the parties as appropriate.
- In addition, the Title IX Coordinator or designee, may appeal the decision(s) of a University hearing on behalf of the University within five (5) business days following the date that the Respondent receives official notification of the results of the hearing.
  - The Respondent will be informed that an appeal is being requested.
  - The Title IX Coordinator or designee may request an appeal based on the three (3) grounds listed above and one (1) additional ground:
    - The hearing authority misapplied or misinterpreted the University's policies and related definitions.

#### G. Special Protocols in Cases Involving Impacted Parties

There may be times when a student's behavior has had an adverse impact on other people. An impacted party is encouraged to provide information to OSC that will help OSC make appropriate determinations. Further, OSC is committed to supporting impacted parties and informing them of support resources available to them. If an Impacted Party is a Complainant as defined in Section II, F, see Section VI, E for cases involving Crimes of Violence, and see Section VI, F for cases involving allegations of non-Title IX Sexual Harassment and Misconduct.

1. While the OSC will take reasonable steps to identify Impacted Parties, it is possible that the OSC may not be able to identify all Impacted Parties. Therefore, anyone adversely impacted by a student's behavior is encouraged to contact the Office of Student Conduct directly.
2. During the conduct process or investigation, steps will be taken to inform Impacted Parties of appropriate resources and support options and to inform them of the University's policy on retaliation.
3. Impacted Parties are encouraged to meet with a staff member in the Office of Student Conduct to learn about the conduct process, options for involvement, and resources and support that may be available.
4. Impacted Parties are encouraged to provide information related to an incident. Such information would be reviewed in determining whether a Respondent violated the Code.
5. Impacted Parties are encouraged to submit a consideration statement that will be reviewed prior to the determination of a sanction if a Respondent either accepts responsibility or is found responsible for a violation of the Code of Conduct.
6. Impacted Parties may choose not to be identified. However, information provided by Impacted Parties who choose not to be identified would not be considered in the conduct process.

7. Identified Impacted parties will be notified when a situation is considered resolved. Any sanctions that have direct and specific impact on the impacted party (e.g., administrative directive prohibiting the respondent from contacting the impacted party) will be communicated to the impacted party.
8. Due to limitations on the information that can be shared related to a Respondent's educational records due to FERPA, additional specific outcomes will not be shared without a Respondent's permission.

## H. Sanctions

The following sanctions may be imposed upon any student or student organization found to have violated the Code. More than one of the sanctions listed below may be imposed for any single violation. Sanctions will be elevated for violations that involve Acts of Bias.

The case manager is responsible for the implementation of sanctions. The hearing authority may assign sanctions; however, it is the responsibility of the case manager to ensure that the sanctions are imposed and communicated to the respondent.

### 1. Primary Administrative Sanctions

**CONDUCT WARNING:** A conduct warning is an indication to a Respondent that their conduct violated the Code and that further misconduct will result in more severe conduct action.

**CONDUCT PROBATION:** Conduct probation is assigned for a specified time period and is intended to foster reflection, responsibility, and improved decision-making for the respondent. Additional conditions and/or educational programs may be assigned as a component of the probation. Future established misconduct, failure to comply with any conditions or to complete any assignments may lead to a more severe conduct action, including suspension or expulsion.

Conduct probation may be recorded on a student's official University transcript when, either due to the serious nature of the behavior or when a student's conduct history is significant, the Office of Student Conduct determines a notation is merited.

**CONDUCT SUSPENSION:** Conduct suspension from the University is assigned for a specified period of time. A suspended student is precluded from registration, participation in any class, activity or program of the University, and residence on campus. In addition, the student is prohibited from using or visiting University facilities, including virtual facilities, unless special permission is obtained from the Senior Director or designee. During the period of the suspension, a notation will appear on the student's official University transcript.

A suspended student organization loses all rights and privileges associated with being a recognized student organization, must cease any organizational activity or function, and is prohibited from engaging in any organizational activity or function until the suspension is lifted by the Office of Student Conduct.

**INDEFINITE EXPULSION:** Indefinite expulsion from the University is for a period of not less than one calendar year, and re-enrollment must be approved by the Vice President for Student

Affairs or designee at University Park or by the Chancellor or designee at the Commonwealth Campuses. During a period of indefinite expulsion, a student is precluded from registration, participation in any class, activity or program of the University, and residence on campus. In addition, the student is prohibited from using or visiting University facilities or properties unless special permission is obtained from the Senior Director or designee. If a student wishes to return to the University after the period of his or her indefinite expulsion, he/she must request re-enrollment (in writing) from the Senior Director or designee. During the period of the expulsion, a notation will appear on the student's official University transcript.

For student organizations, indefinite expulsion means that the student organization loses all rights and privileges with being a recognized student organization, must cease any organizational activity or function, and is prohibited from engaging in any organizational activity or function and is assigned for a period of not less than one calendar year. Re-recognition must be approved by the Vice President for Student Affairs or designee at University Park or the Director of Student Affairs (or equivalent) at the Commonwealth Campuses.

**EXPULSION:** Expulsion of a student from the University is permanent. A student is precluded from registration, participation in any class, activity or program of the University, and residence on campus. In addition, the student is prohibited from using or visiting University facilities unless special permission is obtained from the Senior Director or designee. Expulsion requires administrative review and approval by the President. The sanction of expulsion is permanently noted on a student's official University transcript.

For student organizations, expulsion means that the student organization permanently loses all rights and privileges with being a recognized student organization, must cease any organizational activity or function, and is permanently prohibited from engaging in any organizational activity or function.

**XF GRADE:** See the [G-9 Procedures](#) established by the Faculty Senate.

## 2. Secondary Administrative Sanctions

**HOUSING REVIEW:** Housing Review is implemented when an on-campus student has either breached the terms and conditions of their housing contract/lease agreement or has engaged in inappropriate behavior in or near the residence halls. This review is for a specified period of time with the understanding that any further breach of the conditions of their housing contract/lease agreement, during the time specified, may result in an extension of review of housing contract or a termination of a student's housing contract, or a notice of non-renewal of a lease agreement. A housing review will typically be assigned in conjunction with other administrative sanctions.

For student organizations, housing review means the organization has violated the terms and conditions of their housing contract/lease agreement or has engaged in inappropriate behavior in or near the residence halls. This review is for a specified period of time with the understanding that any further breach of the conditions of their housing contract/lease agreement, during the time specified, may result in an extension of review of housing contract or a termination of a

student organization's housing contract, or a notice of non-renewal of a lease agreement. A housing review will typically be assigned in conjunction with other administrative sanctions.

**ROOM REASSIGNMENT:** A student is relocated from one housing assignment to another residence hall assignment. This may be a temporary or permanent change of assignment.

For student organizations, room reassignment means the students living in a designated residential space may be relocated from one housing assignment to another residence hall assignment. This may be a temporary or permanent change of assignment.

This sanction should be made after consultation with the appropriate Residence Life staff member.

**LOSS OF HOUSING:** Loss of housing permanently separates a student from the University housing program. This separation is typically immediate.

**LOSS OF PRIVILEGE:** Loss of Privilege involves the withdrawal of the use of service, participation in an activity, or withdrawal of privileges consistent with offense(s). Loss of privilege may be imposed separately or in addition to other sanctions.

For student organizations, loss of privilege may involve an organization losing one or more privileges of being a recognized student organization. This sanction is generally for a specified period of time. Examples of privileges that can be lost include, but are not limited to, suspension of the student organization's funds, prohibition of hosting social functions, discontinuation or cancellation of new member processes, suspension of access to the organization's web space, suspension of the ability to reserve rooms on campus, suspension of the ability to apply for Student Activity Fee funding, suspension of fund-raising activities, suspension of access to office space, new member recruitment, participation in University-wide activities, loss of preferred housing space, which may or may not include the loss of organizational suite space, and others.

### 3. Active Sanctions

Active sanctions are sanctions that the University reserves the right to assign to respondents in addition to administrative sanctions. These include, but are not limited to, the following: administrative directives, alcohol or drug education, counseling, reflection papers, projects, restorative activities, decision-making workshops/modules, educational workshops with required minimum attendance, meetings with staff or others, restitution, and sanctioned service.

### 4. Other Sanctions

The University reserves the right to impose other sanctions in addition to those listed above in response to specific circumstances of a case.

#### I. Interim Actions and Interim Suspension

##### 1. Interim Actions

In some situations, there is a need for immediate action to alleviate concerns for safety, to help ensure the well-being of members of the University community, or to prevent the

disruption of normal campus operations, the University community, or management of a residential facility. In these situations, case managers may assign appropriate interim actions, except interim suspension (see Section VI, H, 2). Assigned interim actions should be reviewed by the Senior Director of Student Conduct or designee. Interim actions may include, but are not limited to, administrative directives, interim suspension, a loss of privilege, a residence hall room reassignment, a contract termination, a mandated assessment, or restriction from parts of campus. Respondents wishing to request a modification of any interim action, other than an interim suspension (see below), may do so through the Senior Director of Student Conduct or their designee. Interim actions do not replace the regular conduct process, which shall proceed on the normal schedule.

## 2. Interim Suspension

On rare occasion, the Office of Student Conduct may become aware of a student or student organization whose continued participation within the University community or continued operation as an organization may pose an immediate threat to the student or others or may pose an imminent threat of disruption to normal campus operations. If the Senior Director or designee reasonably believes that such a threat is posed, an interim suspension may be assigned.

- Notification of an interim suspension will be sent to the respondent's University e-mail account and/or to the mailing address listed as their local and/or permanent address in the University records. If the respondent is a student organization, the organization's advisor of record will also be copied. The notification will include information regarding the alleged behavior that provided the rationale for the interim action. Respondents who are placed on interim suspension will have the opportunity to contest the action. (See Section VI, H, 1, c below.)
- An interim suspension will typically include, but is not limited to, all the following actions:
  - For individuals:
    - Restriction from all University premises, including on-campus housing; loss of privilege to participate in classes (either in person or electronically/virtually and including World Campus); loss of privilege to participate in all University-related activities; loss of access to University accounts (e.g., email, Canvas)
    - Registration hold
    - Notation on the student's transcript
    - Graduation hold if student is on the graduation list or scheduled to graduate within the semester of the suspension
    - Potential notification to student's academic program
  - For student organizations:
    - Other conditions as appropriate
    - Prohibited from hosting any events
    - Prohibition from meeting as an organization
    - Cessation of new member processes or recruitment
    - Loss of privilege to participate in all University-related activities

- Hold on their University accounts
- Respondents wishing to contest an interim suspension action may do so through the designated Assistant Vice President for Student Affairs at University Park. At other Penn State locations, respondents may contest through the Director of Student Affairs (or equivalent) or Chancellor. The respondent's appeal must be in writing and include the following information:
  - Name (Student or Student Organization)
  - Student ID (not applicable in Student Organization related cases)
  - Rationale for the request
  - Any documentation that supports that the Respondent would not pose an immediate threat to the student or others or would not pose an imminent threat of disruption to normal campus operations
- The Respondent will typically be notified of the decision within five (5) business days of receipt of the request. The Interim Suspension will remain in effect while any review is pending. There will be no further appeals to this decision. If the Interim Suspension is lifted, other interim restrictions (e.g., removal from university housing, limited access to campus, cessation of any organizational activities, and cessation of new member processes) may be assigned until the outcome of any related conduct case.

#### J. Restorative Justice Practices

1. When appropriate, restorative justice practices will be offered to Respondents, Complainants, and Impacted Parties.
2. Staff trained in restorative justice practices will administer the restorative justice processes.
3. Restorative options include, but are not limited to, the following:
  - a. Administrative directives in which the Respondent may not have contact with the Complainant or Impacted Parties.
  - b. Mediation Services in which the Complainants or Impacted Parties and Respondent engage in a resolution process to resolve conflicts and disagreements.
  - c. Restorative Circles in which trained facilitators, Respondents and Complainants or Impacted Parties engage in a process with the goal of finding resolution(s).
  - d. Education or other intervention in which the Respondent completes a relevant course or training relevant to the nature of the conduct.
  - e. Restorative acts in which the Respondent completes one or more tasks that may benefit the Complainant or Impacted Parties, the broader community, and the Respondent's co-curricular education.

### Section VII: Protocol for Violations of Academic Integrity

#### A. Initial Process

Although Violations of Academic Integrity are included in the Code, the management of these cases is handled by faculty and the college or campus academic integrity committee. All

procedures must conform to the [G-9 Procedures](#) established by the Faculty Senate. The procedures may be found at <http://undergrad.psu.edu/aappm/G-9-academic-integrity.html>.

#### B. Role of the Office of Student Conduct

When an academic integrity committee recommends that a student receive a conduct sanction in addition to the academic sanction assigned by the faculty or academic integrity committee, then a Student Conduct case manager will manage that aspect of the case. Consideration will be given to the sanction(s) recommended by the committee. The case manager will meet with the Respondent in a conduct conversation to discuss the additional conduct sanction(s). The student may request a sanction review for the conduct sanction(s) per the procedures outlined in Section VI, C.

### Section VIII: Conduct Records

#### A. Maintenance of Respondent Records

9. All records related to cases involving Code violations or Academic Integrity are maintained by the Office of Student Conduct.
10. Typically, a conduct record is established when information on a student or organization is received and maintained by the Office of Student Conduct or the Office of Residence Life. An electronic database maintains all pertinent information required for government reporting indefinitely.
11. The conduct record will be maintained by the Office of Student Conduct for seven (7) years after the graduation date of the student or four (4) years from the date of the incident for student organizations and will normally be destroyed at that time. If a student or student organization is assigned the sanction of Expulsion, the conduct record will be maintained permanently in University Archives.
12. Electronic recordings of University hearings will typically be maintained through the resolution of the conduct process, after which they may be destroyed.
13. Conduct records for students who have left the University prior to graduation will be maintained for seven (7) years following the completion of their last semester of enrollment. For those students who have not completed their assigned sanction(s) but have not been enrolled at the University for over seven (7) years or have not been approved for return after an indefinite expulsion, or who voluntarily withdraw while a conduct process was pending, a decision regarding retention of the record may be made by the Senior Director or designee on a case by case basis.
14. If a student or organization is involved in litigation with the University, the conduct record may be kept indefinitely.

15. If the student has not met the conditions for re-enrollment after a separation from the University, or if they have completed all sanctions but have discontinued enrollment at the University, the conduct records may be maintained indefinitely but will not be destroyed prior to the seven (7) year time frame elapsing.
16. Accessibility to Student Conduct Records follows the University Policy on [Confidentiality of Student Records](http://www.registrar.psu.edu/confidentiality/confidentiality.cfm) (<http://www.registrar.psu.edu/confidentiality/confidentiality.cfm>).

#### B. Student Access to Student Conduct Records

In accordance with FERPA, a Respondent or Complainant may have access to their Student Conduct Record if they can be properly identified and provided that the original Student Conduct Record is not removed from the office. The Office of Student Conduct may take up to forty-five (45) days to provide the Student Conduct Record to the Respondent, and there may be a fee assessed to the respondent. (Also see [policy AD-11](#))

#### Section IX: Reporting

The Office of the Student Code of Conduct will create a report that will be published on its website annually. The report will include all situations that resulted in the creation of a conduct record and will include conduct violations, outcomes reached (including sanctions), restorative practices applied, and demographics of Respondents.

#### Section X: Interpretation and Review

##### A. Interpretation

Any question of interpretation or application of the Code shall be referred to the Senior Director for final determination.

##### B. Review

Feedback related to the Code or any student conduct procedure should be directed to the Senior Director.

A formal review of the Code and the student conduct process and procedures will occur at least every three years under the direction of the Senior Director.