



**BOISE STATE UNIVERSITY**

University Policy 2020

## Student Code of Conduct

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### **Effective Date**

1958

### **Last Revision Date**

January 2020

### **Responsible Party**

Vice President for Student Affairs and Enrollment Management, (208) 426-2384  
Dean of Students, (208) 426-1527

### **Scope and Audience**

See Section 1D - Jurisdiction

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## **Section 1: Introduction and General Information**

### **A. Freedom of Expression**

The University creates an environment where civil discourse may occur free from discrimination, harassment, threats or intimidation. The pursuit of higher learning through civil discourse, both in and out of the classroom, is encouraged and welcomed for all who attend the University. To that end, nothing in the Student Code of Conduct shall infringe on rights guaranteed by the Constitution of the United States, federal or state law, or Boise State University policy.

Each Member of the University Community is obligated to assume individual responsibility for the member's personal freedom and actions. As a Member of the University Community, students enjoy the same freedoms of speech, peaceful assembly, and right of petition that all citizens enjoy. Students and student groups are responsible for making it clear that such expressions represent the views of the students or student organizations, and not of the University.

**B. Purpose**

The Student Code of Conduct exists to assist in providing the best possible learning and living environment for all students. The University upholds the shared values of academic excellence, caring, citizenship, fairness, respect, responsibility and trustworthiness as the foundation for a successful academic environment. As a tool, the Student Code of Conduct helps promote growth and learning as students interact with their environment and accept responsibility for decision-making. The Boise State University student conduct process educates students about their responsibilities as members of an academic community and imposes sanctions when student conduct puts the members of the community in jeopardy or when the University has a clear and distinct interest in addressing the student behavior.

Each student, as a Member of the University Community, is responsible for being familiar with the policies of Boise State University, including the Student Code of Conduct, and with local, state, and federal laws, since these reasonably guide behaviors. Students at Boise State University can access a copy of the Student Code of Conduct annually in the form of a link on the university's website. Hard copies and copies in alternative format are available upon request from the Office of Dean of Students.

**C. Authority**

The Student Code of Conduct is not a code of criminal law; criminal law concepts, processes, and procedures do not apply to it. The University will take appropriate action when student conduct runs contrary to the University mission or a clear and distinct University interest, regardless of whether a criminal offense has occurred. The University reserves the right to take necessary and appropriate action to protect the health, safety and well-being of the University Community.

Students and student organizations are subject to the provisions of local, state, and federal law and to all legal and judicial authorities as part of their responsibilities to the larger society. If a visitor or guest of a University student or organization does not comply with University policies, and/or with local, state, or federal law, the student or organization may be subject to Student Code of Conduct sanctions, as well as to the provisions of local, state, or federal law. Those who believe a crime has occurred should inform the University's Department of Public Safety and/or a local law enforcement agency. Proceedings under the Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

**D. Jurisdiction**

The Student Code of Conduct applies to the conduct of individual students, both undergraduate and graduate, and all University-affiliated student organizations.

1. The University retains conduct jurisdiction over students who have yet to enroll in classes but are admitted to the University, and those who choose to take a leave of absence, withdraw, or have graduated, for any misconduct that occurred post-admission but prior to enrollment in classes, and/or prior to the student taking leave, withdrawing, or graduating. If sanctioned, a hold may be placed on the student's ability to enroll, re-enroll, obtain official transcripts, and/or graduate, and all sanctions must be satisfied prior to the hold being released. In the event of serious misconduct committed while still enrolled but reported after the student has graduated, the University may invoke these procedures, and if the former student is found responsible, the University may revoke that student's degree.
2. The Student Code of Conduct applies to behaviors that take place on any Boise State University premises (as defined in this Student Code of Conduct), at University-sponsored events, and off of the University premises when a Student Conduct Administrator determines that the off-premises conduct affects a clear and distinct University interest. The term "off-campus" or "off-premises" includes anywhere that is not on University premises. Specifically included within the University's clear and distinct interest are violations that:
  - a. Involve conduct directed at other Members of the University Community or that significantly impinges upon the rights, property, or achievement of self or others, or significantly breaches the peace and/or causes social disorder;
  - a. Disrupt educational programs or activities or other functions of the University;
  - b. Occur during or at University-sponsored events;
  - c. Occur during the events of an organization associated with the University including the events of a student group whether officially recognized or not;
  - d. Occur during any academic course requirements or any credit-bearing experiences such as internships, service-learning, clerkships, field trips, or student teaching;
  - e. Occur during a study abroad program, field trip, internship, field placement or clinical assignment;
  - f. Occur during any activity supporting the pursuit of a degree, such as research at another institution, or a professional practice assignment;
  - g. Cause or pose a threat of destruction to property belonging to the University or any Member of the University Community;
  - h. Pose a threat to the health and/or safety of a member of the University Community; or

- i. Involve an activity for which a police report is filed and a summons or charge is issued, or an arrest for a crime.
3. The Student Code of Conduct applies to behavior conducted online, via email or via any other electronic medium. Students should be aware that online postings such as blogs, web postings, chats, and social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of Student Code of Conduct violations if there is information that the Student Code of Conduct was violated. While most online speech by students not involving University networks or technology is protected as free expression and not subject to the Student Code of Conduct, there are three notable exceptions:
  - a. A true threat, defined as a threat a reasonable person would interpret as a serious expression of intent to inflict bodily harm upon a specific individual;
  - b. Speech posted online about the University or its community members that causes a substantial negative effect to a University living and/or learning environments;
  - c. Information indicating a crime has occurred.
4. Visitors to, and guests of, the University may seek resolution of violations of the Student Code of Conduct committed against them by University students through the Office of the Dean of Students. This process is described in Section 6.

## **E. Standard for Determination of Responsibility**

The standard for determining responsibility for a violation of the Student Code of Conduct is whether it is “more likely than not” (by a “preponderance of the evidence”) that a violation of the Code of Conduct occurred based on all information available to the Conduct Body (including, but not limited to, the complaint, response, witness statements, physical evidence, University documents, and interview notes).

## **Section 2: Student Rights and Responsibilities**

### **A. Equal Treatment**

The University has an obligation to apply its rules equally to all students. This does not mean, however, that the University is required to refrain from engaging in the Student Conduct process with some students because there are others who cannot be identified, or who are not similarly charged. Procedural fairness incorporates adequate notice of the charges, the opportunity to respond to the charges, and the right of appeal.

**B. Nondiscrimination**

For purposes of this policy, the following characteristics are considered protected and, to the extent permitted by applicable law, individuals and groups cannot and will not be discriminated against based on these characteristics: race, ethnicity, color, religion, sex, gender, age, sexual orientation, pregnancy, national origin, physical or mental disability, veteran status, genetic information, gender identity, gender expression, or any other status protected under applicable federal, state, or local law.

**C. Freedom in the Classroom**

The classroom is not an unstructured political forum; it is the center for study and understanding of subject matter for which the faculty member has professional responsibility and institutional accountability. Control of the order and direction of class, as well as control of the scope and treatment of the subject matter, must therefore immediately rest with the individual faculty member. Faculty members and students must be free from disruption by students or others who may be in disagreement with the manner in which the faculty member discharges their responsibilities. When taking a class, students have a reasonable expectation to:

1. Be informed in reasonable detail at the beginning of each term concerning the nature of the course, the course expectations, the evaluative standards, and the grading system that will be used. Students are responsible for becoming familiar with these details and for asking the faculty member for clarification if they do not understand what the course requires.
2. Take reasonable, yet respectful, exception to the data or views offered in class and to reserve judgment about matters of opinion, without fear of penalty. Students have a responsibility not to disrupt class in expressing their views or in reacting to the views of others.
3. Be protected against improper disclosure of information concerning their grades, views, beliefs, political associations, or personal characteristics that faculty members acquire in the course of their professional relationship with students. Students have the responsibility not to disclose improperly such information about their fellow students.
4. Be protected against prejudiced or capricious academic evaluation. At the same time, students are responsible for maintaining the standards of academic performance established for each course in which they are enrolled.

**D. Good Standing**

The awarding of a degree from Boise State University is conditioned upon a student's good standing with the University and satisfaction of all University graduation requirements. "Good standing" means the student has resolved any holds, unpaid fees or acts of academic or behavioral misconduct and the student complied with all sanctions imposed as a result of any misconduct. Boise State

University may deny the awarding of a degree if the student is dismissed from the University based on misconduct, or may revoke a degree awarded as stated in Section 1.D.1.

### **E. Communication with University**

University email is the University's primary means of communication with students. Each student is responsible for receiving and reading all communication delivered to the student's University email address. For more information, see Boise State University Policy 2280: Student Email Communications.

### **F. Responsibility for Guests**

Students and student organizations are responsible for the conduct of their guests and must use their best efforts to ensure that guests comply with the Student Code of Conduct and other University policies. This includes, but is not limited to, guests attending University-sponsored events on or off University premises, visitors to University Housing, or attendees of activities sponsored by recognized student organizations.

## **Section 3: Definitions**

### **A. Complainant**

The term "**Complainant**" refers to an individual who was subject to alleged misconduct described in the Student Code of Conduct. There may be more than one complainant for an incident. In certain circumstances, the Dean of Students or another University official may assume the role of complainant on behalf of the University. For Policy 1065 and 1060 violations, see the respective policy for the applicable definition.

### **B. Conduct Body**

The term "**Conduct Body**" means any person(s), as set forth in Section 5, authorized by the Vice President for Student Affairs and Enrollment Management, or designee, to determine whether a student or student group is responsible for violating the Student Code of Conduct and to determine appropriate sanctions for any violation.

### **C. Consent**

The term "**Consent**" is defined in University Policy 1065. Allegations of Sexual Harassment, Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking on the basis of sex, sexual orientation, gender, and/or gender identity, are investigated and processed under University Policy 1065, not under this Student Code of Conduct.

## D. Faculty

The term “Faculty” includes all persons whose specific assignments customarily are made for the purpose of conducting instruction, research, or public service as a principal activity (or activities), and who hold the following academic rank or titles: professor, associate professor, assistant professor, instructor, lecturer, dean, director, or the equivalents, as well as associate deans, assistant deans, and executive officers of academic departments or the equivalent of any of these academic ranks.

## E. Hostile Environment

A “**Hostile Environment**” is created if conduct is so severe, pervasive, or persistent that it creates an environment that would cause a reasonable person substantial emotional distress and undermine their ability to work, study, learn, or otherwise participate in University programs or services, and actually does cause the harassed person(s) these difficulties. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. A single or isolated incident of sex or gender-based harassment or discrimination may create a Hostile Environment if the incident is sufficiently severe. Allegations of Sexual Harassment, Sexual Misconduct, Dating Violence, Domestic Violence, and Stalking on the basis of sex, sexual orientation, gender, and/or gender identity, are investigated and processed under University Policy 1065. Allegations of discrimination and/or harassment based on protected characteristics (with the exception of those characteristics covered by University Policy 1065) are investigated and processed under University Policy 1060.

## F. Member of the University Community

The term “**Member of the University Community**” includes any person who is:

1. A University student;
2. A University employee (faculty, classified or non-classified);
3. A University contractor or vendor;
4. A University affiliate or volunteer; or
5. Guests, to include but not limited to, event attendees, participants in University-sponsored co-curricular or auxiliary programs, visitors and customers.

Determination of whether an individual is a member of the University community may be decided by the Vice President for Student Affairs and Enrollment Management or their designee.

## G. Policy

The term “**Policy**” is defined as the written regulations, policies, and/or procedures of the University or governing the University and its divisions and departments as outlined in, but not limited to the:

1. University Undergraduate and Graduate Catalogs and handbooks;
2. University Housing & Residence Life policies;
3. University Policy Manual; and
4. Policies, procedures and regulations of the Idaho State Board of Education.

## H. Protected Characteristics

The term “**Protected Characteristics**” means personal characteristics or factors that cannot be targeted for discrimination or harassment. For purposes of the Student Code of Conduct the following characteristics are considered protected and individuals cannot be discriminated against or harassed based on these characteristics: race, color, religion, sex, gender, age, sexual orientation, pregnancy, national origin, physical or mental disability, veteran status, genetic information, gender identity, gender expression or any other status protected under applicable federal, state, or local law.

## I. Quorum

The term “**quorum**” means one more than fifty percent of the voting membership of a Conduct Body. A Conduct Body consisting of a single individual always consists of a quorum. A Conduct Body board may be comprised of 5 members, with a minimum of 3 members required to constitute a quorum.

## J. Respondent

The term “**Respondent**” means any student or student group alleged to have violated the Student Code of Conduct. In cases of student groups, the president (or a like position) will represent the student group in the Student Conduct process. For Policy 1065 and 1060 violations, see the respective policy for the applicable definition.

## K. Student

The term “**Student**” means an individual who has applied for and been granted admission by the University. This definition includes an individual who has been suspended or who withdraws or graduates while the Student Code of Conduct process is ongoing. Student status ceases when an individual graduates or formally withdraws from the University (unless there is a pending Student



Conduct process ongoing at the time of graduation or formal withdrawal), or an individual is dismissed or expelled for any reason.

#### **L. Student Conduct Administrator**

The term “**Student Conduct Administrator**” means the University official authorized and designated by the Vice President for Student Affairs and Enrollment Management for the daily operation of the Student Conduct process including but not limited to:

1. Providing Respondents and Complainants information on Student Conduct processes and procedures;
2. Serving as a Hearing Officer;
3. Serving as the administrator of the Student Conduct process;
4. Attending, assisting, and serving notifications of hearings and decisions of Conduct Bodies;
5. Ensuring official Student Conduct records are maintained;
6. Monitoring sanction(s) compliance; and
7. Coordinating the training and development of Student Conduct bodies.

#### **M. Student Group**

The term “**Student Group**” means a number of individuals who are associated with the University and each other, including athletic teams, student clubs and organizations registered with the University including sororities and fraternities) and groups or clubs not registered with the University.

#### **N. Student Conduct Process**

“**Student Conduct Process**” includes all steps of any process(es) in the Student Code of Conduct used to address student behavior and/or misconduct. A Student Conduct Process is initiated at the time a complaint is received and concludes when the matter is closed by a Student Conduct Administrator or designee or after the Respondent’s completion of all sanctions imposed, if any.

#### **O. University**

The term “**University**” means Boise State University.

## **P. University Community**

The term “**University Community**” includes the University, any individual who is a student, staff member, faculty member, employee, affiliate, volunteer, guest, customer, invitee, or other person associated with the University.

## **Q. University Housing**

The term “**University Housing**” includes, but is not limited to, all residence halls, University Square buildings, University Suites, Lincoln Townhomes, the Honors College and First-Year Residence Halls, the University Apartments, and any other unit owned or leased by the University for housing students.

## **R. University Official**

The term “**University Official**” includes:

1. Any person employed by the University performing assigned administrative or professional responsibilities. This includes but is not limited to employees of entities such as the Department of Public Safety and persons such as Resident Assistants;
2. Any student who is assigned or appointed as a formal member of a Conduct Body.

## **S. University Premises**

The term “**University Premises**” includes all land, buildings, facilities, and other property in the possession of, or owned, used, leased, or controlled by the University including, but not limited to, items such as adjacent streets and sidewalks, vehicles, computers, web sites, and University-owned and/or operated computer networks, including wireless internet access.

## **Section 4: Violations**

Any student found to have committed, or attempted to commit, any of the following behaviors may be found in violation of, and is subject to sanctions as outlined in, the Student Code of Conduct:

### **A. Abuse of Computer Facilities and Resources**

The actual and/or attempted mistreatment, misuse, or disruption of any University computer facilities and resources, including but not limited to, those of offices, departments, colleges, and libraries. Such behavior includes, but is not limited to, possessing passwords without proper authorization, spreading computer viruses, hacking into computer systems, downloading or sending unauthorized or illegal materials, and/or allowing unauthorized users to access University electronic resources.

**B. Abuse of Self or Others**

Physical abuse, threats, intimidation, and/or other behavior which threatens or endangers the health or safety of any person, including one's self.

**C. Abuse of Student Conduct Process**

Abuse of the Student Conduct Process may include, but is not limited to:

1. Failure to obey any notice from a Conduct Body or from a University Official to appear for any required meeting;
2. Willful falsification, distortion, or misrepresentation of information during a Student Conduct Process;
3. Disruption or interference with a Student Conduct proceeding or a Student Conduct Process;
4. Filing fraudulent charges or initiating a Student Code of Conduct Process in bad faith;
5. Attempting to discourage an individual's proper participation in, or use of, the Student Conduct Process;
6. Attempting to influence the impartiality of a member of the Student Conduct Process prior to, and/or during the course of, any Student Conduct Process;
7. Harassment (verbal, physical, and/or through use of electronic resources or technology) and/or intimidation of a member of a Conduct Body or Student Conduct Administrator prior to, during, and/or after any University Student Conduct Process;
8. Verbal, physical, or technological harassment, intimidation, and/or retaliation against a person for their exercise of rights under the Student Code of Conduct or participation in the Student Conduct Process as a complainant, respondent, or witness;
9. Failure to comply with any sanction(s) imposed in a Student Conduct Process;
10. Influencing or attempting to influence another person to commit an abuse of the Student Conduct Process.

**D. Academic Misconduct**

Cheating, plagiarism, or other forms of academic dishonesty, attempting or committing any of these acts, or assisting another student in attempting to commit, or committing, an act of academic dishonesty. For additional details see Section 8. Academic Misconduct.

**E. Act of Dishonesty**

An act of dishonesty may include, but is not limited to:

1. Providing false information to any University employee, University Official, or University office;
2. Providing false information on any University document;
3. Providing false information on documents submitted to the University in support of an application for admission;
4. Forgery, alteration, or misuse of any instrument of identification whether issued by the University or by any state or federal agency, and/or any University document or record, including, but not limited to, any academic transcript, academic record change form, fee receipt, parking permit, and/or financial aid form.

**F. Alcohol**

1. Any use, possession, or distribution of alcoholic beverages in violation of Idaho state law, including but not limited to:
  - a. Underage possession or consumption of alcoholic beverages by an individual before the individual's twenty-first birthday;
  - b. Distribution/sale of an alcoholic beverage to any individual before the individual's twenty-first birthday;
  - c. Driving under the influence of alcohol and/or another substance. Operation of a motor vehicle while impaired, or with a blood alcohol or breath alcohol level at or above the legal limit; or
  - d. Public intoxication.

or
2. Possession, use, provision, and/or distribution of kegs, mini kegs, beer balls, beer bong, or any other source of mass consumption of alcohol such as trash cans, tubs, or similar containers, when the action occurs on University premises, in the housing of any student group, or in connection with any University activity.

**G. Arson and Fire Safety**

Any violation of local, state, federal, or University fire policy, including but not limited to:

1. Intentionally or recklessly causing a fire which damages University property or personal property, or which causes injury to a person;
2. Failure to evacuate a University-controlled building during a fire alarm, unless directed to stay in an area of evacuation assistance by a University official;
3. Improper use of University fire safety equipment; or
4. Tampering with, or improperly engaging, a fire alarm or fire detection/control equipment while on University premises.

**H. Bribery and/or Extortion**

Bribery, attempted bribery, acceptance of a bribe, and/or failure to report a bribe. Bribery includes, but is not limited to, offering money and/or some other form of payment including gifts to a Member of the University Community in order to influence any academic or administrative process or to influence any athletic or University event. Extortion includes, but is not limited to, getting or attempting to get money and/or anything of value by violence, threats, and/or misuse of authority.

**I. Creation of Health and/or Safety Hazards**

Creation of a health and safety hazard for any Member of the University Community. Examples of health and safety hazards include, but are not limited to:

1. Participating in a dangerous prank;
2. Hanging out of, or climbing on, windows, balconies, or roofs; or
3. Any other conduct that creates an unreasonable risk of harm to a person or property.

**J. Destruction/Damage or Misuse of Property**

Destruction, damage, or misuse of University or private property, or property belonging to a Member of the University Community.

**K. Discrimination**

When an individual or group of individuals is treated adversely (for example, denied rights, benefits, equitable treatment, or access to facilities or groups open to all others) based on protected characteristics.

Allegations of discrimination on the basis of protected class are investigated and processed by the Office of Institutional Compliance and Ethics under University Policies 1060 and 1065, not under this Student Code of Conduct, except for the 1060 Sanctioning Board and Appeal processes.

#### **L. Disorderly Conduct**

Disorderly conduct may include, but is not limited to:

1. Conduct that a reasonable person would find offensive such as disorderly, disruptive, lewd, indecent, obscene, and/or profane behavior;
2. Disturbing the peace, disrupting, obstructing (or assisting or encouraging another person to do so) any University activity, including but not limited to, teaching, research, administration, athletic, and recreation events, guest speakers and other presentations, cultural events;
3. Any behavior that has a substantial negative effect on a University living and/or learning environments and/or interferes with the rights of another Member of the University Community; or
4. Intentional or reckless obstruction that unreasonably interferes with freedom of movement for either pedestrians or vehicles on University premises or at University-sponsored or supervised functions.

#### **M. Official Order**

Failure to comply with directions of a University Official or a law enforcement officer acting in the performance of their duties and/or failure to accurately identify oneself to a University Official or a law enforcement officer when requested to do so.

#### **N. Drug/Controlled Substance**

Unlawful possession, manufacture, distribution, use, or sale of any controlled or illegal substance, drugs (designer or synthetic), drug paraphernalia (including but not limited to a bong, bowl, hookah, homemade smoking device, pipe), or possession or use of a prescription drug by an individual it was not issued to, or distributing/selling a prescription drug to a person for whom it is not prescribed. A violation may occur if the odor of an illegal or controlled substance or drug is present when more than one individual can reasonably trace it to a specific individual or location.

#### **O. Failure to Act to Protect Health and Safety**

Complicity with, or failure of, any student, recognized student organization, or student group to appropriately address a known or obvious violation of the Student Code of Conduct, or of state or federal law, that poses a risk to the health and safety of any person.

**P. Fiscal Misconduct**

A Fiscal Misconduct violation may include, but is not limited to:

1. Falsification of Boise State University recognized student organization or student group financial records;
2. Any purchase and/or financial transaction made without appropriate organization membership and/or institutional approval, including, but not limited to, long-distance calls, copier use, signature on contracts, travel expenses, and rentals;
3. Failure to relinquish recognized student organization financial records to officers/advisors, and/or University/ASBSU officials;
4. Failure to uphold the financial obligations and agreements entered into on the part of an individual or student organization;
5. Writing a non-sufficient funds (NSF) check to the University or a recognized student organization;
6. Forgery; and
7. Embezzlement.

**Q. Firearm/Weapon**

A Firearm/Weapon violation includes, but is not limited to, the possession, storing, wearing, carrying, transporting, or use of any firearm, explosive device of any kind, weapon, or anything used to threaten, harm or disrupt the University community (including dangerous chemicals, switchblade knives, knives with blades over 3 inches, and realistic replicas of weapons), on University premises, including vehicles parked on University premises. There are exceptions to the general prohibition of weapons on University premises, including the exception required under Idaho law enacted July 1, 2014 - the lawful carrying of concealed firearms by qualified retired law enforcement officers and enhanced concealed carry license holders. For more information, University Policy 12080 (Possession of Firearms/Weapons on University Owned or Controlled Premises) can be found online in the University's policy manual.

**R. Group Offense**

A Group Offense violation may include, but is not limited to, actions by any Student Group, organization, society, club, or similarly organized group, and the coordinated actions of three or more people, whether or not those people belong to a formally recognized group, that result in one or more violations of policy or law. Repeated individual violations of the Student Code of Conduct

may constitute a group offense if there is a nexus between the behavior and an activity or location in control of the group (for example, multiple alcohol or drug-related medical transports from, or arrests made at, a group-controlled property or as a consequence of a group-sponsored event over the course of a semester).

## **S. Harassment**

Harassment is unwelcome conduct (verbal, written, visual, physical, or electronic) that is so severe, pervasive, and offensive, it substantially interferes with the ability of an individual to work, learn, live, participate in, or benefit from the services, activities, or privileges provided by the University. Discriminatory Harassment is unwelcome conduct (verbal, written, visual, physical, or electronic) against another individual based upon a protected category that is so severe, pervasive, and offensive, it substantially interferes with the ability of an individual to work, learn, live, participate in, or benefit from the services, activities, or privileges provided by the University. Allegations of Discriminatory Harassment based on protected class are investigated and processed under University Policy 1065 or 1060 by the Office of Institutional Compliance and Ethics, not under this Student Code of Conduct, except for the 1060 Sanctioning Board and Appeal processes.

Only one instance is necessary to be considered harassment. Harassment may include but is not limited to:

1. Verbal abuse or hostile behavior such as insulting, name calling, teasing, mocking, degrading or ridiculing another person or group (this may include comments distributed via, or published on, the internet);
2. Conduct that is physically offensive, harmful, threatening or humiliating such as impeding or blocking movement, leering or staring;
3. Unwelcome or inappropriate physical contact such as kissing, hugging, pinching, patting, groping; or
4. Physical assault or stalking.

## **T. Hazing**

A violation may include, but is not limited to, any activity expected of someone joining a group or student organization (or maintaining full status in a group or student organization) or any pastime or amusement engaged in with respect to such group or organization, that causes, or is likely to cause a risk of mental, emotional, and/or physical harm, regardless of a person's willingness to participate. Hazing activities may include, but are not limited to, abuse of alcohol during new member activities, striking another person (whether by use of any object or one's body), creation of excessive fatigue, physical and/or psychological shock, morally degrading or humiliating games, or other activities that



create a risk of physical or mental harm. Apathy or acquiescence in the presence of hazing is not a neutral act; it is a violation of the Student Code of Conduct.

This includes, but is not limited to, any situation which:

1. Creates a risk of physical injury or emotional harm or threat to the health and safety of any individual or group;
2. Involves harassment of any individual or group;
3. Involves humiliation, degradation, and/or ridicule that is severe and/or pervasive, and/or offensive.
4. Involves or includes the willful destruction or removal of public or private property for the purpose of initiation or admission into or affiliation with, or as a condition for continued membership in a group or student organization;
5. Interferes with, or attempts to interfere with, an individual's academic pursuits;
6. Causes, pressures or requires a student to violate the law.

Hazing does not include practice, training, conditioning, and eligibility requirements for customary athletic events such as intramural or club sports and NCAA athletics, or similar contests or competitions; however, hazing activities occurring as a part of such athletic events or contests are prohibited.

#### **U. Physical Assault**

A physical assault violation may include, but is not limited to:

1. Intentional and/or unwanted physical contact;
2. Use of violence and/or fighting; and
3. Attempt to harm another person.

#### **V. Dating Violence or Domestic Violence**

Allegations of Dating Violence or Domestic Violence are investigated and processed under University Policy 1065, not under this Student Code of Conduct.

**W. Sexual Misconduct**

Allegations of Sexual Misconduct are investigated and processed under University Policy 1065, not under this Student Code of Conduct.

**X. Non-Gender/Sex-Based Stalking**

Allegations of stalking on the basis of sex, sexual orientation, gender, and/or gender identity are investigated and processed under University Policy 1065, not under this Student Code of Conduct.

Non-gender/sex-based stalking is a course of conduct directed at a specific person that would cause a reasonable person to feel fear or substantial emotional distress. For the purpose of this section, a pattern of behavior is defined as two or more incidents. Stalking behavior may include, but is not limited to:

1. Non-consensual communication, including, in-person communication, telephone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on websites, written letters or notes, gifts, or any other communications that are undesired and/or place another person in fear;
2. Following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by the person being targeted by the behaviors;
3. Surveillance and other types of observation, whether by physical proximity or electronic means;
4. Trespassing;
5. Vandalism;
6. Non-consensual touching;
7. Direct physical and/or verbal threats against a person being targeted or that person's friends, family members, or animals;
8. Gathering of information about a person from that person's family, friends, co-workers, or classmates;
9. Manipulating and controlling behaviors such as threats to harm oneself or threats to harm someone close to the target of the behaviors; or
10. Defamation and slander of the person being targeted.

**Y. Theft**

Taking, or attempting to take, another's property—personal, public or institutional—without express permission. Includes, but is not limited to, the intentional or unauthorized taking of goods, services, and other valuables.

**Z. Trespass**

Trespass occurs when a person enters or remains on University premises after an authorized University Official or law enforcement officer notifies that person orally or in writing that the person's entry or presence is prohibited and therefore the person is excluded from University premises or location specified by the University Official or law enforcement officer. A Trespass violation includes knowingly entering, or remaining in or on, University premises, or any portion thereof, after being notified of the exclusion. A person excluded by a University Official is not licensed, invited, or otherwise privileged to enter or remain on the identified portion of the University premises unless given prior written permission by the University Official who excluded the person or other University Official as designated by the Dean of Students.

**AA.Unauthorized Entry**

Any unauthorized entry, including physical or electronic, either actual or attempted, into any facility, building, or computer system or network owned, used, leased, or controlled by the University. This includes unauthorized possession, duplication, or use of keys or access cards for any facility, building, or computer system or network owned, used, leased, or controlled by the University.

**AB.Unauthorized Electronic or Digital Recording**

Use of any device, electronic or not, to make a record of any person without that person's prior knowledge or effective consent, when such a record is of a private conversation or of a person at a time and place where that person would have a reasonable expectation of privacy, and such record or image is likely to cause injury or distress.

**AC. Violation of University Policy and/or Law**

Violating any University policy, rule, regulation, requirement, directive or contract, whether published electronically or in hard copy, and/or violating any local, state or federal law.

## Section 5: Conduct Body

### A. General Provisions

The Vice President for Student Affairs and Enrollment Management has designated Student Conduct Administrators with the authority to select and train Boise State University employee and student members to serve on each Conduct Body, which have the authority to uphold and enforce the Student Code of Conduct. A Student Conduct Administrator will recognize the importance of diversity when recruiting and selecting Conduct Body members. A Student Conduct Administrator may remove a member from a Conduct Body when the member has failed to perform Conduct Body responsibilities, and may remove a student member found in violation of the Student Code of Conduct. Student Conduct Administrators maintain a list of trained Conduct Body members, and an alternate Conduct Body member from the list may help constitute a quorum if needed. A Student Conduct Administrator is present for all hearings except those conducted by a Hearing Officer.

### B. Conduct Body Types

#### 1. Hearing Officer

A Student Conduct Administrator, Office of the Dean of Students designee, or a Housing & Residence Life Resident Director who conduct Administrative Conferences.

#### 2. Conduct Hearing Administrators

An individual trained as a Conduct Hearing Board member whose primary role at the University is as a faculty, classified, or non-classified employee, who conducts Conduct Administrative Hearings.

#### 3. Conduct Hearing Board

Comprised of individuals trained by a Student Conduct Administrator as Conduct Hearing Board members. A Conduct Hearing Board quorum is composed of the following Boise State University members:

- a. At least 1 student;
- b. At least 1 faculty;
- c. At least 1 classified or non-classified employee.

A Conduct Hearing Board may consist of 3-5 members. In the event 5 members comprise a Conduct Hearing Board, at least 2 of the Conduct Hearing Board members must be students.

#### 4. Appeal Board

An Appeal Board hears an appeal of a prior Conduct Body decision and/or sanctions as set forth in Section 9. An Appeal Board quorum is composed of the following Boise State University members:

- a. At least 1 student;
- b. At least 1 faculty;
- c. At least 1 professional or classified employee.

An Appeal Board may consist of 3-5 members. In the event 5 members comprise an Appeal Board, at least 2 of the Appeal Board members must be students.

#### 5. Academic Sanctioning Board

An Academic Sanctioning Board hears grievances resulting from Faculty action under Section 8 (Academic Misconduct) of the Student Code of Conduct. An Academic Sanctioning Board quorum is composed of the following Boise State University members:

- a. At least 1 student;
- b. At least 1 faculty;
- c. At least 1 professional or classified employee.

An Academic Sanctioning Board may consist of 3-5 members. In the event 5 members comprise an Academic Sanctioning Board, at least 2 of the Academic Sanctioning Board members must be students.

#### 6. 1060 Sanctioning Board

The Student Conduct Administrator will convene a 1060 Sanctioning Board and set a date for a Sanctioning Conference. A 1060 Sanctioning Board will consist of 3-5 University faculty and staff members who receive annual training on Policy 1060 matters. A minimum of three (3) 1060 Sanctioning Board members is required to conduct a Sanctioning Conference. At least one representative from each representative group (faculty and staff) must be present to hold a 1060 Sanctioning Conference as outlined in University Policy 1060. The 1060 Sanctioning Board follows the Sanctioning Process outlined in Policy 1060.

## Section 6: Non-Academic Misconduct Complaints and Procedure

### A. Complaints and Processing

Complaints, with the exception of those subject to investigation and processing under University Policies 1060 and/or 1065 may be brought to the Office of the Dean of Students for investigation and processing. Complaints subject to University Policies 1060 and/or 1065 are investigated and processed by the Office of Institutional Compliance and Ethics as outlined in those respective policies, not under this Student Code of Conduct except for 1060 Sanctioning Board, and Appeal processes.

Boise State University or the Dean of Students may act as a Complainant and/or Co-Complainant against a student(s) when there is no other Complainant able to participate and/or willing to participate but the infraction is sufficient for further disciplinary review. As the Student Code of Conduct applies to students on and off University premises, student actions resulting in potential violations may be brought forward by police or through arrest records available to the Office of the Dean of Students.

1. A complaint alleging a violation of the Student Code of Conduct should be filed as soon as possible after the event takes place. The longer someone waits to report an alleged Code of Conduct violation, the harder it becomes for University officials to obtain information and witness statements and to make determinations regarding alleged violations.
2. Individuals may file a complaint in writing or verbally by meeting with a Student Conduct Administrator, or designee. Complaints are considered the main basis of a Student Conduct case and should therefore be made as clearly and carefully as possible. Upon receiving a complaint, a Student Conduct Administrator or designee will review the complaint and conduct an investigation to determine whether it appears to meet the criteria for a possible violation of the Student Code of Conduct. The investigation may include meeting with the Respondent if at all possible.
3. A Student Conduct Administrator or designee may find that the complaint does not have merit. Such a finding will be final and there will be no Student Conduct Process.
4. A Student Conduct Administrator or designee may determine that it is possible to resolve the complaint by mutual consent of the parties involved and the Office of the Dean of Students. A disposition by mutual consent of the parties and the Office of the Dean of Students is final and there will be no subsequent Code of Conduct proceedings.
5. If the complaint is determined to have merit and cannot be disposed of by mutual consent, or if the Student Conduct Administrator determines that the alleged violation results in harm to the Complainant or the University Community, the Respondent will be notified of charges under the

Student Code of Conduct and will be provided an opportunity to respond to the alleged violations as outlined the Complainant and the Respondent will be given the opportunity to express a preference for a Student Conduct hearing before a hearing officer or a Conduct Board. The Student Conduct Administrator will consider the parties' requests when referring the case to a Conduct Body. The Student Conduct Administrator is the final arbiter in determining which hearing process will be used to resolve charges.

## B. Hearings

Cases forwarded to a Conduct Body for a hearing will adhere to the following guidelines. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil courts, are not used in Student Conduct proceedings.

There are three types of hearings—Administrative Conference, Conduct Administrative Hearing, and Conduct Board Hearing.

### 1. Administrative Conference

In instances where the alleged violations would not result in suspension or expulsion, Respondents and Complainants may request an Administrative Conference.

- a. The Complainant and the Respondent have the right to be supported by any advisor of their choosing. However, the Complainant and Respondent are responsible for presenting their own information. Advisors are not permitted to participate directly in any hearing before a Hearing Officer. It is the responsibility of the Complainant and/or Respondent to make arrangements for their advisor to be at the Administrative Conference.
- b. The Student Administrative Conferences conclude with the Respondent making a final verbal and/or written assertion regarding whether the Respondent believes they are responsible/not responsible for each violation.
- c. Conduct Administrator acts as the Hearing Officer and makes a determination regarding an alleged violation on the basis of whether it is more likely than not that the Respondent violated the Student Code of Conduct.
- d. The Student Conduct Administrator applies sanctions if a violation of the Student Code of Conduct is determined to have occurred.
- e. The Respondent and Complainant will be notified by the Office of the Dean of Students within ten (10) University business days of the Administrative Conference of the Hearing Officer's decision, including any sanctions imposed.

- f. University personnel with a need to know (as determined by the Student Conduct Administrator) may be notified of the outcome of the hearing.
- g. An Administrative Conference decision may be appealed but another hearing will not be conducted unless the Appeal Board provides direction to do so. Appeals must be submitted in writing to the Office of the Dean of Students within ten (10) University business days of the date printed on the decision notification (see Section 9: Appeals for more information).

## 2. Conduct Administrative Hearings

Conduct Administrative Hearings adjudicate alleged violations for which expulsion is not a potential sanction. The Conduct Hearing Administrator may consider written and verbal statements by any involved party or witness, photographs, investigative summaries/reports/documents/recordings, and testimony.

- a. The Office of the Dean of Students will notify all Respondents named in an official complaint that Student Code of Conduct charges have been filed and the date, time, and place of the Conduct Administrative Hearing.
  - i. Notice of the hearing is accomplished when notice is emailed to the student's Boise State University email address at least ten (10) University business days in advance of the hearing date, or when notice is mailed via U.S. Postal Service to the address listed with the Registrar's Office and post-marked at least ten (10) University business days in advance of the hearing date.
- b. Submission of available, relevant information to the Student Conduct Administrator (such as witness lists, witness statements, documents, photographs, recordings, and Respondent's response to the charges) by the Complainant and the Respondent must occur no later than five (5) University business days prior to the date of the Conduct Administrative Hearing.
  - i. Witness lists must include a statement regarding what information each witness is anticipated to provide to the Conduct Hearing Administrator. Witnesses are permitted to attend the Conduct Administrative Hearing in order to provide new evidence; it is not necessary to provide character witnesses or to have multiple witnesses attesting to the same alleged facts. It is the responsibility of the Complainant and Respondent to arrange for their witnesses to be present at the hearing.
  - ii. Testimony from witnesses who will not be at the hearing may be introduced in signed, written form. Such testimony must be submitted to the Student Conduct Administrator no later than five (5) University business days prior to the date of the Conduct Administrative Hearing.



- c. Available information (witness lists, witness statements, the complaint, the response, and any other information submitted to the Student Conduct Administrator related to the charges) will be made available to the Complainant and Respondent three (3) University business days prior to the date of the Conduct Administrative Hearing (i.e.: if a hearing date is on a Friday, the hearing information packet will be available on Tuesday). The Complainant and Respondent will receive a Hearing Checklist at this time, to ensure the parties understand the order of the hearing. All hearing participants (Conduct Hearing Administrator, Complainant and Respondent) will receive notice no later than three (3) business days prior to the Conduct Administrative Hearing that the Hearing Packet is available.
- d. At the hearing:
  - i. The hearing will proceed according to the process outlined on the Hearing Checklist.
  - ii. The hearing will be conducted in private. Admission of any person to the hearing will be at the discretion of the Conduct Hearing Administrator. Witnesses will be present only to share their information and to be questioned by the Conduct Hearing Administrator and then excused after their testimony concludes.
  - iii. If the charges involve more than one Respondent, a Student Conduct Administrator may permit the hearings for each Respondent to be conducted separately or at the same time. A Respondent may express preference concerning separate or joint hearings to the Student Conduct Administrator at the Pre-Hearing Conference.
  - iv. The Complainant, the Respondent, and the University through the Dean of Students or designee, may present witnesses at the hearing, subject to cross-questioning by the Conduct Hearing Administrator.
  - v. All questions during the hearing must be asked by the Conduct Hearing Administrator. The Complainant and Respondent may suggest possible questions to the Conduct Hearing Administrator; however, the Complainant/Respondent may not ask questions of witnesses or each other directly. All proposed questions shall be submitted in writing by the parties to the Conduct Hearing Administrator prior to the start of the hearing, who will then consider their relevance and appropriateness before being posed.
  - vi. The Complainant and the Respondent have the right to be supported by any advisor of their choosing. However, the Complainant and Respondent are responsible for presenting their own information. Advisors are not permitted to participate directly in a Conduct Administrative Hearing. It is the responsibility of the Complainant and/or Respondent to make arrangements for their advisor to be at the Conduct Administrative Hearing.

- vii. If the Respondent or Complainant, after receiving notice of charges and hearing, do not appear at the Conduct Administrative Hearing, the Conduct Hearing Administrator may hear the information from any party who is present and conclude the case without the other party (or either parties) being present.
  - viii. When appropriate, a Student Conduct Administrator may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Complainant, Respondent, and/or witnesses during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, video conferencing, video recording, audio recording, written statement, or other means. Requests for such accommodations must be made to a Student Conduct Administrator no later than three (3) University business days prior to the hearing date.
  - ix. The Conduct Hearing Administrator has the discretion to exclude or deny certain witnesses from presenting by stating reasonable grounds (i.e., prejudicial information).
  - x. All procedural questions during the hearing are subject to the final decision of the Conduct Hearing Administrator at the time of the hearing.
  - xi. At the end of the hearing, all materials disseminated to the parties prior to or during the hearing must be returned to a Student Conduct Administrator.
- e. After the hearing, the Conduct Hearing Administrator will determine whether it is more likely than not that the Respondent has violated the Student Code of Conduct as charged.
  - f. Respondent and Complainant will be notified by the Dean of Students office within ten (10) University business days of the Conduct Administrative Hearing of the Conduct Hearing Administrator's decision, including any sanctions imposed if there is a finding of "responsible" for any charge. Complainant's notification will include information regarding sanctions that 1) apply directly to the Complainant (for example, a "no contact" order or exclusion from University premises) or 2) in the case of alleged violence, the Complainant may receive all information regarding the decision, including any sanction(s) imposed.
  - g. University personnel with a "need to know" (as determined by a Student Conduct Administrator) may be notified of the outcome of the hearing.
  - h. A Conduct Administrative Hearing decision may be appealed, but another hearing will not be conducted unless an Appeal Board provides direction to do so. Appeals must be submitted in writing to the Office of the Dean of Students within ten (10) University business days of the date printed on the Conduct Administrative Hearing decision letter (see Section 9: Appeals for more information).

### 3. Conduct Board Hearing

A Conduct Board Hearing includes, but is not limited to, consideration of written and verbal statements by any involved party or witness, photographs, investigative summaries/reports/documents/recordings, and testimony.

- a. The Office of the Dean of Students will notify all Respondents named in an official complaint that Student Code of Conduct charges have been filed and the date, time, and place of the Conduct Board Hearing.
  - i. Notice of the hearing is accomplished when notice is emailed to the student's Boise State University email address at least ten (10) University business days in advance of the hearing date, or when notice is mailed via U.S. Postal Service to the address listed with the Registrar's Office and post-marked at least ten (10) University business days in advance of the hearing date.
- b. Submission of available, relevant information to a Student Conduct Administrator (such as witness lists, witness statements, documents, photographs, recordings, and Respondent's response to the charges) by the Complainant and the Respondent must occur no later than five (5) University business days prior to the date of the Conduct Board hearing.
  - i. Witness lists must include a statement regarding what information each witness is anticipated to provide to the Conduct Board. Witnesses are permitted to attend the hearing in order to provide new evidence; it is not necessary to provide character witnesses or to have multiple witnesses attesting to the same alleged facts. It is the responsibility of the Complainant and Respondent to arrange for their witnesses to be present at the hearing.
  - ii. Testimony from witnesses who will not be at the hearing may be introduced in signed, written form. Such testimony must be submitted to a Student Conduct Administrator no later than five (5) University business days prior to the date of the Conduct Board hearing.
- c. Available information (witness lists, witness statements, the complaint, the response, and any other information submitted to a Student Conduct Administrator related to the charges) will be made available to the Complainant and Respondent three (3) University business days prior to the date of the Conduct Board hearing (i.e.: if a hearing date is on a Friday, the hearing information packet will be available on Tuesday). The Complainant and Respondent will receive a Hearing Checklist at this time, to ensure the parties understand the order of the hearing. All parties participating in the hearing (Conduct Board members, Complainant and

Respondent) will receive notice no later than three (3) business days prior to the Conduct Board Hearing that the Hearing Packet is available.

- d. At the hearing:
- i. The Conduct Board must constitute a quorum in order for the hearing to proceed.
  - ii. The hearing will proceed according to the process outlined on the Hearing Checklist.
  - iii. The hearing will be conducted in private. Admission of any person to the hearing will be at the discretion of the Conduct Board Chair. Witnesses will be present only to share their information and to be questioned by the Conduct Board and then excused after their testimony concludes.
  - iv. If the charges involve more than one Respondent, a Student Conduct Administrator may permit the hearings for each Respondent to be conducted separately or at the same time. A Respondent may express preference concerning separate or joint hearings to the Student Conduct Administrator at the Pre-Hearing Conference.
  - v. The Complainant, the Respondent, and the University through the Dean of Students or designee, may present witnesses at the hearing, subject to cross-questioning by the Conduct Board.
  - vi. All questions during the hearing must be asked by the Conduct Board. The Complainant and Respondent may suggest possible questions to the Conduct Board Chair; however, the Complainant/Respondent may not ask questions of witnesses or each other directly. All proposed questions shall be submitted in writing by the parties to the Conduct Board Chair prior to the start of the hearing, who will then consider their relevance and appropriateness before being posed.
  - vii. The Complainant and the Respondent have the right to be supported by any advisor of their choosing. However, the Complainant and Respondent are responsible for presenting their own information. Advisors are not permitted to participate directly in any hearing before a Conduct Board. It is the responsibility of the Complainant and/or Respondent to make arrangements for their advisor to be at the Conduct Board hearing.
  - viii. If the Respondent or Complainant, after receiving notice of charges and hearing, do not appear before the Conduct Board, the Conduct Board may hear the information from the party who is present and conclude the case without the other party (or either parties) being present.

- ix. When appropriate, a Student Conduct Administrator may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Complainant, Respondent, and/or witnesses during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, video conferencing, video recording, audio recording, written statement, or other means. Requests for such accommodations must be made to a Student Conduct Administrator no later than three (3) University business days prior to the hearing date.
  - x. The Conduct Board Chair has the discretion to exclude or deny certain witnesses from presenting by stating reasonable grounds (i.e., prejudicial information).
  - xi. All procedural questions during the hearing are subject to the final decision of Conduct Board Chair at the time of the hearing.
  - xii. At the end of the hearing, all materials disseminated to the parties and Conduct Board members prior to or during the hearing must be returned to a Student Conduct Administrator.
- e. After the hearing, the Conduct Board will determine whether the Respondent has violated the Student Code of Conduct as charged. The Conduct Board's determination will be made on the basis of whether it is more likely than not that the Respondent violated the Student Code of Conduct.
  - f. Respondent and Complainant will be notified by the Dean of Students office within ten (10) University business days of the Conduct Administrative Hearing of the Conduct Hearing Administrator's decision, including any sanctions imposed if there is a finding of "responsible" for any charge. Complainant's notification will include information regarding sanctions that 1) apply directly to the Complainant (for example, a "no contact" order or exclusion from University premises) or 2) in the case of alleged violence, the Complainant may receive all information regarding the decision, including any sanction(s) imposed.
  - g. University personnel with a "need to know" (as determined by a Student Conduct Administrator) may be notified of the outcome of the hearing.
  - h. A Conduct Board hearing decision may be appealed but another hearing will not be conducted unless the Appeal Board provides direction to do so. Appeals must be submitted in writing to the Office of the Dean of Students within ten (10) University business days of the date printed on the Conduct Board decision letter (see Section 9: Appeals for more information).

### **C. Respondent and Complainant Rights and Responsibilities**

1. To challenge any member of a Conduct Board if the Complainant or Respondent believe that the person is biased (challenges for bias are decided on by the Student Conduct Administrator);
2. To document in writing any response to the alleged violation. A response is also included as part of the submission to the Appeal Board in any appeals process and therefore such responses should be written as carefully and completely as possible.
3. To identify an advisor to support the party during the Student Conduct Process. The Office of the Dean of Students can assist either party with identifying an advisor if requested by either the Complainant or Respondent.

### **D. Recording of Hearing**

No recordings are made of administrative review hearings. It is in the sole discretion of the Conduct Board Chair to determine whether or not an official audio or visual recording of a Conduct Board hearing will be made. If a recording is to be made, a single recording, such as an audio recording, of the Conduct Board hearing before will be maintained by the Office of the Dean of Students. The recording will be the sole property of Boise State University. No other audio or visual recordings of hearings are allowed. Deliberations will not be recorded. All audio and visual recordings will be destroyed at the conclusion of seven (7) years following completion of the Student Conduct Process for the particular Student Conduct case. After that time, the written notification of decision letter by the Conduct Body remains as the official University record of the matter.

## **Section 7: Interim Action and Student Conduct Sanctions**

### **A. Interim Action**

The Dean of Students or designee may take immediate action (“interim action”) when necessary to secure the health and/or safety of a Member of the University Community and/or to address an alleged violation of the Student Code of Conduct.

1. Interim action may include, but is not limited to:
  - a. immediate suspension from the University;
  - b. loss of privileges, which may include restrictions from or to a specific area of the University’s premises;
  - c. immediate removal from a classroom(s);
  - d. a hold being placed upon a student’s registration and records;

- e. suspension or revocation of University-issued identification card and/or access;
  - f. class or University Housing adjustments;
  - g. referral for a medical or psychological evaluation at the student's expense;
    - i. This evaluation may be conducted by a qualified professional approved by the University;
    - ii. The evaluation may be used to determine the appropriateness of withdrawing the Interim Action(s).
  - h. Any other remedy warranted under the circumstances to protect the health and safety of persons, and/or University operations or property, and/or the University Community.
2. At the time that the interim action is imposed, the Dean of Students will:
- a. Inform the Respondent of the interim actions;
  - b. Inform the Respondent of the reason for the interim actions; and
  - c. Inform the Respondent that a meeting will take place to review the Interim Action(s).
3. Interim Action Meeting Procedures:
- a. As soon as is practical (but no later than ten (10) University business days from the date the Respondent is informed that an interim action is imposed), a meeting will take place with Dean of Students or designee to review the interim action;
  - b. The Respondent will have an opportunity to demonstrate to the Dean of Students or designee why the condition(s) specified in the interim action should not continue;
  - c. An advisor of the Respondent's choosing may accompany the Respondent to the meeting as a support person; however, the advisor is not permitted to actively or directly participate in the meeting.
4. Based on a reasonable evaluation of the information presented by Respondent at the meeting, the Dean of Students or designee will notify the student within forty-eight (48) hours of the meeting of the decision to:
- a. Remove the interim actions and take no further Student Conduct action;
  - b. Remove the interim actions but proceed to a Conduct Board hearing regarding the Respondent's conduct as prescribed in the Student Code of Conduct;

- c. Sustain the interim actions until such time as a Conduct Board hearing regarding the Respondent's conduct may be held.

## **B. Student Conduct Sanctions**

Student Conduct sanctions are imposed for the purposes of restoring the standards of the University community, educating students about the seriousness of their actions, promoting positive growth, and maintaining the safety of the students involved and of the University community. Failure to comply with sanctions imposed by a Conduct Body's decision within the specified time period(s) may result in further and immediate sanctions. The University will consider as an aggravating factor in determining sanctions any violation of law or of this Student Code of Conduct where the Respondent intentionally selected the person and/or target of the violation based on actual or perceived age, race, color, religion, disability, gender, sexual orientation, gender identity/expression, national origin, ancestry, disability, or veteran status. More than one of the following sanctions listed may be imposed for any single violation of the Student Code of Conduct.

### **1. Warning**

A written notice that the Respondent is violating or has violated University policy and that additional infractions of the Student Code of Conduct could result in further sanctions.

### **2. Educational Sanctions**

The Conduct Body may impose educational sanctions including reflection papers, educational modules and/or projects designed to assist the Respondent in reflecting on their decision making. Some educational sanctions will incur a user fee which will be disclosed to the Respondent at the time the sanction is imposed.

### **3. Student Conduct Probation**

A student may be placed on Student Conduct Probation ("Probation") following a violation of the Student Code of Conduct. Probation is for a designated period of time. Probation may be assigned in conjunction with other sanctions or stand alone as the only sanction for a violation. Additional violations while on Probation may include the additional imposition of more severe Student Conduct sanctions.

### **4. Restitution**

Monetary payment required to be made by Respondent to reimburse for repair or replacement of damage, or misappropriated property, and/or to reimburse for medical or other expenses incurred by a third party as a direct result of misconduct.



## 5. University Service Hours

Work assignments, service to the University, or other related discretionary assignments.

## 6. Fines

Monetary penalty required to be paid by Respondent which is imposed for a violation of the Student Code of Conduct.

## 7. Loss of Privileges

Action prohibiting a Respondent from participating in certain activities or enjoying certain privileges for a prescribed period of time. Loss of privileges may include, but is not limited to:

- a. Removal from University Housing;
- b. Revocation of student identification card;
- c. Removal from a student leadership positions (elected or appointed);
- d. Removal from an athletic team or club sport;
- e. Loss of University employment;
- f. Exclusion from all or specific University premises.

## 8. Student Housing Suspension

Removal of the Respondent from University Housing for a definite period of time, after which the Respondent is eligible to return. Conditions for readmission may be specified.

## 9. Student Housing Expulsion

Permanent removal of the Respondent from University Housing which may include a prohibition against the Respondent making future application for University Housing.

## 10. Hold on Academic Records

Action restricting the Respondent's admission and registration until a Student Conduct sanction is fulfilled by the Respondent. A hold will restrict the University from releasing official academic transcripts and/or awarding a diploma until the sanction is fulfilled by the Respondent.

### 11. University Suspension

Action terminating the Respondent's registration in some or all University classes for a prescribed period of time. Conditions for readmission may be specified by the Conduct Body. Following a suspension, the Respondent is readmitted on Student Conduct Probation for the duration of the Respondent's enrollment at the University.

### 12. University Expulsion

Action terminating the Respondent's registration and relationship with the University. This action separates the Respondent from the University permanently for all current and future academic terms. An expelled student is ineligible for readmission to the University.

### 13. Group and/or Organization Sanctions

Sanctions for groups may result in permanent or temporary suspension of the group from the University, loss of recognition or charter, social probation, or other actions deemed appropriate by the University. An individual involved in a group offense and/or sanction can also be subject to additional individual charges and sanctions. Any student group and/or organization may be subject to the following sanctions:

- a. Those sanctions listed above;
- b. Loss of selected rights and privileges for a specified period of time;
- c. Deactivation and/or loss of privileges, including loss of University recognition, for a specified period of time.

### 14. Revocation of Admission and/or Degree

Admission to the University or a degree awarded by Boise State University may be revoked for fraud, misrepresentation, or other violations of Boise State University standards in obtaining the admission or degree, or for other serious violations committed by a student prior to graduation.

### 15. Withholding Degree

Boise State University may withhold awarding a degree otherwise earned by a Respondent until the completion of the Student Conduct Process as set forth in the Student Code of Conduct, including the Respondent's completion of all sanctions imposed, if any.

## 16. Classroom Dismissal

At the discretion of Faculty, a student may be dismissed from class for one or two class periods. Faculty may also request that a student be dismissed from the class for the remainder of the semester. The policy for maintaining order in classrooms and the procedures for classroom dismissal are outlined in Boise State University Policy 2050.

## Section 8: Procedures for Academic Misconduct

### A. General Information Regarding Academic Misconduct

Boise State University promotes Academic Excellence as a core Shared Value, upholding the virtue of honesty in the pursuit of knowledge as a hallmark of an institution of higher education. The ultimate recognition for a student's scholarly work is the conferring of a degree, which represents the University's indication that the recipient has engaged in academic work with integrity.

1. When a student places their name on an assignment, the student is indicating that the work submitted is original unless otherwise identified by appropriate acknowledgements. Academic Misconduct is a serious offense at the University because it undermines the bonds of trust and honesty between members of the University community and defrauds those who may eventually depend upon our knowledge and integrity. Promoting and protecting academic integrity at the University is the responsibility of every member of the University community.
2. Faculty responsible for instruction are charged and empowered with determining the class content and how it is delivered. They are responsible for maintaining appropriate academic standards and evaluating whether students comply with University and course standards as outlined in the Student Code of Conduct, in the course syllabus, and in written and verbal directions for assignments.
3. It is therefore appropriate in those instances when a Faculty member believes that a student has committed some form of Academic Misconduct in a course that the faculty member determines responsibility and applies an appropriate sanction or sanctions which may include a requirement to resubmit the work in question, a grade penalty on the assignment or exam, and/or a grade penalty for the course ranging up to a student's failure of that course. Equally, department chairs and college and school deans are responsible for maintaining appropriate academic standards and evaluating whether students comply with University and academic program standards as outlined in the Student Code of Conduct and in academic program criteria. It is also therefore appropriate in those instances when a student has been found responsible for Academic Misconduct that the department chair and/or college or school dean may impose the additional action (which is not subject to appeal under this policy) of removal from an academic program.

4. When Faculty consider what sanction to apply, the Faculty member may take into consideration whether it is believed the student engaged in *academic negligence* or a more intentional act of *academic dishonesty* (but not both). Academic negligence includes, but is not limited to, the act of a student who, through ignorance, carelessness, or mistaken academic work, engages in behavior that, upon initial review, appears to be a deliberate act of Academic Misconduct but ultimately is found not to be intentional in the act. Academic dishonesty includes, but is not limited to, determining a student intentionally acted in a way to gain an unfair advantage over other students. It is the role of the Faculty to determine the severity of the behavior and determine the appropriate sanction. The University considers both academic negligence and academic dishonesty to be acts of Academic Misconduct and both are therefore violations of the Student Code of Conduct.

## **B. Academic Misconduct**

Academic Misconduct is behavior and/or action by a student that has the effect of interfering with the education, pursuit of knowledge, or fair evaluation of a student's performance or work. As a result, Academic Misconduct is prohibited at Boise State University. Academic Misconduct can be intentional or unintentional and includes but is not limited to cheating, plagiarism, fabrication or falsification of information, inappropriate or unauthorized collaboration, and research misconduct. Students who engage or attempt to engage in any of the below identified behaviors and/or actions may be found in violation of the Student Code of Conduct. Examples of Academic Misconduct include but are not limited to:

### **1. Cheating**

Cheating involves the unauthorized possession, use, or attempt to possess or use information, materials, notes, study aids, or other devices in any academic exercise (including but not limited to an assignment or examination), or any unauthorized communication with another person during such an academic exercise, that would result in an unfair advantage over fellow students. Examples of cheating include, but are not limited to:

- a. Unauthorized copying of a class exercise—before, during, or after the class exercise, either for a student's own use or for the use of others;
- b. Using, providing, or purchasing the aid of sources not authorized by the Faculty member in preparing for an examination, writing a paper, preparing a report, solving a problem, or carrying out any other class exercise;
- c. Acquiring, without permission, any assignment or other academic material belonging to a member of the University faculty or staff;

- d. Creating, keeping, or using unauthorized collections of assignments or any part of such a collection;
- e. Having someone else complete a class exercise instead of the student who has been assigned to complete the exercise;
- f. Completing a class assignment for someone else;
- g. Submitting, without prior permission, one's own work that was already submitted to fulfill another academic requirement;
- h. Representing any material created by another person as one's own work;
- i. Creating or fabricating nonexistent sources such as books, journal articles, or other media;
- j. Using an electronic device during an exam, unless authorized by the Faculty;
- k. Submitting work for an in-class exam which was prepared in advance of the exam;
- l. Violating rules governing the administration of exams;
- m. Violating any rules relating to academic conduct in a course or program;
- n. Assisting others in acts of Academic Misconduct through the facilitation of behavior which violates the Student Code of Conduct.

## 2. Plagiarism

Plagiarism is the unacknowledged use or incorporation, without specific or proper acknowledgment or citation, of ideas, data, or language of another person's work in, or as the basis for, one's own work that is offered for academic consideration, credit, or public presentation or as part of an application for admission to the University or a University Program. Lack of knowledge of proper citation is not a valid excuse for plagiarism. It is the responsibility of the student writing the material to know the proper methods for appropriate citation and/or to seek guidance/help when attempting to learn the proper methods for citation or use another's work so that proper attribution is given to the other person. Plagiarism can be committed in any type of academic exercise by representing as one's own, without proper attribution, another individual's words, phrases, ideas, sequence of ideas, information or any other mode, or content of expression. Examples of plagiarism include but are not limited to any of the following behaviors if full, clear, and proper acknowledgement of the original source is not included:

- a. The copying of another person's work, published or unpublished;
- b. The paraphrase or summary of another person's work, published or unpublished;
- c. Using another person's ideas, arguments, and/or thesis from a published or unpublished work;
- d. Using another person's research from a published or unpublished work;
- e. Using materials prepared by a person or agency engaged in the selling of papers or other academic materials;

### 3. Unauthorized Collaboration

Students should complete all academic coursework and assignments on their own, unless otherwise instructed or granted permission by the Faculty member. Working with others on an assignment unless it has been explicitly permitted by the Faculty member is not allowed. Unauthorized collaboration can also include working too closely with others on assignments that the Faculty member has given explicit permission to collaborate on when the collaboration violates the expectations set by the Faculty member.

### 4. Fabrication or Falsification

Fabrication or falsification includes but is not limited to reporting experiments or measurements or statistical analyses never performed; manipulating or altering data or other manifestations of research to achieve a desired result; falsifying or misrepresenting background information, credentials or other academically relevant information; or selective reporting, including the deliberate suppression of conflicting or unwanted data. It does not include honest error or honest differences in interpretations or judgments of data and/or results.

### 5. Research Misconduct

Research misconduct includes, but is not limited to, sabotage of another's experiment, research and/or fabrication, falsification or misrepresentation of research and/or data, plagiarism in proposing, performing, or reviewing research, or in reporting research results. Any violation by a student of University Policy 5060 Misconduct in Research is a violation of the Student Code of Conduct.

## C. Procedures for Addressing Academic Misconduct

1. When Academic Misconduct has been alleged, the following procedures are followed:
  - a. The faculty member will document the incident of alleged Academic Misconduct.

- i. If an accusation of Academic Misconduct is alleged by any individual other than the course Faculty, the complaint will be referred to the Faculty for the course in which the behavior occurred for the Faculty member's review and action to be taken as outlined in this policy. In some cases, egregious acts of Academic Misconduct may be automatically referred to a Student Conduct Administrator in the Office of the Dean of Students for a formal hearing by a Conduct Board.
- b. The Faculty member will notify the student of the Faculty member's belief that the student has committed Academic Misconduct and will provide the student with an opportunity to respond to the allegation before making a final decision.
  - i. The student will meet with the Faculty in person when possible to discuss the allegation before a final decision is rendered;
  - ii. If the Faculty member is unable to meet with the student in person, the Faculty member shall email the student, at the student's University email address, an explanation of the alleged charges in order to allow for a response to the allegation before the Faculty makes a determination as to whether the student violated Section 8 of the Student Code of Conduct;
  - iii. Both the student and the Faculty member may have a support person/advisor attend the meeting if they so choose. The role of the support person/advisor is to only to provide support and thus the support person/advisor may not directly engage in the discussion occurring between the student and the Faculty. An exception to this may include input from the Department or Program Chair who, if choosing to participate in the discussion, has a responsibility for the broader academic environment of the department or program.
- c. The Faculty, after hearing the student's response or after the student has failed to respond by a deadline provided by the Faculty member, and after consultation with the department or program chair, will notify the student via email to the student's University email address regarding:
  - i. Whether or not a finding of Academic Misconduct has been determined, citing the reasons for the decision; and
  - ii. Any sanctions imposed for the offense. Sanctions must be in keeping with the sanctions noted in this policy and published course policies (if any are noted in the course syllabus).
- d. The Faculty must notify the Office of the Dean of Students of the determination by providing a copy of the Academic Misconduct decision email and all other relevant

documents. This notification should be made to the Student Conduct Administrator on the same date the student is notified of the Faculty member's determination.

#### **D. Right of Appeal**

A student may appeal a Faculty member's decision concerning Academic Misconduct by filing an appeal within ten (10) University business days of the date of the decision notification email. An Appeal Board will review the original decision and determine whether or not the student violated the Student Code of Conduct regarding Academic Misconduct and/or whether the sanctions imposed by the Faculty are in accordance with this policy and the Faculty member's published policies (if any are noted in the course syllabus). The procedure for appeal of an Academic Misconduct violation follows the process outlined in Section 9, Appeals.

#### **E. Education**

The Office of the Dean of Students may require participation in an academic integrity workshop or assign an alternate educational sanction in addition to the sanctions issued by the Faculty member. Non-compliance with Office of the Dean of Students educational workshop or alternate educational sanction will result in a hold being placed on the student's record.

#### **F. Academic Sanctioning Hearing**

When a student has been found in violation of the Student Code of Conduct for more than one act of Academic Misconduct, the Office of the Dean of Students may then schedule an Academic Sanctioning Hearing for the student. At the hearing, the student will address the Academic Sanctioning Board and respond to the multiple cases on record. The Academic Sanctioning Board, after hearing from the student, may then choose to impose additional sanctions beyond what the Faculty member(s) for the course(s) have already imposed. Sanctions may range from a warning up to suspension and/or expulsion from the University.

Academic Sanctioning Hearing procedures are different from other Student Code of Conduct hearings in that the student has already been found in violation of the Student Code of Conduct by Faculty. The Academic Sanctioning Board's role is not to determine responsibility for violating the Student Code of Conduct because that has already occurred; rather, the Academic Sanctioning Board reviews the totality of the student's behavior and imposes appropriate additional sanctions (if any). Any additional sanctions imposed may be appealed according to the appeal process outlined in Section 9, Appeals.

#### **G. Academic Sanctioning Board Hearing Process**

Students are notified and can participate in the hearing process as provided in Section 6 of the Student Code of Conduct. The time frames for communication, submittal of relevant information,



the rights to a support person/advisor and presenting relevant witnesses (when appropriate) follow Section 6.

The scope of the hearing is limited to the student's Academic Misconduct history being reviewed for the application of additional, appropriate sanctions.

A quorum for an Academic Sanctioning Hearing consists of one Faculty member, one classified or professional staff member, and one student. The hearing process follows the Hearing Checklist provided to the student ahead of time. If a student does not appear before the Academic Sanctioning Board after receiving notice of the Academic Sanctioning Hearing, the Board will proceed with the hearing without the student's input and determine the appropriateness of additional sanctions based on the information presented.

Appropriate faculty, academic administrators, and other students relevant to the case may be called upon to participate should it be deemed appropriate by the Academic Sanctioning Board.

## Section 9: Appeals

An appeal of a decision made by a Conduct Body is made by filing an appeal as outlined below with the Office of the Dean of Students. While an appeal is pending, sanctions imposed by a Conduct Body may be placed on hold by a Student Conduct Administrator until the appeal process is completed. Select sanctions, including those imposed as Interim Actions, may remain implemented and in effect pending the outcome of the appeal process to ensure the safety, security or well-being of members or guests of the University community, University property, or the ability of the University to maintain normal operations and carry on its normal services, activities and programs free of disruption.

1. Both the Complainant and the Respondent have the right to file an appeal.
2. An appeal of a Conduct Body's decision must be submitted in writing, using the Office of Dean of Students' Appeal Form signed by the appealing party, to the Office of the Dean of Students no later than ten (10) University business days after the date printed on the Notification of Decision. It is the student's responsibility to ensure that the Appeal Form is received by the Office of the Dean of Students by the specified due date. A Conduct Body decision not properly appealed by such date is deemed final. Any exceptions to the appeal deadline are at the sole discretion of a Student Conduct Administrator or a Student Conduct Administrator's designee. For Complainant appeals of University Policy 1060 investigations that conclude with a "No Policy Violation" decision, the Complainant must submit the signed Appeal Form and supporting documentation to the Office of the Dean of Students no later than ten (10) University business days after the date printed on the Outcome Notice issued by the Office of Institutional Compliance and Ethics.

3. An appeal form is only forwarded by a Student Conduct Administrator to an Appeal Board or Appeal Hearing Officer for consideration of an appeal when the appealing party alleges in a concise written statement (3-5 pages maximum) that one or more of the following grounds for appeal occurred:
  - a. **Appeal of Policy 2020/Student Code of Conduct Decision**
    - i. **Policy 2020 Violation Appeal**
      1. A substantive procedural error occurred that significantly impacted the outcome of the conduct hearing. Examples of a substantive procedural error include substantiated bias by the Conduct Body or the Conduct Body's failure to follow established University procedures, including procedures in the Student Code of Conduct, or (in Academic Misconduct cases) a Faculty's course syllabus. A minor deviation from a procedure in the Student Code of Conduct or other established University procedure will not be the basis for a Student Conduct Administrator forwarding an appeal to an Appeal Board or Appeal Hearing Officer for consideration unless substantial prejudice is alleged to have resulted from the substantive procedural error. The student's appeal must specifically state what substantial prejudice is alleged to have occurred as a result of the Conduct Body's failure to follow an established University procedure.
      2. Significant new information related to the Code of Conduct violation(s) is now available which could not be obtained by the time of the original Conduct Body hearing, which would alter the Conduct Body's finding of a policy violation. The new information and its potential impact on the Conduct Body's finding of a policy violation must be detailed in the appealing party's written statement submitted with the Appeal Form, and must include an explanation of why the information could not be obtained by the time of the Conduct Body hearing<sup>1</sup>.
    - ii. **2020 Sanction Appeal**
      1. The sanction(s) imposed by the Conduct Body is (are) grossly disproportionate to the violation.<sup>2</sup>
      2. Significant new information related to the Code of Conduct Charges is now available which could not be obtained by the time of the original Conduct Body hearing,

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<sup>1</sup> A student who fails to appear for the initial conduct proceeding when proper notice was sent to the student's University-issued email address may not appeal on the basis of "significant new information" unless it is substantiated that the information was not available to the student at the time of the initial conduct proceeding.

<sup>2</sup> A sanction of a written warning or parental notification is not an appealable sanction.

which would alter the Conduct Body's sanctioning decision. The new information and its potential impact on the Conduct Body's sanctioning decision must be detailed in the appealing party's written statement submitted with the Appeal Form, and must include an explanation of why the information could not be obtained by the time of the Conduct Body hearing.<sup>3</sup>

**b. Appeal of Policy 1060 Decision**

- i. A substantive procedural error occurred that significantly impacted the outcome of the investigation. Examples of a substantive procedural error may include substantiated bias by the investigator or material deviation from the investigation procedures set forth in this policy. A mere deviation from investigation procedures required by this policy is not a basis for considering an appeal unless significant prejudice is alleged to have resulted.
  - ii. The investigator erred when determining whether or not the findings of act constitute a violation of this policy.
  - iii. New evidence is available, which was unavailable during the investigation or sanctioning process, which could substantially impact either the determination of whether a violation of this policy occurred or the severity of the sanction.
  - iv. The sanctions imposed are substantially disproportionate to the severity of the policy violation.
4. Within two (2) University business days of the Office of the Dean of Students receiving an appeal, the appellant will receive a "Notice of Appeal Received" from the Office of the Dean of Students. Within ten (10) University business days of a student submitting an appeal to the Office of the Dean of Students, the Complainant and Respondent will receive a Notice of Appeal Consideration. The non-appealing party may submit a concise written statement (3-5 pages maximum) to be included with the appeal, no later than 3 University business days from the date printed on the Notice of Appeal Consideration.

If the Respondent is appealing an Academic Misconduct finding or sanction which was processed under Section 8: Procedures for Academic Misconduct, the faculty member will be notified, and the faculty member will have the right to review the Respondent's appeal materials. The faculty member has the right to submit a concise written statement (3-5 pages maximum) to

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<sup>3</sup> A student who fails to appear for the initial conduct proceeding when proper notice was sent to the student's University-issued email address may not appeal on the basis of "significant new information" unless it is substantiated that the information was not available to the student at the time of the initial conduct proceeding.

be included with the appeal no later than five (5) University business days from the date printed on the Notice of Appeal Consideration.

5. For an appeal of an incident resulting in an educational sanction (non-suspension/expulsion), a Student Conduct Administrator or designee will determine whether the appeal meets the requirements for consideration of an appeal set forth in paragraph 3 above as reflected in the submitted written appeal statement.
  - a. If an appeal is determined to not meet the criteria for consideration, the existing decision and sanction(s) will be considered final and binding for all involved and a Notice of Appeal Outcome emailed to the Respondent will reflect that determination.
  - b. When the written appeal statement meets one or more of the requirements for consideration, the appeal will be reviewed by a Student Conduct Administrator or a Hearing Officer who is not the original Hearing Officer of the case.
6. For appeals of incidents resulting in suspension or expulsion, a Student Conduct Administrator will convene an Appeal Board to consider the appeal.
7. Consideration of an appeal by an Appeal Board or Appeal Hearing Officer is conducted in closed session, with no parties, witnesses, or members of the original Conduct Body allowed to be present. With the exception of appeals alleging new information, the Appeal Board is limited to considering the written appeal statement, the non-appealing party's statement in response to the appeal, the Conduct Body hearing record (including any documents in the Hearing packet, any additional documents considered by the Conduct Body, and any recording of the hearing).
8. An Appeal Board or Appeal Hearing Officer will consider on appeal only the grounds which a Student Conduct Administrator determines meet the criteria for consideration of an appeal, and will make a determination on each such ground of appeal. Decisions on appeal of policy violations are reached on the standard of whether the policy violation decision is supported by substantial information, that is whether the facts if believed by the Conduct Body were sufficient to establish that a violation of the Student Code of Conduct occurred. In academic misconduct cases, an appeal of a sanction(s) is reviewed for whether the sanction(s) imposed either aligns with the sanctions listed or described in the course syllabus or, if not stated in the syllabus, is unreasonable for severity of the violation. A decision requires a simple majority vote of the Appeal Board members.
9. After considering all pertinent aspects of the matter, a decision is reached by the Appeal Board regarding one of the following:

i. University Policy 2020 (Student Code of Conduct) Appeal

- i. That the Conduct Body's original decision and sanction(s) be upheld;
- ii. That a new hearing be held with a Conduct Body comprised of different members than the original Conduct Body to correct an error in following University procedure(s); and upon completion of the by the second Conduct Hearing, that the Conduct Body's decision and sanctions are final and binding, and the appeal process is deemed concluded at that time and not subject to further appeal;
- iii. That the original Conduct Body's decision be reversed by the Appeal Board finding that a violation or non-violation of the Student Code of Conduct occurred;
- iv. That the sanction(s) be amended because the original sanction(s) imposed by the Conduct Body is (are) found to be substantially unreasonable for the severity of the violation.

If the Appeal Board decision involves a suspension or expulsion, or there is no University precedent, the Vice President for Student Affairs and Enrollment Management, or designee, has discretion to review the decision and may modify or uphold the Appeal Board decision prior to the issuance of the Notice of Appeal Outcome to the parties. All degree revocations must be reviewed by the Vice President for Student Affairs and Enrollment Management, or designee.

If the Appeal Board decision involves a faculty member's report of an academic integrity violation, and the Appeal Board reverses a decision or amends a sanction, the Appeal Board's decision constitutes a recommendation to the Office of the Provost. The Provost, or designee, will review all case materials and notify the reporting faculty member and the Respondent of the Provost's, or designee's, final decision within ten (10) University business days of receipt of the Appeal Board's recommendation.

10. A Student Conduct Administrator will send the Complainant and Respondent (copying the Office of the Provost if the Appeal Board recommends to reverse or amend a faculty member's sanction for an academic integrity violation). a Notice of Appeal Outcome within ten (10) University business days of the Appeal Board or Hearing Officer's review, in accordance with applicable privacy laws. Both parties will be informed of the appeal outcome as simultaneously as possible. The Notice of Appeal Outcome is considered final and may not be appealed further at the University. The Idaho State Board of Education may consider an additional appeal. (*See* ISBOE Policy Section III.P).
11. During the summer session or during University breaks, an appeal may be reviewed and decided upon by an Appeal Board that includes one student, one faculty member, and one University official, each to be selected by a Student Conduct Administrator.

## Section 10: Student Conduct Records

### A. Maintenance of Records

A record of any behavioral or academic sanction imposed through the Student Code of Conduct process is maintained in the Office of the Dean of Students. Records of behavioral, academic or professional misconduct may also be maintained in the official files of a department, program or college. No notation of behavioral or academic sanction is made on a student's academic transcript except in the following circumstances: 1) when a student is suspended or expelled from the University for behavioral or Academic Misconduct; or 2) when the student's degree or certificate is revoked. In a case of expulsion, suspension, or revocation, the entry on the transcript of the student shall merely state: "Dismissed from the University for Academic/Behavioral Misconduct" or "Degree/Certificate Revoked for Academic/Behavioral Misconduct" and the date of such action. Notices of dismissal or revocation shall not be removed from the student's academic transcript. All Student Conduct records will be destroyed after a period of seven (7) years from the date of the sanction(s), unless a sanction includes expulsion. In instances involving expulsion, Student Conduct records are kept indefinitely. Student Conduct records are confidential.

### B. Release of Records

A student may request a copy of their own Student Conduct record at their own reasonable expense by making a written request to the Office of the Dean of Students.

1. Personally-identifiable student information besides that of the requesting student is redacted to protect student privacy.
2. A student may authorize release of the student's own conduct record to a third party in compliance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232(g), 34 CFR pt. 99) by providing written authorization for release of the conduct record to the Office of the Dean of Students.

The University may not communicate a student's Student Conduct record to any person or agency outside the University without the prior written consent of the student, except as required or permitted by law. Exceptions include:

1. The student's parent(s) or legal guardian(s) may review the student's Student Conduct record if the student is a minor or a dependent for tax purposes as defined by FERPA (20 U.S.C. § 1232(g), 34 CFR pt. 99).
2. Release to another educational institution, upon request, where the student seeks to enroll in the other educational institution, as allowed by FERPA (20 U.S.C. § 1232(g), 34 CFR pt. 99).

3. Release to law enforcement and other entities with a “need to know” in the event of emergency or threat of harm to self or others, as allowed by FERPA (20 U.S.C. § 1232(g), 34 CFR pt. 99).

### **C. Release of Student Conduct Records Involving Crimes of Violence**

The University may inform the Complainant of the outcome of any conduct proceeding involving certain crimes as allowed by FERPA (20 U.S.C. § 1232(g), 34 CFR pt. 99).

### **D. Additional Provisions**

Other student records shall be retained for the minimum period required to serve the basic official functions of the office or department involved in the keeping of such records, in accordance with the Student Records Policy and the individual practices and policies of each such office or department. For additional information pertaining to the disclosure of student records, consult Boise State University Policy 2250: Student Records

## **Section 11: Interpretation and Revision**

### **A. Interpretation**

Any question of interpretation regarding the Student Code of Conduct will be referred to the Vice President for Student Affairs and Enrollment Management or her/his designee for final determination.

### **B. Revision**

The Student Code of Conduct is subject to change. In general, the Student Code of Conduct will undergo a review once every three years to determine if significant changes need to be made. The Review Committee will include at least one representative each from the student body, the faculty, and the staff. The review may be made sooner at the discretion of the Vice President of Student Affairs and Enrollment Management.

The University is responsible for notifying students when significant changes are made to University Policy 2020 and students are responsible for being aware of changes after notification is provided. For the most recent version of the Student Code of Conduct, please visit:  
<http://deanofstudents.boisestate.edu/student-code-of-conduct/>.

## **State and Federal Laws Referenced**

20 U.S.C. § 1232(g), 34 CFR pt. 99: Family Educational Rights and Privacy Act (FERPA)

Idaho Code Section 18-1506: Sexual Abuse of a Child Under the Age of Sixteen Years

Idaho Code Section 18-1508: Lewd Conduct with Minor Child Under Sixteen

Idaho Code Section 18-6101: Rape

Idaho Code Section 18-6108: Male Rape

Title 17 United States Code, the Federal Copyright Act (the Copyright Act), §102-112

## **Boise State University Policies References**

- University Policy 1060 (Non-Discrimination and Anti-Harassment)
- University Policy 1065 (Sexual Harassment, Sexual Misconduct, Dating Violence, Domestic Violence & Stalking)
- University Policy 1090 (Intellectual Property)
- University Policy 12080 (Possession of Firearms/Weapons on University Owned or Controlled Premises)
- University Policy 2050 (Maintaining Instructional Order)
- University Policy 2250 (Student Records)
- University Policy 2280 (Student Email Communications)
- University Policy 5060 (Misconduct in Research)
- University Policy 9010 (Pedestrian Safety)



## Forms

Student Conduct Appeal Form

[https://www.boisestate.edu/wp-content/uploads/sites/811/2022/06/Conduct\\_Academic-Appeal-Form-tagged.pdf](https://www.boisestate.edu/wp-content/uploads/sites/811/2022/06/Conduct_Academic-Appeal-Form-tagged.pdf)

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## Revision History

July 1995; April 1998; May 1999; December 1999; April 2001; March 2007; August 2009; September 2014; March 2015; October 2017; March 2018; April 2018; April 2019; January 2020