

# Utah Tech University Policy

## 552: Student Conduct Code



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### I. Purpose

- 1.1 Utah Tech University (“the University”) is authorized by the State of Utah, the Utah Board of Higher Education, the Utah Tech Board of Trustees, and the University President to establish the “Student Conduct Code.”
- 1.2 The Student Conduct Code exists to notify students, faculty, and staff of the specific expectations the University maintains related to student behavior, the rights and responsibilities that accompany being a student, and participation in Student Groups. The University expects students to maintain standards of personal integrity in harmony with its vision and mission; to be responsible for their own actions; to observe national, state, and local laws, and all the University’s policies; and to respect the rights, privileges, and property of other people. The Student Conduct Code describes the University’s intervention, resolution options, sanctions, and other disciplinary action related to the behavior of both individual students and Student Groups.
- 1.3 The Student Conduct Process is intended to be a learning experience which can provide growth, behavioral changes, and personal understanding of a student’s responsibilities and the consequences and impacts of one’s actions. This process balances the needs and rights of students with the needs and expectations of the University and larger community. The Student Conduct Code supports the University’s mission and values and offers a broad range of responses, many of which are educational and restorative in nature. Students are treated with care and respect throughout the process, while being afforded due process. Sanctions and interventions are designed to promote education and the University’s overarching mission.
- 1.4 The Student Conduct Code 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 a student's behavior runs contrary to the University mission or a clear and distinct University interest, regardless of whether a criminal offense has occurred.

- 1.5 The Student Conduct Code shall not be construed as a binding contract between the University and any student or associated third party. Rather, this policy outlines the internal operating procedures for resolving student misconduct.

## II. Scope

- 2.1 The Student Conduct Code governs the behavior of students and Student Groups.
- 2.2 The Student Conduct Code applies to behavior that occurs on University premises (whether owned or leased) and at all University-sponsored programs and activities. It also applies to off-campus behavior that adversely affects any member of the University Community's health, safety, or welfare, or any action that poses a threat to persons or property, or any other conduct that may damage the institution's reputation or relationship with the greater community (including behavior occurring in a foreign country, in another state, and behavior at all University activities, regardless of location).
- 2.3 The Student Conduct Code 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 Conduct Code violations if there is information that the Student Conduct Code 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 Conduct Code, there are three notable exceptions: 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; Speech posted online about the University or its community members that causes a substantial negative effect to a University living and/or learning environment; Information indicating a crime has occurred.
- 2.4 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 behavioral 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.

- 2.5 Visitors to, and guests of, the University may seek resolution of violations of the Student Conduct Code committed against them by University students through the Office of the Dean of Students.
- 2.6 The University recognizes students are adults involved in educational pursuits. The Student Conduct Code does not place the University in a custodial or parental relationship with students and does not impose upon the University any duty to protect students from participating in proscribed acts.
- 2.7 Formal appeal procedures are outlined in the Procedures section:
  - 2.7.1 Although formal appeal procedures are outlined, the University encourages informal resolution of problems. Mutual consent of all parties is highly desired.
  - 2.7.2 The Dean of Students or Designee in coordination with the institutional CARE Team determines whether to exercise jurisdiction off of University Premises on a case-by-case basis.
  - 2.7.3 The Dean of Students or Designee retains discretion as to what resolution is appropriate and adequate.
- 2.8 A student may face both the University Student Conduct Process and/or criminal or civil litigation charges, since the same factual situation may allegedly violate both the Student Conduct Code and criminal or civil law. The Student Conduct Process may happen before, during, or after criminal or civil legal proceedings. Since the Student Conduct Process is entirely separate from criminal or civil litigation, legal outcomes do not affect the Student Conduct Process, nor will pending criminal or civil litigation stop or delay the Student Conduct Process.
  - 2.8.1 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 Conduct Code sanctions, as well as to the provisions of local, state, or federal law.

- 2.9 No document that describes guidelines for ethical standards can address every possible situation. Students are encouraged to seek additional advice or consultation in circumstances where the Student Conduct Code may not be definitive.

### III. Definitions

- 3.1 ***Amnesty***: A decision by the University to take no action against specified offenses or offenders.
- 3.2 ***Behavioral misconduct***: A violation of the Student Conduct Code.
- 3.3 ***Behavioral sanction***: A penalty, restriction, or consequence imposed based on a student's behavioral misconduct.
- 3.4 ***Bullying***: Seek to harm, intimidate, or coerce.
- 3.5 ***CARE Team***: The Campus Assessment, Response, and Evaluation Team which provides assistance to the University Community by engaging in proactive and collaborative approaches to help identify, assess and find solutions to distressing, disturbing, disruptive, and potentially dangerous behaviors that impact the safety or well-being of the University Community or any of its members. The CARE Team is a multidisciplinary group of University personnel representing a variety of University departments with training and experience in law enforcement, threat assessment, medical and mental health evaluation, human resources, university operations, conflict resolution, and student affairs. Other University employees may be invited to participate or consult with the CARE Team as needed. The CARE Team is responsible for determining whether a reported concern should be referred to the Dean of Students or Designee or to another CARE Team member for follow-up.
- 3.6 ***Complaint***: A report, referral, or other information provided by an individual in writing or verbally to the Dean of Students or Designee that alleges a violation of the Student Conduct Code. A Complaint includes, but is not limited to, a police report, an incident report from housing or residence life, a report from faculty, administrative staff, students, member of the CARE Team, other members of the University Community, or from parties outside the University Community.
- 3.7 ***Complainant***: An individual impacted by misconduct alleged to be a violation of the Student Conduct Code. There may be more than one Complainant for an incident of behavioral misconduct. In certain circumstances, the Dean of Students or Designee serves as the Complainant on behalf of the University.

- 3.8 **Dean of Students:** A Student Affairs administrator assigned to oversee the Student Conduct Code.
- 3.9 **Designee:** A University official authorized by the Dean of Students to investigate an alleged Student Conduct Code violation, facilitate Student Conduct Process, determine whether a student or Student Group has violated the Student Conduct Code, and to impose sanctions for such violation(s).
- 3.10 **Due process:** Procedural rights afforded to a party in a Student Conduct Process involving a substantial sanction. This includes notice of alleged violation(s), an opportunity to be heard relative to the alleged violation(s), an impartial review of, and decision regarding, the alleged violation(s).
- 3.11 **Expulsion:** The permanent termination of student status. An expelled student may not petition for reinstatement. A student expelled once a semester has begun may be eligible for refunds according to the published University refund schedule.
- 3.12 **Falsification/Fabrication/Misrepresentation:** Includes but is not limited to the intentional and unauthorized invention of any data, information, or citation.
- 3.13 **Good Standing:** The awarding of a degree from the 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. The University may deny the awarding of a degree if the student is dismissed from the University based on academic or behavioral misconduct or may revoke a degree awarded.
- 3.14 **Hazing:** Includes 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.
- 3.15 **Informal Resolution:** A written agreement between Respondent(s) and the Dean of Students or Designee that resolves an allegation of a Student Conduct Code policy violation(s) prior to the case proceeding to a Student Conduct Panel. An Informal Resolution must be signed by the Respondent and Dean of Students and may not be appealed.

- 3.16 ***Instructor/Professor/Faculty***: Any person hired by the University to conduct classroom research or teaching activities, or who is otherwise considered by the University to be a member of its faculty, including full and part-time instructors at all levels.
- 3.17 ***Investigation Findings***: A written summary prepared by the Dean of Students or Designee which contains a summary of the alleged Student Conduct Code policy violation(s), a summary of the relevant evidence collected during the investigation, and the Dean of Students', or Designee's, findings and rationale for the findings as to whether there was a violation(s) of the Student Conduct Code.
- 3.18 ***Notice/Notification***: The act of notifying a student either orally or in writing.
- 3.19 ***Notice of Appeal***: The form provided by the Dean of Students' Office that a party must use in order to submit an appeal. The Notice of Appeal must also include a detailed statement explaining how the appeal meets at least one of the criteria explained in Section 6.10.2.1.
- 3.20 ***Policy***: The written rules and regulations of the University as found in, but not limited to, the Student Conduct Code; Resident-Life Handbook; undergraduate, graduate, and professional catalogs or policies; course syllabi; athletic policies and handbooks, the Policy Library, and University web pages.
- 3.21 ***Preponderance of Evidence***: The standard for determining responsibility for a violation of the Student Conduct Code is whether it is "more likely than not" (by a "preponderance of the evidence") that a violation of the Student Conduct Code occurred based on all information made available during the Student Conduct Process (including, but not limited to, the complaint, response, witness statements, physical evidence, University documents, and interview notes).
- 3.22 ***Respondent***: The student or Student Group accused of a violation of the Student Conduct Code.
- 3.23 ***Serious criminal offense***: Any felony or misdemeanor related to the harm, or attempted harm, of another person; or related to theft or attempted theft of property; or related to the possession, distribution, sale, or attempted sale of any illegal or controlled substance; or that otherwise demonstrates a significant or meaningful threat to the University Community.
- 3.24 ***Staff/Staff member***: A person other than a faculty member who receives

compensation for work or services from funds controlled by the University, regardless of the source of funds, the duties of the position, or the amount of compensation paid; includes students with employment responsibilities.

- 3.25 ***Stalking***: A course of conduct, directed at a specific person, that is unwelcome, repetitive or menacing, and would cause a reasonable person to fear for their own safety, the safety of another, or suffer emotional distress.
- 3.25.1 ***Course of Conduct***: Two or more acts that are directed at or toward a specific person.
- 3.26 ***Student***: A person who is currently or was at the time of the alleged behavioral misconduct, matriculated and/or registered in any class, program of instruction, or training offered by the University at any level, whether or not for credit.
- 3.27 ***Student Conduct Committee***: A Committee consisting of nine (9) members, including three (3) faculty chosen by the Faculty Senate President and the Provost, three (3) staff chosen by the Staff Association President and Staff Association Board, and three (3) students chosen by the Student Association President. The Committee is co-chaired by the senior faculty and staff members, and appoints a Student Conduct Panel from members of the Committee to review alleged student conduct violations, make determinations as to whether the Student Conduct Code has been violated by a Respondent, and issue sanctions for violations of the Student Conduct Code.
- 3.27.1 ***Student Conduct Panel***: A three (3) person panel, consisting of one faculty, one staff, and one student who are each members of the Student Conduct Committee, which reviews alleged student conduct violations, makes determination as to whether the Student Conduct Code has been violated by a Respondent, and issues sanction for violations of the Student Conduct Code.
- 3.28 ***Student Conduct Panel Decision***: A document prepared by the Student Conduct Panel after the conclusion of a Student Conduct Panel Meeting or Student Conduct Panel Hearing that includes the findings of responsibility or non-responsibility for each alleged Student Conduct Code violation, rationale for the findings, sanctions (if applicable), and information on the appeal process.
- 3.29 ***Student Conduct Letter***: A letter attached to the transcript of a student who is on disciplinary suspension. The letter may contain the details of the

suspension and will be removed when the student has met the conditions of the suspension or when the suspension period ends.

- 3.30 ***Student Conduct Process:*** Includes all steps of any process(es) in the Student Conduct Code used to address student behavioral misconduct. A Student Conduct Process is initiated at the time a complaint is received and concludes when the matter is closed by the Dean of Students or Designee or after the Respondent's completion of all sanctions imposed, if any.
- 3.31 ***Student Group:*** A number of individuals who are associated with the University and each other, including athletic teams, student clubs and organizations registered with the University, and student groups and clubs not registered with the University.
- 3.32 ***Support Person:*** An individual providing support to a party in a Student Conduct Code process may be, but is not limited to a family member, a roommate, a friend, or legal advisor. A support person may attend any part of the Student Conduct Process with a student who is a party in the process. The support person may not disrupt a meeting, or other proceeding, or speak on behalf of the student. The support person's role is limited to listening and quietly conferring with the student. If a support person is disruptive, the support person may be excluded from the meeting and future meetings or proceedings.
- 3.33 ***Suspension:*** The termination of student status for a specified academic term or terms. A student suspended once a term has begun may be eligible for refunds according to the published University refund schedule.
- 3.34 ***Trespass:*** Knowingly entering or remaining on University premises, or any portion thereof, after an authorized University Official or law enforcement officer notifies an individual or group orally or in writing that the individual's or group's entry or presence is prohibited and therefore the individual or group is excluded/trespassed from University premises or a location specified by the University Official or law enforcement officer. An excluded/trespassed individual or group 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/trespassed the individual or group or the University's Chief of Police.
- 3.35 ***University Activity:*** Any activity, event, function, ceremony, or program sponsored, hosted, or under the auspices of the University, including instances when a student represents the University or engages in an activity related to the University.

- 3.36 **University Business Day:** Any day that the University is open for business (excludes weekends, holidays and University closures).
- 3.37 **University Community:** All students enrolled in classes at the University, whether or not for credit; all individuals employed by the University in any capacity; and those individuals lawfully present on University Premises or attending a University Activity.
- 3.37.1 A member of the University Community includes but is not limited to any individual who is a University student, employee, contractor or vendor, affiliate or volunteer, or guest of the University. Guests, include but are not limited to, event attendees, participants in University-sponsored cocurricular or auxiliary programs, visitors and customers. Determination of whether an individual is a member of the University Community is decided by the Dean of Students or their Designee.
- 3.38 **University Directives:** Official or authoritative instruction intended to guide or govern action and behavior among members of the University Community.
- 3.39 **University Official:** Any person employed by the University performing assigned administrative or professional responsibilities. This includes but is not limited to the Department of Public Safety and Resident Assistants; any student who is assigned or appointed as a formal member of the Student Conduct Committee or Student Conduct Panel.
- 3.40 **University Premises:** The University campus and all University 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.
- 3.41 **Vice President:** The Vice President of Student Affairs, or a Designee.

#### IV. Policy

- 4.1 **Student Rights:** In addition to constitutional and statutory rights and privileges derived from the United States of America and the State of Utah, students in Good Standing have specific rights as members of the University Community. Nothing in this document is intended to limit or abridge students' constitutional or statutory rights. This document shall not be construed as a binding contract between the University and any student or associated third party. Students in Good Standing are warranted

the following rights and privileges and are also responsible to allow other members of the University Community the same:

- 4.1.1 The right to an environment and climate conducive to uninterrupted learning and thinking. Teaching practices should be considerate of the student's dignity and rights, and all individuals should be treated with courtesy and respect.
- 4.1.2 The right to reasonable notice of the general course content and requirements at the beginning of the course in the form of a syllabus.
- 4.1.3 The right to reasonable notice of disclosures regarding state authorizations of distance education courses and programs that may lead to professional licensure.
- 4.1.4 The right to have performance and behavior evaluated promptly, conscientiously, and without prejudice or favoritism according to the criteria set forth at the beginning of the course in the form of a syllabus.
- 4.1.5 The right to participate or have representation in the formation of University policies that affect students.
- 4.1.6 The right to due process in any proceeding involving the possibility of serious sanctions.
- 4.1.7 The right to privacy and confidentiality according to rules and other statutory regulations.
- 4.1.8 The right to obtain and examine educational records that accurately reflect the student's performance and to challenge inaccurate or misleading information in the student's personal records.
- 4.1.9 The right to participate in the University Student Association elections and to form student clubs and organizations according to the rules and policies set forth.
- 4.1.10 The right to perform student evaluations of faculty members and to have those evaluations seriously considered in the retention, promotion, tenure, and post-tenure reviews of faculty members.
- 4.1.11 Freedom from illegal discrimination, harassment, sexual harassment, or prejudicial treatment because of race/ethnicity, color, national origin, age, religion, sexual orientation, gender identity/expression, sex, pregnancy, disability status, or protected

veteran status.

- 4.1.12 The right to reasonable accommodations. The University is committed to providing reasonable accommodations and support to qualified students with disabilities to ensure equal access to the University's Student Conduct Process. Complainants, Respondents, and other participants may request accommodations necessary under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act. Students needing such accommodations or support should contact the Disability Resource Center. The Disability Resource Center will review the request and, in consultation with the student requesting the accommodation and the Dean of Students or Designee determine which accommodations are appropriate and necessary for full participation in the process.
- 4.1.13 The right to file a complaint or grievance against faculty or staff members under the appropriate University policy.
- 4.1.14 Freedom and autonomy in intellectual pursuits and development.
- 4.1.15 Freedom of open discussion, inquiry, expression, and lawful assembly according to University Policy 110.
- 4.1.16 Freedom from unreasonable search and seizure.
- 4.1.17 The right to have a support person throughout the Student Conduct Process.
- 4.1.18 The right to seek amnesty: The Dean of Students or Designee decides whether to grant amnesty in a Student Conduct Process. The availability of amnesty for students with repetitive or severe violations is determined on a case-by-case basis.
  - 4.1.18.1 The University will not sanction a student for a Student Conduct Code violation related to the use of drugs or alcohol if:
    - 4.1.18.1.1 The student is a victim or a witness to an act of sexual violence the student reports to the University, in good faith, and the University learns of the student's alleged conduct violation due to the student's report.
  - 4.1.18.2 If a student or a student representative from a Student Group calls for medical assistance, this act of responsibility will be considered as a mitigating factor when sanctioning for a

Student Conduct Code violation.

- 4.1.19 This policy is only applicable to the Student Conduct Code and does not preclude law enforcement agencies from enforcing the law.

4.2 Student Standards/Expectations

- 4.2.1 Students are expected to conduct themselves in such a way that is socially appropriate.
  - 4.2.1.1 Students and Student Groups are responsible for the conduct of their guests and must use their best efforts to ensure that guests comply with the Student Conduct Code 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, and attendees of activities sponsored by registered Student Groups.
- 4.2.2 Students are expected to maintain standards of personal integrity in harmony with the University's educational goals; to be accountable for their actions; to observe national, state, and local laws, and University policies; and to respect the rights, privileges, and property of others.
- 4.2.3 Students are expected to communicate effectively and respectfully with other students, faculty, and staff.
- 4.2.4 University email is the University's primary means of communication with students. Each student is responsible for receiving and reading in a timely manner all communication delivered to the student's University email address.
- 4.2.5 Students are expected to be problem solvers inside and outside the classroom. Students are expected to personally take the initiative and address issues or concerns with the appropriate University employees directly, unless the issues involve allegations which a student reports to the Office of Equity Compliance and Title IX.
- 4.2.6 Students are responsible for their own learning, including but not limited to attendance and preparation for class, punctuality, and submission of coursework.
- 4.2.7 Students are expected to maintain fitness for study.
  - 4.2.7.1 Fitness for Study is the reasonable social and behavioral requirements of a student without the student's physical,

mental, emotional or psychological health or state negatively impacting the health, safety and/or welfare of any members of the University Community.

- 4.2.7.2 Students with a mental or physical disability have the responsibility to notify faculty and staff of any need for accommodations, and to seek resources from the Disability Resource Center.

4.3 Student Conduct Code Violations: In order to ensure that the highest standards of behavioral conduct are promoted and supported at the University, to promote the personal and intellectual development of individuals, to protect the University Community, and to maintain order on University premises, students or student groups who participate in the following acts of behavioral misconduct may be subject to behavioral or academic sanctions or referrals. The following standards apply to current students on or off University premises, while attending or participating in University sanctioned activities, or when representing the University. Allegations of Academic Misconduct or Professional Misconduct are processed under University Policy 555. Allegations of Non-Title IX Harassment, Discrimination, and Retaliation (including protected class discrimination) are processed under University Policy 164. Allegations of Title IX Sexual Harassment, Discrimination and Retaliation are processed under University Policy 154. Sanctioning for violations of the Student Conduct Code follow established procedures outline in Section 6.9. The following behaviors are prohibited:

4.3.1 Abuse of Student Conduct Process:

- 4.3.1.1 Failure to obey any official University notice or appear for any required meeting.
- 4.3.1.2 Willful falsification, distortion, or misrepresentation of information during a Student Conduct Process.
- 4.3.1.3 Disruption or interference with a Student Conduct Process.
- 4.3.1.4 Filing fraudulent charges or initiating a Student Code of Conduct Process in bad faith.
- 4.3.1.5 Attempting to discourage an individual's proper participation in, or use of, the Student Conduct Process.
- 4.3.1.6 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.

- 4.3.1.7 Harassment (verbal, physical, and/or through use of electronic resources or technology) and/or intimidation of a member of the Student Conduct Committee or a Student Conduct Panel, or Dean of Students or Designee prior to, during, and/or after any Student Conduct Process.
- 4.3.1.8 Verbal, physical, or technological harassment, intimidation, and/or retaliation against a person for their exercise of rights under the Student Conduct Code or participation in the Student Conduct Process as a complainant, respondent, or witness.
- 4.3.1.9 Failure to comply with any sanction(s) imposed in a Student Conduct Process.
- 4.3.1.10 Influencing or attempting to influence another person to commit an abuse of the Student Conduct Process.

#### 4.3.2 Arson and Fire Safety:

- 4.3.2.1 Any violation of local, state, federal, or University fire policy, including but not limited to:
  - 4.3.2.1.1 Intentionally or recklessly causing a fire which damages University property or personal property, or which causes injury to a person.
  - 4.3.2.1.2 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.
  - 4.3.2.1.3 Improper use of University fire safety equipment; or
  - 4.3.2.1.4 Tampering with, or improperly engaging, a fire alarm or fire detection/control equipment while on University premises.

#### 4.3.3 Breach of Contract:

- 4.3.3.1 Breach of a contract made with the University, including but not limited to University housing or Student Groups.

#### 4.3.4 Bribery and/or Extortion:

4.3.4.1 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.

4.3.5 Damage or Destruction and Theft:

4.3.5.1 Taking, or attempting to take, damage or misuse any individual's or the University's property, equipment materials, data, or other resources.

4.3.6 Disruptive Behavior:

4.3.6.1 Engaging in behavior that disrupts or interferes with instruction in any form, classroom teaching or other educational interactions, residential communities, research, administration, governmental functions, or disciplinary proceedings or events on University premises.

4.3.6.2 Leading, inciting, or participating in any on-campus or off-campus demonstration, riot, or activity that violates Policy 110.

4.3.6.3 Engaging in behavior that disrupts or obstructs the right of free speech or expression of any person on University Premises. (For more information, refer to University Policy 110.)

4.3.6.4 Actions that are considered lewd or disorderly by a reasonable person.

4.3.6.5 Any behavior that has a substantial negative effect on a University living and/or learning environment and/or interferes with the rights of another Member of the University Community.

4.3.7 Falsification of Information:

4.3.7.1 Acts of dishonesty including but not limited to making false statements, fraud, providing false information or

identification, forgery, or misuse of University documents, forms, records, and identification cards.

#### 4.3.8 Fiscal Misconduct:

4.3.8.1 Inappropriate use of University finances or financial information. Examples may include, but are not limited to: falsification of a University recognized Student Group financial records; any purchase and/or financial transaction made without appropriate organization membership and/or institutional approval, including, but not limited to, copier or printer use, signature on contracts, travel expenses, and rentals; failure to relinquish recognized Student Group financial records to officers/advisors, and/or University Officials; failure to uphold the financial obligations and agreements entered into on the part of an individual or Student Group; writing a non-sufficient funds (NSF) check to the University or a recognized Student Group; forgery and/or embezzlement.

#### 4.3.9 Group Offense:

4.3.9.1 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 Conduct Code 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).

#### 4.3.10 Harassment and other Abusive Behavior:

4.3.10.1 Physical abuse, including but not limited to inflicting or threatening bodily harm upon any person or animal, or acting in a manner that creates a risk of bodily harm to any person, including oneself, or an animal.

4.3.10.2 Verbal abuse, threats, coercion, or other conduct, through any method of communication, which threatens or endangers

the physical or psychological health, safety, or welfare of any person.

4.3.10.3 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:

4.3.10.3.1 Creates a risk of physical injury or emotional harm or threat to the health and safety of any individual or group; Involves harassment of any individual or group; Involves humiliation, degradation, and/or ridicule that is severe and/or pervasive, and/or offensive; 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 Student Group; Interferes with, or attempts to interfere with, an individual's academic pursuits;

4.3.10.3.2 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 the National Collegiate Athletic Association (NCAA) athletics, or similar contests or competitions; however, hazing activities occurring as a part of such athletic events or contests are prohibited.

4.3.10.4 Bullying: Seek to harm, intimidate, or coerce.

4.3.10.4.1 A hazing or bullying violation may occur even when the victim initially expressed or implied consent.

4.3.11 Misuse of Alcohol or Tobacco:

- 4.3.11.1 Use or possession of alcohol as prohibited by law or University policy.
- 4.3.11.2 Except as outlined in University Policy 158, all University students are prohibited from use, consumption, storage, possession, manufacture, distribution or sale of any alcoholic beverage in any location on any University Premises.
- 4.3.11.3 Use of drugs or alcohol so as to be impaired in class or at a University sanctioned event is prohibited.
- 4.3.11.4 Operating any vehicle while under the influence of alcohol, while impaired, or using any intoxicating substance.
- 4.3.11.5 Excessive use of alcohol resulting in a state of intoxication that endangers oneself or others.
- 4.3.11.6 Violations of the Tobacco-Free Campus Policy. (University Policy 156).

4.3.12 Misuse of Drugs:

- 4.3.12.1 Use or possession of illegal drugs as prohibited under federal or state law including but not limited to marijuana, methamphetamine, cocaine, opiates, LSD, mushrooms, heroin, designer drugs such as Ecstasy/GHB, other controlled substances, or any substance used for an intoxicating effect.
- 4.3.12.2 Use or possession of prescription drugs except for the legal, personal use of medications as prescribed by a licensed health care provider in accordance with Utah laws.
- 4.3.12.3 Manufacturing or distribution of illegal and or prescription drugs.
- 4.3.12.4 Possession or use of drug paraphernalia including but not limited to equipment, products, and materials used to cultivate, manufacture, distribute, or use marijuana, methamphetamine, or other illegal drugs.

4.3.12.5 Operating any vehicle under the influence of drugs or while impaired by the use of any intoxicating substance.

4.3.12.6 Use of drugs resulting in a state that endangers oneself or others.

4.3.13 Non-Sex Based and Non-Protected Class Stalking:

4.3.13.1 A course of conduct, directed at a specific person, that is unwelcome, repetitive or menacing, and would cause a reasonable person to fear for their own safety, the safety of another, or suffer emotional distress. Title IX stalking is processed under University Policy 154. Non-Title IX Stalking and protected class stalking are processed under University Policy 164.

4.3.14 Retaliation:

4.3.14.1 Any form of abuse, threat, intimidation, bullying, coercion, harassment, or attempt to influence or interfere with another individual or group who submits a report, cooperates with an investigation, or acts as a witness in an alleged violation of the Student Conduct Code, or federal, state, or local laws and ordinances.

4.3.15 Safety Hazards and Failure to Protect from Hazards:

4.3.15.1 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 participating in a dangerous prank; hanging out of, or climbing on, windows, balconies, or roofs; or any other conduct that creates an unreasonable risk of harm to a person or property

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

4.3.16 Trespassing and Unauthorized Use:

4.3.16.1 Unauthorized use, entry, attempted entry, or occupation of another person's property or of University facilities, property, or vehicles.

- 4.3.16.2 Any unauthorized possession, duplication, or use of University keys or access devices.
- 4.3.16.3 Unauthorized removal or misuse of any University documents, records, data, nonpublic information, identification, educational material, or property (including forgery or alteration).
- 4.3.16.4 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.
- 4.3.16.5 Knowingly entering or remaining on University premises, or any portion thereof, after an authorized University Official or law enforcement officer notifies an individual or group orally or in writing that the individual's or group's entry or presence is prohibited and therefore the individual or group is excluded/trespassed from University premises or a location specified by the University Official or law enforcement officer. An excluded/trespassed individual or group 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/trespassed the individual or group or the University's Chief of Police.

#### 4.3.17 University Directives:

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

#### 4.3.18 Weapons:

- 4.3.18.1 Illegal use or possession of firearms or other weapons such as blades larger than pocketknives; ammunition or explosives; dangerous chemicals, substances, or materials; bombs or incendiary devices; or simulated weapons; or any weapon prohibited by law or University policy. Use of any such items, even if legally possessed, in a manner that harms or threatens

others is prohibited. Appropriate permits must be maintained to demonstrate legitimacy of possession.

#### 4.4 Misconduct On and Off University Premises

4.4.1 Students are expected to conduct themselves respectfully and responsibly at all times, whether on or off University Premises. If a student or Student Group is cited for, arrested for, charged with, indicted for, or convicted of violations of the law on or off University Premises, the University will cooperate with appropriate law enforcement officials insofar as the law permits and may impose interim disciplinary and/or sanctions as necessary. If a student or Student Group is reported to University officials for misconduct on or off of University Premises, the University may intervene on a formal or informal basis.

4.4.2 At the discretion of the Dean of Students or a Designee, a student who is arrested for, charged with, or indicted for a serious criminal offense may be subject to immediate administrative suspension pending judicial and/or University proceedings as outlined in Section six (6) of this code. Other interim actions such as probation or restriction may be imposed prior to an adjudication through the Student Conduct Process.

4.4.3 Violation of published University policies, rules, or regulations.

4.4.4 Violation of federal, state, or local civil or criminal laws.

#### 4.5 Parental Notifications of Alcohol and Drug Student Conduct Code Violations

4.5.1 Utah Board of Higher Education Policy R261, Parental Notification Regarding Alcohol and Drug Violations, requires procedures for notification of the parent or legal guardian of a student younger than 21 years of age regarding a violation by the student of any Federal, State, or local law or any rule or policy of the University governing the use or possession of alcohol or a controlled substance, including illegal use of a controlled substance, reckless disregard for the safety of him/herself or other(s) while intoxicated, medical attention required as the result of the use of alcohol or a controlled substance, a repeat alcohol or controlled substance offense, non-compliance with University sanctions related to alcohol or a controlled substance, and other serious alcohol and controlled substance offenses. The University maintains the option

of notifying the parent or legal guardian of an underage student of such violations.

- 4.5.2 No disciplinary hearing is required before alerting a parent or legal guardian that his/her child under 21 years of age has been cited by an institutional officer for a violation of University policy concerning alcohol or a controlled substance.
- 4.5.3 The University is not required to alert the student when the parental notification option has been exercised. In cases where parental notification takes place, the University will make every effort, as possible and appropriate, to consult with the student and attempt to have the student make the first contact with the student's parent(s).
- 4.5.4 The University will keep a record of parental notification and will upon request provide that information to a student whose parents have been notified.

## **V. References**

- 5.1 University Policy 110: Free Speech and Assembly
- 5.2 University Policy 154: Title IX Sex-Based Discrimination, Sexual Harassment, and Retaliation
- 5.3 University Policy 164: Protected Class and Non-Title IX Discrimination, Harassment, Sexual Harassment and Retaliation
- 5.4 University Policy 555: Student Academic Misconduct
- 5.5 Resident-Life Handbook, Found on the Housing and Resident Life website.
- 5.6 Utah Board of Higher Education Policy R261, Parental Notification Regarding Alcohol and Drug Violations

## **VI. Procedures**

- 6.1 General Provisions
  - 6.1.1 Although formal procedures are outlined in this policy, the University encourages resolution of problems when appropriate by mutual consent of all parties involved. Discussion regarding behavioral misconduct may be initiated by the involved student, or any University employee.

- 6.1.1.1 The Dean of Students or Designee retains discretion as to what resolution is appropriate and adequate for the severity of the problem.
- 6.1.1.2 This policy shall not be construed as a binding contract between the University and any student or associated third party.
- 6.1.2 When formal resolution of a problem is required, specific administrative procedures and timelines are outlined herein.
- 6.1.3 When behavioral misconduct falls under more than one section of the Student Conduct Code, the Dean of Students or Designee shall decide the order of procedure.
- 6.1.4 Timelines for procedures under the Student Conduct Code are designed to offer appropriate and equitable resolutions. To facilitate fairness to all parties and/or avoid injury to any of the parties or another member of the University Community, the Dean of Students or Designee may adjust timelines in special circumstances. Special circumstances include but are not limited to:
  - 6.1.4.1 Cases in which it will serve the best interests of the student or University.
  - 6.1.4.2 Cases in which it will better facilitate the administration of justice.
  - 6.1.4.3 Cases in which the proceedings under the Student Conduct Code are also the subject of ongoing criminal or civil enforcement proceedings by federal, state, or local authorities.
- 6.1.5 Any person acting as Dean of Students or Designee investigator, Student Conduct Committee member, or Student Conduct Panel member shall be free of conflict of interest or bias for or against Complainants or Respondents generally or individually. All potential instances of bias or a conflict of interest must be promptly reported to the Dean of Students. The Dean of Students will determine whether actual bias or an actual conflict of interest exists by consulting with appropriate University representatives. If the Dean of Students is the individual alleged to have bias or a conflict of interest, then a representative from Human Resources will determine whether any bias or conflict of interest exists.

6.1.6 A hold may be placed on a student's records and/or registration by the Dean of Students or Designee pending the resolution of proceedings under the Student Conduct Code, and the hold can only be removed by the Dean of Students, or Designee.

## 6.2 Complaint Procedures

6.2.1 Whenever possible and if appropriate, a complaint should be resolved informally by the student's faculty member, work supervisor, department chair, program director, Dean or other involved parties.

6.2.2 The Student Conduct Process may begin when the Dean of Students or Designee receives a written or verbal complaint.

6.2.2.1 If the initial Complaint was verbal or insufficiently detailed, the Dean of Students may instruct the Complainant to submit a detailed written Complaint of the circumstances giving rise to the Complaint. The written Complaint must be received within ten (10) University Business Days of such instruction.

6.2.2.2 If no written Complaint can be obtained, the Dean of Students or Designee may serve as the Complainant.

6.2.3 Any person directly aggrieved by an alleged violation of the Student Conduct Code may submit a written or verbal complaint to the Dean of Students or Designee within six (6) months following the date of the alleged misconduct, unless an exception is granted by the Dean of Students or Designee due to extenuating circumstances.

6.2.3.1 A written complaint with the Complainant's signature may be required.

## 6.3 Interim Measures

6.3.1 Interim measures may be imposed by the Dean of Students or Designee on receipt of a Complaint of alleged student misconduct. These interim measures do not replace the Student Conduct Process.

6.3.2 An interim measure may be imposed effective immediately, without prior notice, when, in the judgment of the Dean of Students or Designee, the seriousness of the alleged behavior threatens the safety and well-being of any member of the University community, threatens University property, or has potential to disrupt or

interfere with normal University operations. The student or organization will be notified in writing as soon as reasonably possible of the interim measure(s) imposed and the reason for the interim measure(s). Interim measures are reviewed as new information becomes available and may be adjusted accordingly.

6.3.3 If the student or Student Group wishes to discuss and/or appeal the appropriateness of any interim measure(s) imposed, the student or a representative of the Student Group may request a meeting with the Dean of Students or Designee within three (3) University Business Days of receiving the interim measures notification. If appealing any interim measure imposed, the student or Student Group must also submit to the Dean of Students or Designee prior to, or at the time of, the meeting a written statement describing the reason(s) why the imposed interim measure(s) is not appropriate. The appeal will only be reviewed by the Dean of Students or Designee following the same appeal guidelines outlined in Section 6.10. The Dean of Students or Designee will review and consider the written statement submitted and the student or Student Group's statements in the meeting, and subsequently notify the student or Student Group of the decision as to whether to continue or adjust the interim measure(s) within 48 hours of the meeting or receipt of the written appeal, whichever is later.

6.3.4 Interim measures include but are not limited to:

6.3.4.1 Interim No Contact Order: The student or members of a Student Group are prohibited from having contact with specifically identified individuals up to and through a Student Conduct Process, if required. This may prohibit students from attending specific events, activities, or classes.

6.3.4.2 Interim Trespass Order: The student is prohibited from being in, on or near specifically identified locations, events, activities, or classes up to and through a Student Conduct Process, if required.

6.3.4.3 Interim Residential Relocation: The student is mandated to relocate to an alternative housing location until the completion of the Student Conduct Process or otherwise when the Dean of Students or Designee amends or lifts the Interim Residential Relocation. The student may be provided temporary University housing and access to University dining if included in the student's original housing contract.

- 6.3.4.4 Interim University Suspension: The student is denied access to University Premises, classes, and University activities up to and through the completion of the Student Conduct Code Process if required.
- 6.3.4.5 Interim Dean's Hold: This is a hold which prevents a student from registering for classes, requesting a transcript, etc., until the conclusion of a Student Conduct Process, or complying with and/or completing other sanctions, if required. The student must meet with the Dean of Students or a Designee to discuss the alleged violation(s) prior to the Dean of Students or Designee determining whether to remove the hold.
- 6.3.4.6 Interim Degree Hold: The awarding of a student's degree is withheld until the conclusion of a student conduct hearing, if required, or until the completion of all sanctions imposed.
- 6.3.4.7 Interim Restriction of Activity: A temporary restriction of student involvement. This may include but is not limited to restriction from Student Association events, other activities, meetings, practices, philanthropic endeavors, and social gatherings until the student conduct matter is resolved.

#### 6.4 Initial Inquiry

- 6.4.1 Within ten (10) University Business Days of the receipt of a complaint, the Dean of Students or Designee shall begin an initial inquiry to determine whether there is a reasonable basis for believing the Respondent violated the Student Conduct Code. Information may be discussed by the CARE Team to give input to the Dean of Students.
- 6.4.2 Within ten (10) University Business Days after the receipt of the Complaint and an initial inquiry has commenced, the Dean of Students or a Designee shall give written notice to the student against whom the complaint was lodged (the Respondent) of the allegations of the complaint and the Student Conduct Code procedures which will be used to resolve the issue.
- 6.4.3 A Complaint that is frivolous, that fails to state facts, or does not constitute a violation of the Student Conduct Code or that is untimely, may be dismissed by the Dean of Students or Designee after an initial inquiry.

6.4.3.1 Any person who knowingly and intentionally files a false complaint may potentially incur disciplinary action under this policy and procedure.

## 6.5 Informal Resolution

6.5.1 At any time during the Student Conduct Process, the Dean of Students or Designee may agree to an Informal Resolution.

6.5.2 The Dean of Students or Designee may refer the case to the Student Conduct Committee without agreeing to an Informal Resolution under one of the following conditions.

6.5.2.1 The severity of the case makes an Informal Resolution inappropriate.

6.5.2.2 The conduct history of the individual student or Student Group makes an Informal Resolution inappropriate.

6.5.2.3 The Complainant or the Respondent request the complaint be adjudicated by the Student Conduct Committee.

6.5.3 The Dean of Students or Designee and the Respondent will discuss the alleged violation(s) to determine whether an Informal Resolution is appropriate. If the Dean of Students or Designee and the Respondent do not agree upon an Informal Resolution or if the Informal Resolution is inappropriate under Section 6.5.2, the Dean of Students or Designee will refer the complaint to the Student Conduct Committee. If the Dean of Students or Designee and the Respondent agree to an Informal Resolution, the finding of a policy violation, including any sanctions, is binding and not subject to appeal.

6.5.3.1 All Informal Resolutions must be in writing and provided to the Respondent within ten (10) University Business Days of the decision and will remain on file in the Dean of Students' office for not less than seven (7) years from the date of resolution.

6.5.3.2 A violation of any term of the agreement or additional misconduct may result in further disciplinary action.

6.5.3.3 A Support Person of Respondent's choosing may accompany Respondent to a meeting with the Dean of Students or Designee; however, the Support Person is not permitted to actively or directly participate in the meeting.

## 6.6 Investigation

- 6.6.1 The Dean of Students or Designee shall conduct a reliable and impartial investigation of the alleged misconduct by interviewing relevant witnesses, collecting relevant documentary evidence, and preparing a written summary of Investigation Findings. The purpose of the investigation is to establish whether there is a reasonable basis, based on a preponderance of the evidence, for concluding that an alleged violation of the Student Conduct Code has occurred.
  - 6.6.1.1 The Dean of Students reserves the right to engage an outside investigator to conduct the investigation if it is determined there is a conflict of interest or other compelling reason to do so.
- 6.6.2 If a Respondent withdraws from the University before the completion of an investigation, the University may continue to investigate and apply this policy for resolving the specific disciplinary matter in the Respondent's absence. If a Respondent is found to have violated University policy, the University may restrict the Respondent's readmission on terms or under circumstances it may prescribe based on the findings and outcome of the Student Conduct Process.
- 6.6.3 During the investigation, the Complainant and Respondent have the opportunity to offer information, present evidence, and identify witnesses to the Dean of Students or Designee for consideration.
- 6.6.4 At the conclusion of the investigation, which will occur no later than thirty (30) University Business days after the receipt of the complaint, the Dean of Students or Designee will use the preponderance of evidence standard to determine whether or not the Respondent violated the Student Conduct Code and shall notify the Respondent and Complainant in writing of the Investigation Findings.
- 6.6.5 If the Dean of Students or Designee determines based on a preponderance of evidence that a violation did not occur, the Complaint will be dismissed and the Complainant will be notified by the Dean of Students or Designee of the dismissal.
- 6.6.6 If the Complainant or Respondent wishes to appeal the dismissal, either party may appeal to the Vice President of Student Affairs or delegated alternate within ten (10) University Business Days and follow the appeal procedure outlined in Section 6.10.

## 6.7 Finding Meeting

- 6.7.1 Within ten (10) University Business Days of concluding the investigation, if there is an investigation finding that a policy violation occurred, the Dean of Students or Designee will conduct a Finding Meeting with the Respondent. The Complainant and/or others may be invited to attend the same or a separate Finding Meeting, depending on the circumstances. If any party chooses not to attend, the Finding Meeting may still proceed. During a Finding Meeting, the Complainant or Respondent may review the Investigation Findings and any relevant evidence that was used as a basis for the Investigation Findings.
- 6.7.2 A Support Person of Respondent's choosing may accompany Respondent to the Finding Meeting; however, the Support Person is not permitted to actively or directly participate in the meeting.
- 6.7.3 The Finding Meeting results in one of the following outcomes:
  - 6.7.3.1 If the Respondent does not admit to the alleged violation(s) supported by the investigation findings the case will then be submitted by the Dean of Students or Designee to the Student Conduct Committee within ten (10) University Business Days for review, adjudication, and/or sanctioning.
  - 6.7.3.2 If the Respondent accepts an Informal Resolution for the violation(s), the Informal Resolution process in Section 6.6 above is followed.
  - 6.7.3.3 If the Respondent accepts the finding(s) of responsibility for violating the Student Conduct Code but not the recommended sanction(s), then the case will be referred to the Student Conduct Committee within ten (10) University Business Days for sanctioning by a Student Conduct Panel under Section 6.8.
- 6.7.4 If a case will be referred to the Student Conduct Committee as an outcome of the Finding Meeting, the Dean of Students or Designee first determines whether expulsion or suspension are potential sanctions due to the severity of the alleged violation(s).
  - 6.7.4.1 If expulsion or suspension are potential sanctions as determined by the Dean of Students or Designee the case will be referred to the Student Conduct Committee for a hearing before a Student Conduct Panel as described in Section 6.8.

6.7.4.2 If expulsion or suspension are not potential sanctions, the Complainant and Respondent may each submit a written position statement, not to exceed five (5) pages, for the Student Conduct Panel's consideration at the Student Conduct Panel meeting. The written position statement must be submitted to the Dean of Students or Designee within five (5) University Business Days following the Finding Meeting and the Dean of Students or Designee will forward the written statement to the Student Conduct Committee for the Student Conduct Panel's review prior to the meeting.

## 6.8 Student Conduct Committee and Student Conduct Panel

6.8.1 A referral is made to the Student Conduct Committee when a resolution between the Dean of Students or Designee and a Respondent cannot be reached.

6.8.2 The Committee Chair(s) will appoint a Student Conduct Panel within ten (10) days of the receipt of a referral from the Dean of Students or Designee.

6.8.3 If any member of the Panel has a conflict of interest in a particular case, either self-disclosed or raised by a Complainant, Respondent, Dean of Students, or the Committee Chair(s), that Panel member is recused by the Committee Chair and an alternate from the same representative category (faculty, staff, or student) will be appointed.

### 6.8.4 Student Conduct Panel Meeting

6.8.4.1 The Student Conduct Panel will select a chair from the faculty or staff representatives on the Panel. The Student Conduct Panel will, within ten (10) University Business Days of appointment, review the Complaint, investigation findings, relevant evidence, Respondent's student conduct history (if applicable), and the written statements of the parties (if submitted), meet as a group (in person or virtually) without the parties or the witnesses present, deliberate, make a finding of responsibility for each alleged violation(s) of the Student Conduct Code, and, if appropriate, determine sanction(s) as provided in Section 6.9.

6.8.4.2 The Chair of the Student Conduct Panel shall prepare and issue a written Student Conduct Panel Decision detailing the Student Conduct Panel's findings and sanctions, if any, and

email the decision to the Dean of Students or Designee within seven (7) University Business Days of the Panel's meeting. The number of days may be extended at the discretion of the Dean of Student or Designee, who will notify all parties of any extension. The written decision will include the findings of responsibility, rationale for the findings, sanctions (if applicable), and information on the appeal process. A copy of the decision may be shared with appropriate University offices.

#### 6.8.5 Student Conduct Panel Hearing

- 6.8.5.1 In cases where the Dean of Students or Designee determines that suspension or expulsion are potential sanctions, the Student Conduct Panel shall schedule a hearing within twenty (20) University Business Days of appointment by the Student Conduct Committee. The Dean of Students or Designee shall provide notice of the hearing to the Complainant and Respondent. Notice of the hearing is accomplished when notice is emailed to the parties' University email addresses at least ten (10) University Business Days in advance of the hearing date.
- 6.8.5.2 The purpose of the hearing before the Student Conduct Panel is to consider Respondent's alleged violation(s) of the Student Conduct Code, and during the hearing each party will have an opportunity to make a statement of the party's position on the allegations. The formal rules of process, procedure and evidence used by the legal system do not apply to the Student Conduct Process.
- 6.8.5.3 A Support Person of Respondent's choosing may accompany Respondent to the hearing; however, the Support Person is not permitted to actively or directly participate in the meeting.
- 6.8.5.4 During the hearing, the parties (which may include the Dean of Students or Designee, Complainant, and/or Respondent) may provide a verbal statement in support of their position and the Student Conduct Panel may ask questions of the parties.
- 6.8.5.5 The parties may present relevant witnesses at the hearing. The parties must provide notice to the Student Conduct Panel of the intent to present witnesses at least five (5) University

Business Days prior to a scheduled hearing. Witnesses may be present in the hearing only when they are providing information. Witnesses may not serve in the dual role as a Support Person. Only the Student Conduct Panel may ask questions; the parties may suggest questions for each other or witnesses. The Student Conduct Panel has the discretion to ensure questions are relevant to the case.

- 6.8.5.6 In order to find that a Respondent has violated the Student Conduct Code, the standard of proof required is a preponderance of the evidence. The information presented at the hearing must demonstrate that it is more likely than not that the violation occurred.
- 6.8.5.7 If the Respondent misses the scheduled hearing, the Student Conduct Panel may proceed in the Respondent's absence and will make a decision with the available information presented at the hearing.
- 6.8.5.8 The Student Conduct Panel Chair shall prepare a written Student Conduct Panel Decision detailing the Panel's findings and sanctions, if any, and email its decision to the Dean of Students or Designee within seven (7) University Business Days of the hearing. The number of days may be extended at the discretion of the Dean of Students or Designee, who will notify all parties of any such extension of time for the issuance of the Panel's decision. The written Decision will include the findings of responsibility or non-responsibility for each alleged Student Conduct Code violation, rationale for the findings, sanctions (if applicable), and information on the appeal process.
- 6.8.5.9 The Dean of Students or Designee will then send the Student Conduct Panel's decision to the parties within three (3) University Business Days of the date when the Dean of Students or Designee receives the Student Conduct Panel's decision. A copy of the Panel's decision may be shared by the Dean of Students or Designee with appropriate University officials.
- 6.8.5.10 The University will record the hearing and make a copy of the recording or transcript of the hearing available to the parties for inspection and review. The official recording will be the sole property of the University, and the parties are prohibited

from disseminating or making copies of the recording or transcript. The deliberation of the Student Conduct Panel will not be recorded. The recording of the live hearing will be preserved for seven (7) years from the date of the issuance of the Student Conduct Panel's decision.

- 6.8.6 In both a Student Conduct Panel meeting and a Student Conduct Panel hearing, Student Conduct Panel deliberations and voting shall take place in closed session and will not be recorded. Panel decisions are based on a majority vote, utilizing the preponderance of evidence standard.
  - 6.8.7 The Student Conduct Panel may impose any sanction(s) listed in Section 6.9, unless the Dean of Students or Designee previously determined that expulsion or suspension are not potential sanctions in a given case. If the Respondent is found responsible for violating the Student Conduct Code, the Student Conduct Panel will determine appropriate sanctions based on the incident's severity, impact on others, and the Respondent's student conduct record.
  - 6.8.8 Within ten (10) University Business Days of notification of the Student Conduct Panel's decision the Respondent or Complainant may file an appeal to the Vice President of Student Affairs or designated alternate according to the appeal procedure outlined in Section 6.10.
  - 6.8.9 The University's Office of General Counsel may serve as a resource to the Student Conduct Panel and provide guidance on substantive law and procedural matters.
- 6.9 Sanctions for Behavioral Misconduct
- 6.9.1 Designee 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 members of the University Community.
  - 6.9.2 The following sanctions may be imposed by a Student Conduct Panel or may be mutually agreed upon by the Dean of Students and a Respondent as part of an Informal Resolution at a Finding Meeting:
    - 6.9.2.1 Written Reprimand: A written notice to the Respondent that a violation of the Student Conduct Code has occurred, and that

any continued or repeated violation may be cause for further disciplinary action.

- 6.9.2.2 Disciplinary Probation: A status imposed for a specific period of time in which a Respondent must demonstrate conduct that conforms to the Student Conduct Code, including Section 4.2 of this policy.
- 6.9.2.3 No Contact Order: Respondent is prohibited from having contact with specifically identified individuals or group(s). This order may prohibit Respondent's attendance at specific events, activities, performances, or courses, or a loss of specific privileges for a specified period of time or until specific conditions are met or completed.
- 6.9.2.4 Trespass Order: Respondent is prohibited from being in, on or near specifically identified locations, events, activities, performances, or courses, or from any or all University Premises.
- 6.9.2.5 Residential Relocation: If the Respondent is living in University housing, Respondent may be mandated to relocate to an alternative housing location. Respondent will have access to University dining if included in Respondent's original housing contract.
- 6.9.2.6 Restriction of Activity: A restriction of Respondent's student involvement may include but is not limited to restrictions from attending and/or participating in University events, student events, athletic events, and other activities including intramurals, meetings, practices, performances, philanthropic endeavors, and social gatherings. The Restriction of Activity may be permanent or temporary.
- 6.9.2.7 Community service: A specified number of approved volunteer hours to be provided by Respondent for which no academic credit or remuneration may be received, and which is verified by a supervisor.
- 6.9.2.8 Restitution: Reasonable Reimbursement by Respondent to the University or other impacted parties for damages resulting from a violation of the Student Conduct Code required in the form of monetary payment, service to repair, or other compensation.

- 6.9.2.9 Referral: Respondent may be referred to a licensed physician or other mental health professional for evaluation. Respondent also may be referred to a program specific to Respondent's needs/violation; i.e., Prime for Life.
- 6.9.2.10 Hold on University Records and/or Registration: A hold may be placed on Respondent's University records and/or ability to register for classes by the Dean of Students or Designee for either a specified period of time or until Respondent satisfies some or all of the imposed sanctions. The hold may also prevent Respondent from obtaining transcripts, verifications, or a degree from the University.
- 6.9.2.11 Disciplinary Suspension: The termination of Respondent's student status for a specific period of time as imposed by the Dean of Students, or Designee.
- 6.9.2.11.1 Suspension may include, but is not limited to, other sanctions such as exclusion from specific areas of the University Premises, activities, performances, or events.
- 6.9.2.11.2 Respondent's transcript will include a Student Conduct Letter reflecting the Disciplinary Suspension during the time of the suspension.
- 6.9.2.11.3 The Dean of Students or Designee shall notify Respondent in writing of the suspension, and conditions for reinstatement. Notice of the suspension may be provided to Respondent's Department Chair or other appropriate University Officials.
- 6.9.2.12 Denial or Revocation of a Degree or Certificate: Denial or revocation of a degree or certificate for which requirements have been completed or revocation of Respondent's awarded degree or certificate. Revocation or denial of a degree or certificate is a sanction reserved for the most flagrant violation(s) of the Student Conduct Code.
- 6.9.2.13 Disciplinary Expulsion: The permanent termination of student status. Expulsion is a sanction reserved for the most flagrant violation(s) of the Student Conduct Code, and the Respondent is ineligible for reinstatement.

6.9.2.13.1 An expelled Respondent's transcript will reflect the disciplinary expulsion.

6.9.3 A copy of the Panel's decision may be shared by the Dean of Students or Designee with appropriate University officials.

6.9.4 Any sanction imposed through an Informal Resolution or by a Student Conduct Panel will remain on file in the Dean of Students' Office for not less than seven (7) years.

## 6.10 Appeal Procedures

6.10.1 An appeal of a Student Conduct Panel's decision or the Dean of Students' or Designee's decision to dismiss a complaint is made to the Vice President of Student Affairs by filing a written Notice of Appeal with the Dean of Students' Office within ten (10) University Business Days of the date of the notification of the decision being appealed. The appealing party must use the Dean of Students' Notice of Appeal form and must include a detailed statement explaining how the appeal meets at least one of the criteria explained in Section 6.10.2.1.

6.10.2 A Student Conduct Panel's decision or a Dean of Students or Designee's decision to dismiss a complaint are deemed final if not appealed by such date. The Dean of Students or Designee has sole discretion to make any exception to the appeal deadline for just cause.

6.10.2.1 Both Complainant and Respondent have the right to appeal. An appeal, pursuant to Section 6.6.6 and Section 6.9.4, must meet one of these three (3) criteria. 1) The sanction imposed is disproportionate to the violation. 2) A substantive procedural irregularity in the Student Conduct Process substantially impacted the decision, resulting in substantial prejudice to the appealing party. 3) New evidence is available that was not reasonably available at the time the Complaint was dismissed or the Student Conduct Panel's Decision was issued, which would alter the decision.

6.10.3 An appeal will be initially reviewed by the Dean of Students or Designee to determine if any of the three (3) criteria listed above have been met. If any of the three criteria is met, the appeal is referred to the Vice President of Student Affairs. After receiving the appeal, the Vice President of Student Affairs shall, within ten (10)

University Business Days of receipt of the appeal from the Dean of Students' Office:

- 6.10.3.1 Affirm or modify the decision, remand the decision for further deliberations, order further investigation, order a new investigation, amend the sanction, or overturn the decision in whole or in part. The Appeal Decision shall include the Vice President of Student Affairs' rationale for the decision.
- 6.10.4 Written notification of the Appeal Decision and the rationale for that decision shall be communicated to the parties within ten (10) University Business Days after the Vice President of Student Affairs' receipt of the appeal.
- 6.10.5 The Vice President of Student Affairs' decision is final and not subject to any further appeal at the University.

#### 6.11 Records of Student Conduct Process

- 6.11.1 No University employee shall provide information to a person or entity concerning a student without fully complying with The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C.A. §1232g) and the Government Records Access and Management Act (GRAMA) (U.C.A. §63-2-101). In most circumstances, such as requests from a licensing body or an employer, information may only be provided with the prior written consent of the student. In some circumstances, however, such as requests from other institutions where the student seeks or intends to enroll, information may be provided without the consent of the student but only after notifying the student and following appropriate procedures outlined in applicable statutes.
- 6.11.2 Records of proceedings under the Student Conduct Code are confidential to the extent permitted by law.
- 6.11.3 Sanctions resulting in suspension or expulsion from the University may be noted on a student's transcript.
- 6.11.4 Permanent records of expulsion from the University shall be kept in the Registrar's Office.
- 6.11.5 Student Conduct Code records from cases resulting in expulsion or suspension are retained permanently by the Dean of Students' Office. All other student conduct records are retained for seven (7)

years from the date a student graduates or was last enrolled at the University.

## 6.12 Other University Proceedings

- 6.12.1 If the filing of a complaint or an appeal relating to professional or academic misconduct under University Policy 555 also raises issues concerning behavioral misconduct under the Student Conduct Code, the relevant Vice President(s) and/or the Dean of Students and the involved University administrator(s) shall determine the appropriate procedure(s) for processing the complaint or the appeal. The relevant parties will be notified of the determination.

## VII. Addenda—N/A

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Policy Owner: Vice President of Student Affairs

Policy Steward: Director of Student Involvement and Leadership

### History:

Approved 1/29/99

Revised 2/1/02

Revised 5/2/03

Revised 5/7/10

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