

3356-8-01.1 “The Student Code of Conduct.”

(A) Policy statement/preamble. Youngstown state university (“YSU”) is a student-centered institution committed to the education, development, well-being, and success of students of all ages and from all walks in life. In concert with our mission to help students grow intellectually, we strive to foster their personal, social, emotional, and career growth, as well as their capacities for lifelong learning, civic responsibility, and leadership.

As a campus community, we expect all conduct to be rooted in integrity, mutual respect, and civility. We value ethical behavior in scholarly and other endeavors, believe in the dignity and worth of all people, strive to foster an appreciation of, and respect for, differences among the human race, and celebrate the diversity that enriches the university and the world. As a member of a higher education community, students have an obligation to conduct themselves in a manner that is compatible with the university’s purposes as an institution of higher education. Each student is expected to be fully acquainted with all published policies, procedures, and regulations of the university and is held responsible for compliance with them. All members of the university community are expected to assume responsibility for creating an environment conducive to the educational mission and purpose of the university.

The policies and regulations in “The Student Code of Conduct” have been established to ensure a positive educational experience for every student. “The Student Code of Conduct” serves as an official university document that outlines conditions and regulations considered essential to the effective functioning of the university.

The student conduct process at Youngstown state university adheres to procedural due process and is intended to be part of the educational process at the university. This student conduct process provides a forum for the impartial and expedient resolution of alleged misconduct in the university community and encourages students to live responsibly and be accountable for their actions. The student conduct process is based on the university’s commitment to developing integrity, respect, and responsibility among all students.

(B) Article I. Rights and responsibilities.

- (1) Basic rights. The following enumeration of basic rights shall not be construed to deny or disparage other rights and privileges retained by students in their capacity as members of the student body or as citizens of the community at large:
 - (a) The right of free inquiry, expression, and/or assembly.
 - (b) The right to pursue educational goals and appropriate opportunities for learning in the classroom, on campus, and online.
 - (c) The right to be secure in their persons, living quarters, papers, and effects against unreasonable searches and seizures.
 - (d) The right to retain ownership of class projects/assignments authored by a student and submitted to fulfill requirements of a course, except as provided by section 3345.14 of the Revised Code.

- (2) Basic responsibilities. Students, as members of the university community, shall have the following responsibilities which are inherent in the basic rights delineated in this paragraph:
 - (a) To maintain standards of academic performance as established by their faculty.
 - (b) To be responsible for acting in such a manner as to ensure other students the basic rights enumerated in this policy.
 - (c) To be responsible for their actions with respect to, and to follow, all university regulations and policies.
 - (d) To be responsible for their actions with respect to provisions of local, state, and federal law.
 - (e) To conduct themselves in a manner which helps to create and maintain a learning atmosphere in which the rights, dignity, and worth of every individual in the university community are respected.

- (f) To have in their possession a valid university identification card when on university premises.
 - (g) To be responsible for adhering to the university policy 3356-7-20, "Drug-free environment" (rule 3356-7-20 of the Administrative Code).
 - (h) To ensure adherence to all university board of trustees' policies that apply to students.
- (C) Article II. Student conduct authority. The president has delegated the authority for the university student conduct system to the vice president for student affairs. The vice president for student affairs, or designee, serves as the student conduct administrator responsible for the administration and operation of "The Student Code of Conduct" and the student conduct process. Members of the university seeking formal disciplinary action for alleged student misconduct should make referrals to the office of student conduct.

The student conduct administrator shall determine the composition of student conduct bodies and appellate hearing panels.

The student conduct administrator shall develop policies for the administration of the student conduct system and procedural rules for the conduct of hearings that are consistent with provisions of "The Student Code of Conduct." The student conduct officer shall be the associate director for student conduct. The student conduct administrator may also appoint one or more deputy conduct officers to review reports of violations of "The Student Code of Conduct" and to conduct investigations. Deputy conduct officers shall be under the supervision of the student conduct officer and/or the student conduct administrator.

 - (1) Jurisdiction of "The Student Code of Conduct."
 - (a) "The Student Code of Conduct" shall apply to conduct which adversely affects the university community or interferes with the pursuit of its mission or educational objectives and programs whether it occurs on university premises, at university sponsored activities, or on non-university premises. It is important to note that a student and/or group/organization will be subject to the university

student conduct process where the conduct has occurred on non-university premises when the conduct adversely affects the university community or interferes with the pursuit of its mission or educational objectives and programs.

(b) Students shall be responsible for their conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if the conduct is not discovered until after a degree is awarded). “The Student Code of Conduct” shall apply to a student’s conduct even if the student withdraws from the university while an investigation into alleged of misconduct is pending.

(c) An incident which results in a charge under “The Student Code of Conduct” may also lead to a proceeding outside of the university for a violation of local, state, or federal law. In these instances, university proceedings are not subject to challenge based on concurrent criminal or civil proceedings or that such proceeding has been or will be dismissed, reduced, withdrawn, resolved, or settled. The university will cooperate, to the extent permitted by law, with law enforcement and other agencies in the enforcement of all laws. In all cases, hearings within the university will be held according to the student conduct procedures set forth in in this policy. Since the university student conduct process is educational in nature, differing judgments may result.

(2) Campus student organizations. Registered student organizations may exist for any appropriate purpose that does not conflict with university policies and regulations or with local, state, and/or federal laws. The development of policies and guidelines for student organizations is the responsibility of the vice president for student affairs, or designee. The policies and regulations that apply to student groups/organizations are outlined in the “Penguin Student Handbook,” which houses all of the student organization policies. Student groups/organizations that violate any of the student organization policies may be charged with violating “The

Student Code of Conduct” and be subject to the student conduct procedures set forth in this policy.

(3) Student conduct authority.

(a) The enforcement of regulations, policies, and guidelines that apply to students, student organizations/groups are within the jurisdiction of the vice president for student affairs, or designee.

(b) Any internal college, departmental, or program processes used to address alleged violations of policy or concerns about student conduct are secondary to the processes outlined herein.

(c) Student groups and registered student organizations may be charged with violations of “The Student Code of Conduct” in the following circumstances:

(i) An organization is responsible for its actions and shall be held responsible when the organization fails to comply with the university’s student organization policies, and/or university policies or regulations.

(ii) An organization is responsible for its actions and shall be held responsible when the organization fails to comply with city, state, or federal law.

(iii) A student group (as defined in the glossary of terms section of this policy) or registered student organization and its officers may be held collectively or individually responsible for violations of “The Student Code of Conduct.”

(D) Article III. Student conduct standards/prohibited conduct. The student conduct process aspires to develop and maintain conduct standards in support of character, civility, and community. This section of “The Student Code of Conduct” provides a set of expectations regarding student conduct in support of the university community.

A student or student group/organization may be charged with violating any student conduct standard. In cases where a violation is committed by

a member of a student group/organization, the entire group/organization may be held responsible in addition to the student when those members of the group/organization not directly involved participate in the activity by encouraging, witnessing, or condoning the act in any manner. The following behavior is subject to disciplinary action under “The Student Code of Conduct”:

- (1) Academic integrity. Violations of academic integrity include:
 - (a) Plagiarism, which includes the use by paraphrase or direct quotation of the published or unpublished work of another person without full and clear acknowledgement, the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials, or the misrepresentation of another person’s work as one’s own.
 - (b) The use of any unauthorized assistance or tools:
 - (i) In taking quizzes, tests, assignments, or examinations;
 - (ii) When completing assignments, solving problems, or carrying out other assignments as detailed in the course syllabus or in other instructions by the instructor.
 - (c) The acquisition, without permission, of tests or other academic material belonging to a member of the university faculty or staff.
 - (d) Engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.
 - (e) Inappropriate collaboration, including working together on assignments or projects to an extent not permitted by the instructor.
 - (f) Multiple submissions of the same work, including submitting the same or parts of the same assignment for multiple classes without permission from the instructor.

- (g) Fabrication of data, including presenting fictitious data relating to experiments, changing of data obtained from sources, and citing non-existent sources.
 - (h) Bribes, threats, or intimidation, including exchange of payment for assignments or parts of assignments, and threats to entice others to engage in violations of the academic integrity policy.
 - (i) Impersonation, pretending to be another person in the completion of a quiz, exam, or other assignment.
 - (j) Altering or destroying the work of others unless given permission.
 - (k) Lying in order to obtain an academic advantage, which includes falsification of documents or other information used to request makeup work.
 - (l) Assisting another person in any of the behaviors mentioned above is itself academic dishonesty.
 - (m) Asking others to engage in any of the behavior described above is academic dishonesty;
 - (n) Attempting to engage in any of the above behaviors is academic dishonesty.
- (2) Alcohol.
- (a) Use or possession of alcoholic beverages, except as permitted by law and university policy.
 - (b) Public intoxication.
 - (c) Manufacturing or distribution of alcoholic beverages to any person under twenty-one years of age except as permitted by law.

- (3) Bullying and harassment. Unwelcome or unreasonable behavior that harasses or intimidates people, either as individuals or as a group, and is sufficiently severe or pervasive from both a subjective (the complainant's) and an objective (reasonable person) viewpoint. Bullying and harassing behavior is often persistent and part of a pattern, but it can also occur as a single incident. It is usually carried out by an individual but can also be an aspect of group behavior. See university policy 3356-2-03, "Discrimination/ harassment" (rule 3356-2-03 of the Administrative Code) for prohibited conduct based on an individual's sex, race, color, religion, national origin, age, sexual orientation, gender identity and/or expression, disability, or veteran/military status, or any other basis protected by law.
- (4) Complicity. Allowing or enabling a violation to occur, failing to report a violation, or concealing, condoning, supporting or encouraging a violation or an attempted violation.
- (5) Student conduct system.
 - (a) Failure to obey the summons of a student conduct body or university official to appear for a meeting or hearing as part of the student conduct process.
 - (b) Falsification, distortion, or misrepresentation of information before a student conduct body.
 - (c) Institution of a student conduct proceeding knowingly without cause.
 - (d) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.
 - (e) Attempting to influence the impartiality of a member of a student conduct body prior to and/or during the course of the student conduct process.
 - (f) Harassment (verbal or physical) and/or intimidation of a member of a student conduct body, participants, or witnesses prior to during or after a student conduct proceeding.

- (g) Failure to comply with the sanction(s) imposed by a student conduct body.
 - (h) Influencing or attempting to influence another person to commit an abuse of the student conduct system.
 - (i) Disruption or interference with the orderly conduct of a student conduct proceeding.
- (6) Disorderly conduct. Conduct which is disorderly, lewd, or indecent; a breach of peace; obstructs teaching, research, administration, or university activities or functions.
- (7) Drugs.
- (a) Use, possession, manufacturing, or distribution of marijuana, heroin, narcotics, or other controlled substances in either refined or crude form, including the use of drug-related paraphernalia.
 - (b) The misuse of materials as an intoxicant.
 - (c) Use of prescription drugs in any way other than as prescribed. Distribution of prescription drugs to anyone other than the person to whom they are prescribed.
- (8) Failure to comply. Failure to comply with directions and/or oral or written instructions which are given by any university official, student, faculty member, or staff who is acting in an official university capacity and/or failure to identify oneself to these persons when requested to do so.
- (9) Financial obligations. Failure to meet all financial obligations to the university.
- (10) Gambling. Gambling or wagering of any form except as expressly permitted by law and/or university policy.
- (11) Hazing. An act which endangers the mental or physical health or safety of a student or which destroys or removes public or private property for the purpose of initiation, admission into, affiliation

with, or as a condition for continued membership in a group or organization.

(12) Information technology. Theft or other abuse of information technology and resources, including, but not limited to:

- (a) Unauthorized entry into a file to use, read, or change the contents, or for any other purpose.
- (b) Unauthorized transfer of a file.
- (c) Unauthorized use of another individual's identification and password.
- (d) Use of computing facilities and resources to interfere with the work of another student, faculty member, or university official.
- (e) Use of computing facilities and resources to send obscene or abusive messages.
- (f) Use of computing facilities and resources to interfere with the normal operation of the university computing system originating from an on-campus or off-campus source.
- (g) Use of computing facilities and resources in violation of copyright laws.
- (h) Any violation of the university policy 3356-4-09, "Acceptable use of university technology resources" (rule 3356-4-09 of the Administrative Code).

(13) Dishonesty.

- (a) Furnishing false information to any university official, faculty member, or office.
- (b) Forgery, alteration, or misuse of any university document, record, credit card, or instrument of identification.

- (c) Tampering with the election of any university recognized student organization.
- (d) Deliberately misleading or intentionally failing to maintain correct address and telephone information with the registrar.
- (e) Misrepresenting enrollment status and/or achievement at the university to non-university officials and/or on non-university documents.
- (14) Obstruction of traffic. Obstruction of the free flow of pedestrian or vehicular traffic on university premises or at university sponsored or supervised functions.
- (15) Endangering behavior.

 - (a) Intentionally, knowingly, or recklessly causing physical harm to another person or their property or engaging in conduct which threatens or causes a reasonable apprehension of harm to the health, safety, life, or property of a person, including one's self.
 - (b) Entering false fire alarms, bomb threats, or tampering with fire extinguishers, alarms, smoke detectors, or other safety equipment.
- (16) Property damage. Any action which damages or could reasonably damage property of the university, or property of a member of the university community, or other personal or public property on or off campus, or acts of vandalism even if this behavior does not cause damage.
- (17) Published university policies. Violation of published university policies, rules, or regulations, including those available electronically on the university website.
- (18) Sexual harassment. Conduct on the basis of sex that satisfies one or more of the following categories:

- (a) An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo). An individual does not have to submit to the conduct in order for quid pro quo sexual harassment to occur.
- (b) Unwelcomed conduct determined by the reasonable person's standard to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity (i.e., hostile environment).
- (c) Sexual assault as defined in the Clery Act (which includes rape, fondling, incest, or statutory rape as defined below).
 - (i) Rape (except statutory rape). The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person without the consent of the victim.
 - (ii) Fondling. The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - (iii) Incest. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - (iv) Statutory rape. Sexual intercourse with a person who is under the statutory age of consent.
- (d) Dating violence, domestic violence, or stalking pursuant to the Violence Against Women Act (also defined below).
 - (i) Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined

based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

- (ii) Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- (iii) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.
- (e) Sexual misconduct. Conduct of a sexual nature that is nonconsensual or is carried out through force, threat, or coercion. Sexual misconduct includes, but is not limited to, sexual exploitation and voyeurism.

 - (i) Sexual exploitation. Sexual exploitation occurs when a person takes nonconsensual or abusive sexual advantage of another for his/her own benefit or advantage or to benefit or advantage anyone other than the person being exploited, and that behavior does not otherwise constitute another form of sexual misconduct. Examples of sexual exploitation include, but are not limited to, prostituting another, nonconsensual video or audiotaping of sexual activity, permitting others to secretly observe or record consensual activity or engaging in voyeurism.

- (ii) Voyeurism. Voyeurism occurs when a person, for the purposes of sexual arousal or gratification sexual purposes, surreptitiously invades the privacy of another. Voyeurism can occur in person or through recording or electronic means.
- (f) Consent. An action which is defined as positive, unambiguous, voluntary, and ongoing agreement to engage in a specific activity. Consent is the equal approval, given freely, willingly, and knowingly, of each participant to desired sexual involvement. Consent is an affirmative, conscious decision – indicated clearly by words or actions – to engage in mutually accepted sexual contact. A person may be incapable of giving consent due to physical incapacitation, physical or mental disability, threat or force, coercion, the influence of drugs or alcohol or age. Silence or lack of resistance cannot be the sole factor in determining one has received consent.

 - (i) Coercion. Intimidation, physical or psychological threat, or pressure used to force another to engage in sexual acts. Coercion is unreasonable pressure for sexual activity.
 - (ii) Force. The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce consent.
 - (iii) Incapacitation. Inability to evaluate, understand, or control conduct because an individual is unconscious, asleep, intoxicated or under the influence of other drugs, or for any other reason, physically, mentally, or legally unable to communicate or grant consent. Incapacitation does not correlate to a specific blood alcohol content (“BAC”) and could be the result of drug use.
- (g) Sex offenses. See Chapter 2907. of the Revised Code which defines sex offenses under Ohio law.

- (19) Theft. Attempted or actual theft, including possession of stolen property.
- (20) Unauthorized entry.
- (a) Unauthorized entry to or use of university premises, including access to residential spaces other than one's own assigned space.
- (b) Unauthorized possession, duplication, or use of keys to any university premises.
- (21) Unauthorized recording.
- (a) Unauthorized use of electronic or other devices to make an audio or video record or photograph of any person while on university premises without their prior knowledge or without their effective consent when such a recording or photograph is likely to cause injury or distress, except as otherwise permitted by law.
- (b) Unauthorized distribution or dissemination of an audio or video recording or photograph of any person without their prior knowledge or consent, even if the recording or photograph originally had been produced with the person's consent, when such a recording or photograph is likely to cause injury or distress, except as otherwise permitted by law.
- (22) Violation of law.
- (a) Behavior which would constitute a violation of federal, state, or local law that adversely affects the university community or interferes with the university's mission or its educational objectives and programs.
- (b) Since the university student conduct process is educational in nature and differing judgements may result between university action and outside legal action, the university, in its sole discretion, may pursue student conduct action and impose sanctions against a student for a violation of law:

- (i) Regardless of where the behavior occurs;
 - (ii) When a student is charged with a violation of law but not with any other violation of “The Student Code of Conduct”;
 - (iii) When a student is charged with a violation of law which is also a violation of “The Student Code of Conduct”;
 - (iv) While the student is also subject to criminal proceedings, arrest and/or prosecution or civil litigation.
- (c) University conduct action may be carried out prior to, simultaneously with, or following civil or criminal proceedings.
- (d) The university will cooperate, to the extent permitted by law, with law enforcement and other agencies in the enforcement of all laws and will not request or agree to special consideration for an individual because of that individual’s status as a student.
- (23) Weapons. Illegal or unauthorized possession of firearms, fireworks, explosives, other weapons, or dangerous chemicals on university premises or use of any such item, even if legally possessed, in a manner that harms, threatens, or causes fear to others.
- (24) Sexual harassment as defined in Title IX of the Education Amendments of 1972 as set forth in university Title IX sexual harassment policy. (See rule 3356-2-05 of the Administrative Code and university policy 3356-2-05, “Title IX sexual harassment policy.” Students, faculty, employees, volunteers, third parties, campus visitors and other individuals should refer to the Title IX policy referenced above for processes and procedures under Title IX). The complaint, adjudication, resolution, and appeal process for an allegation of a Title IX violation, as well as possible

sanctions, is delineated in university policy 3356-2-05, "Title IX sexual harassment policy."

(E) Article IV. Student conduct procedures.

- (1) General. This overview gives a general idea of how the university's campus student conduct proceedings work, but it should be noted that not all situations are of the same severity or complexity. Thus, while consistency in similar situations is a priority, these procedures are flexible, and are not exactly the same in every situation.

 - (a) These proceedings are administrative procedures and do not follow the specific steps, methods, or standards of proof of evidence used in civil or criminal courts.
 - (b) Any member of the university community may report alleged violations of "The Student Code of Conduct" by a student or a student group/organization. The report shall be prepared in writing and directed to the office of student conduct. A report of a violation of "The Student Code of Conduct" shall be submitted as soon as possible after the incident occurs but not later than thirty days following the university becoming aware of an incident. Exceptions to this limitation period will be reviewed by the student conduct administrator and may be granted in their discretion.
 - (c) The student conduct officer shall review reports of violation(s) and may initiate investigations of possible violation(s) of "The Student Code of Conduct" to determine if the charges have merit. In reviewing the reports, the student conduct officer will determine whether the alleged violation(s) may be resolved through a conduct conference or a conduct hearing. Students or student groups/organizations that might be subject to university suspension or expulsion shall automatically be provided a student conduct board hearing. Additionally, students alleged to have violated the university's sexual misconduct policy will automatically be provided a student conduct board hearing. Sexual misconduct incidents are

investigated by the Title IX office, with findings forwarded to the office of student conduct for adjudication.

(d) The standard of proof utilized in all university student conduct proceedings shall be a preponderance of evidence. Preponderance of the evidence is known as the balance of probabilities, met if the proposition is more likely to be true than not true. Effectively, the standard is satisfied if there is greater than fifty per cent chance that the proposition is true.

(2) Student conduct conference.

(a) Any student, student group, or student organization (hereinafter referred to as the respondent) who has been charged with an alleged violation of the student conduct standards of “The Student Code of Conduct” will first be scheduled for a conduct conference with the conduct officer assigned to review the allegation. The respondent will be notified in writing via their official university email address, of the date, time, and location of the conduct conference. Written notification will include:

(i) The specific charges pending against the respondent;

(ii) A brief summary of the referral;

(iii) Statement of rights and responsibilities; and

(iv) If applicable, a statement notifying the respondent that the alleged conduct is significant enough that they may face suspension or expulsion if the charge is substantiated.

(b) The conduct conference is the first step in student conduct process and serves to provide the respondent with the opportunity to discuss the allegations that led to the referral. The respondent will receive more information regarding the process, clarification of their rights and

options, the ability to inspect and review all relevant information as well as a range of potential sanctions(s) for the violation(s) in question should the charges be substantiated. After a discussion regarding the incident and review of relevant information, the respondent will have an opportunity to accept or deny responsibility for the charge(s).

(c) If the respondent accepts responsibility for the charge(s), the conduct officer will sanction the respondent as part of the conduct conference. The respondent will be asked to sign a conduct agreement which will outline all of the sanctions offered to the respondent. While the student may sign the agreement immediately, they have up to three university working days to do so. The respondent has the option to accept the charge(s) but contest the sanction(s) or agree to both the charge(s) and sanction(s). Once the agreement is signed, the decision is final and there is no appeal process. If the respondent denies responsibility for one or more of the charges, the conduct officer will refer the case for a student conduct board hearing.

(3) Student conduct board hearing.

(a) The purpose of a hearing is to provide an equitable forum for the review of the available information regarding an alleged incident of misconduct. The student conduct board hearing panel will decide by the preponderance of evidence whether or not the respondent is found responsible for the charge(s). All hearings are closed to the public, with the exception of the complainant, respondent, advisors for the complainant and/or respondent, witnesses, hearing panel, hearing panel advisor, and the conduct officer. All parties directly participating in the hearing (the respondent, complainant, advisors, and conduct officer) may remain present the entire time, excluding deliberations.

(b) Student conduct board hearing panels consist of three members of the student conduct board. Hearing panels are comprised of trained faculty, staff, and students. Each student conduct board hearing will have a hearing panel

chair. The chair is responsible for keeping the proceedings moving forward.

(c) If the respondent or complainant fails to appear at a scheduled student conduct board hearing and the absence is not excused, the hearing may proceed in their absence or may be rescheduled at the discretion of the chair. Additionally, in the event that the complainant, respondent, or witnesses are unable to attend the hearing in person, video technology may be used to enable participants to simultaneously see/hear each other. Video technology may also be used if the complainant or respondent prefers to participate in the hearing from a different room than the opposing party

(d) Each student conduct board hearing panel will have a hearing panel advisor. The role of the hearing panel advisor is to ensure the student conduct process is adhered to and to answer procedural questions posed by any party during the hearing. The hearing panel advisor will also keep the proceedings focused on issues relevant to the specific allegations. The hearing panel advisor may be summoned by the hearing panel during deliberations to answer questions and provide guidance as necessary.

(4) Hearing procedures.

(a) Guidelines.

(i) The chair will explain the rights and responsibilities of the respondent and the complainant.

(ii) The chair and hearing panel advisor are responsible for assuring that these rights as well as the process described in this section are adhered to during the hearing.

(iii) The respondent or the complainant may ask for the removal of a hearing panel member by providing written or verbal evidence of bias. The charge of bias is made to the chair who will determine

whether it is valid. If the charge of bias is against the chair, the hearing panel advisor will decide whether it is valid. If bias is found, or is unable to be determined, the hearing will be rescheduled.

(iv) The conduct officer may ask questions of any party at any time throughout the hearing.

(v) The chair and hearing panel advisor are responsible for determining the relevancy of questions asked during a hearing and may deem certain questions irrelevant and not allow them to be answered. The chair must explain to the party proposing questions any decision to exclude a question as not relevant.

(vi) The chair may exclude persons from the hearing if they are disruptive or postpone the hearing because of disruptive behavior by participants or observers.

(b) Introduction.

(i) Each party in the room will introduce themselves and explain their role in the hearing.

(ii) The chair will then explain the process and procedures for the hearing.

(iii) All witnesses will then be dismissed from the room.

(c) Presentation of information.

(i) Following the introduction, the chair will present the respondent with the charges against them. The respondent will respond to each charge by acknowledging that they are responsible for the charge or by denying responsibility for the charge.

(ii) The conduct officer will explain why the case was referred for a hearing and will provide a detailed summary of the incident and any subsequent investigation undertaken.

- (iii) If there is a complainant, they will then have an opportunity to provide the hearing panel with a summary of their role and perspective on the incident.
 - (iv) The hearing panel will then ask the respondent to describe their involvement in the matter at hand as it pertains to the charges being considered in the hearing.
 - (v) The conduct officer will then present any relevant witnesses or documentary information. The respondent and complainant will each, in turn, have the opportunity to ask questions regarding the information presented by the conduct officer to this point.
 - (vi) The respondent will then present any relevant witnesses or documentary information to the hearing panel. The hearing panel and the conduct officer will each in turn have the opportunity to ask questions regarding the information presented by the respondent to this point.
 - (vii) The respondent and complainant, in turn, will have the opportunity to cross-examine one another.
 - (viii) The conduct officer will have an opportunity to make a summary statement including any sanctioning recommendations.
 - (ix) The complainant will have an opportunity to make a summary statement including any sanctioning recommendations.
 - (x) The respondent will have an opportunity to make a summary statement including any sanctioning recommendations.
- (d) Deliberation and finding.

- (i) The hearing panel will go into closed session to determine by the preponderance of evidence whether the respondent will be found responsible for the charge(s) pending in this matter. Student conduct hearing panels determine findings by majority vote.
 - (ii) If the respondent is found responsible for a violation of one or more of the pending charges, the hearing panel will proceed to sanctioning. At this time, the hearing panel will be presented with any relevant information pertaining to the respondent's prior student conduct cases and sanctions.
 - (iii) The hearing will reconvene for the announcement of the findings and any subsequent sanction(s). In student conduct board hearings, the sanction(s) are recommended to the vice president for student affairs, or designee, who will make the final decision. While normally the recommendation will be the sanction imposed, the vice president for student affairs, or designee, may impose a different sanction.
 - (iv) Written notification of the decision will be sent to the respondent and complainant simultaneously via their official university email addresses.
- (5) Student rights and responsibilities. The following rights and responsibilities apply to those involved in a matter being addressed by the student conduct process in an effort to uphold due process.
 - (a) Rights of respondent. All respondents in the student conduct process have the following rights:
 - (i) Written notice of the charge(s) made against them and the basis of the allegation that led to the charge(s).

- (ii) In matters that could result in a sanction of suspension or expulsion, the above-mentioned notification will alert the respondent to the possible severity of the outcome.
- (iii) The right to an advisor. It is the respondent's responsibility to communicate all necessary information regarding the student conduct process and proceedings with the advisor, unless the respondent signs an authorization for the release of information, thus allowing the office of student conduct to communicate directly with the advisor.
- (iv) To request reasonable accommodations due to disability. See paragraph (E)(6) of this policy, "Reasonable accommodation for students with disabilities."
- (v) To make a request for a change of date for a student conduct proceeding, so long as the request is made no less than forty-eight hours in advance of the initially scheduled proceeding. Rescheduled proceedings will generally occur within three university working days of the initially scheduled proceeding.
- (vi) Reasonable access to inspect and review their own case file, which includes all information that would be used during the student conduct process, including hearing audio/video, to the extent permitted by confidentiality laws.
- (vii) Explanation of the resolution options available to them through the student conduct process.
- (viii) To be presumed not responsible for an alleged violation until found in violation by a preponderance of the evidence.
- (ix) To speak or not speak on their own behalf.

- (x) The opportunity to respond to information used as part of the decision-making process.
 - (xi) To deny responsibility for the charge(s) facing them and request that the case be referred to a student conduct board hearing.
 - (xii) To question any witness who participates as part of a hearing.
 - (xiii) The right to appeal.
 - (xiv) To waive any of the above stated rights provided that the waiver is made freely and in writing.
- (b) Rights of the complainant. All complainants in the conduct process have the following rights:
- (i) To pursue criminal or civil charges where a legal case exists (without university assistance).
 - (ii) Explanation of the resolution options available to them through the conduct process.
 - (iii) To be free from harassment and intimidation from respondents and others as they engage in this process.
 - (iv) The right to an advisor. It is the complainant's responsibility to communicate all necessary information regarding the student conduct process and proceedings with the advisor, unless the complainant signs an authorization for the release of information, thus allowing the office of student conduct to communicate directly with the advisor.
 - (v) Reasonable access to inspect and review their own case file, which includes all information that would be used during the student conduct process, including hearing audio/video, to the extent permitted by confidentiality laws.

- (vi) To request reasonable accommodations due to disability. See paragraph (E)(6) of this policy, “Reasonable accommodation for students with disabilities.”
 - (vii) To make a request for a change of date for a student conduct proceeding, so long as the request is made no less than forty-eight hours in advance of the initially scheduled proceeding. Rescheduled proceedings will generally occur within three university working days of the initially scheduled proceeding.
 - (viii) To provide information for consideration during the conduct process, and to know the results of the process to the extent allowed under federal laws and university policies.
 - (ix) The opportunity to appear at any hearing that may take place in order to provide relevant information.
 - (x) The opportunity to submit a written impact statement for use in a hearing, even if the complainant chooses not to attend the hearing.
- (c) Responsibilities of respondents, complainants, and witnesses. All respondents, complainants, and witnesses in the conduct process have the following responsibilities:
- (i) To be honest and forthright in all information they provide during the student conduct process. Presenting false and misleading information during this process is a violation of student conduct standards as outlined in this policy.
 - (ii) To attend all scheduled meetings, conferences, or hearings, unless alternate arrangements are made in advance.

- (iii) To refrain from disruption of the hearing process. Disruption of this process is a violation of this policy. See paragraph (D) of this policy, “Student conduct standards/ prohibited conduct.”
 - (iv) Respondents have the responsibility to prepare and present their entire case as well as secure the presence of any witnesses who will speak on their behalf.
- (6) Reasonable accommodation for students with disabilities. Any student with a disability involved in the student conduct process has the right to request reasonable accommodation in order to ensure their full and equal participation. Students wishing to request reasonable accommodations should make those requests directly to the center for student progress (“CSP”) disability services. Students do not have to disclose information about the complaint or charge to CSP disability services to request reasonable accommodation, except to the extent that it may assist in the determination of reasonable accommodations.

Accommodations are determined on an individual basis by CSP disabilities services staff and implemented in consultation with the office of student conduct. Examples of reasonable accommodation include sign language interpretation, real-time communication access during hearings, large print documents, extended time to review documents, or assistance with transcribing questions during interviews or hearings.

- (7) Sanctions. If the student or student group/organization is found responsible for a violation of a policy, sanctions will be issued in accordance with the office of student conduct’s sanctioning rubric. The student conduct administrator may adjust recommended sanctions on a case-by-case basis, as appropriate.

A conduct sanction imposed or other action taken by any student conduct body shall become effective upon written notification to the respondent. The notification will be sent to the respondent’s official university email account. In cases involving a student group/organization, notification will be sent to the official

university email account for the president or student group/ organization leader.

The decision of a student conduct body may be appealed, as outlined in paragraph (E)(9) of this policy. If the respondent files a request for appeal, and if the appeal is denied, the sanction shall take effect upon exhaustion of the appeals process and shall be retroactive to the effective date stated in the original notification to the respondent.

- (a) The following sanctions may be imposed upon any student who has been found responsible for a violation of “The Student Code of Conduct.” Sanctions are typically issued in a progressive fashion; however, each situation differs and many factors, including the severity of a violation and the impact of the violation on the campus community, will be taken into consideration in determining sanctioning.
- (i) Warning. A written notification statement that the student is violating or has violated “The Student Code of Conduct.” Continuation or repetition of inappropriate conduct may be cause for increased sanctioning.
- (ii) Conduct probation. Notice in writing that the violation of “The Student Code of Conduct” is serious and that any subsequent violation(s) of university regulations may result in imposition of additional restrictions or conditions, suspension, or expulsion.
- (iii) Conduct probation with restrictions. Notice in writing that the violation of university regulations is serious and that any subsequent violation(s) of “The Student Code of Conduct” may result in suspension or expulsion. In addition, an order preventing the student from holding university elective office, student employment, participating in any intercollegiate activity or sport, participating in any university sponsored program/organization, or

representing the university in any other manner will be attached to this sanction.

- (iv) Restitution. Compensation for loss, damage, or injury. This may take the form of appropriate service or monetary or material replacement.
- (v) Educational sanctions. Other sanctions may be imposed instead of, or in addition to, those specified above. These may include community service, educational assignments, referrals to student outreach and support and other campus offices, or other similar sanctions designed to assist the respondent in reflecting upon their behavior and the impact of their behavior on self or others.
- (vi) Deferred suspension. Separation of the student from the university and/or residence halls is deferred for a specified period of time. If the student is found in violation of any subsequent violations of “The Student Code of Conduct,” the suspension takes effect immediately and may not be appealed.
- (vii) Residence hall probation. Notice in writing that the violation of “The Student Code of Conduct” is serious and that any subsequent violation of university regulations and/or resident handbook policies may result in imposition of additional restrictions or conditions, residence hall suspension, or residence hall expulsion.
- (viii) Guest restriction. Residence hall students are restricted from signing in to other residential communities as guests for a designated period of time.
- (ix) Host restriction. Residence hall students are restricted from hosting other guests for a designated period of time.

- (x) Relocation. Requiring a student to move to another floor, residence hall, or apartment as a result of community disruption.
- (xi) Deferred residence hall suspension. Separation of the student from the residence halls is deferred for a specified period of time. If the student is found responsible for any subsequent violations of “The Student Code of Conduct,” residence hall suspension takes effect immediately and may not be appealed.
- (xii) Residence hall suspension. Separation of the student from the residence halls for a specified period of time after which time the student is eligible to return. During the suspension period, the student is prohibited from accessing any university housing facilities. This may include residential dining facilities.
- (xiii) University suspension. Separation of the student from the university for a specified period of time after which time the student is eligible to return. During the suspension period, the student does not have access to the university and is prohibited from participating in any academic or other university activities. This may include residential dining facilities. A university suspension is noted on an addendum attached to a student’s transcript.
- (xiv) Residence hall expulsion. Permanent separation of the student from the residence halls. An expulsion denies the student access to all university housing facilities on a permanent basis. This may include residential dining facilities.
- (xv) University expulsion. Permanent separation of the student from the university. An expulsion denies the student access to the university, including any campus facilities, any campus programs or activities, and any class sessions on a permanent

basis. A university expulsion is permanently noted on a student's transcript.

- (xvi) Revocation of admission and/or degree. Revocation of admission to or awarding of a degree from the university for fraud, misrepresentation, or other violation of university standards in obtaining the degree, or for serious violations committed by a student prior to graduation.
- (xvii) Withholding degree. Withholding the awarding of a degree otherwise earned until the completion of the process set forth in "The Student Code of Conduct," including the completion of all sanctions imposed, if any.
- (xviii) Fines. Fines for violations of "The Student Code of Conduct" will be assessed and charged to the student's account. A list of fines for all violations will be determined at the discretion of the vice president for student affairs, who will submit a list of the fines structure to the university board of trustees for approval on an annual basis. The fines structure must be included as a part of "The Student Code of Conduct" when published and presented to students.
- (xix) No contact order. The student is restricted from making contact in any verbal, written, electronic, or physical manner with a designated individual. If a student is found in violation of the no contact order, they may be subject to arrest and removed from campus.
- (xx) Parental notification. Student conduct staff will coordinate the parental notification in cases of alcohol or drug use when the student's behavior demonstrates a risk of harm to self or others or any violation of law involving a controlled substance.

- (b) More than one of the sanctions listed in paragraph (E)(7) of this policy may be imposed for any single violation.
 - (c) The following sanctions may be imposed upon student groups/organizations:
 - (i) Those sanctions as outlined in paragraph (E)(7) of this policy.
 - (ii) Deactivation. Loss of all privileges, including university recognition, for a specified period of time.
 - (d) In each case in which a student conduct body determines that a student or student group/organization has violated “The Student Code of Conduct,” the sanction(s) shall be determined and imposed by the same student conduct body. The student conduct administrator shall be responsible for ensuring that sanctions imposed by hearing panels and conduct officers are consistent with the violation and sanctions imposed for similar violations in other similar cases.
- (8) Interim measures. In certain circumstances, the vice president for student affairs may impose an interim measure prior to a student conduct board hearing or conduct conference. This includes university or residence hall suspension.
- (a) Interim measures may be imposed only:
 - (i) To ensure the safety and well-being of members of the university community or to preserve university property;
 - (ii) To ensure the respondent’s own physical or emotional safety and well-being;
 - (iii) If the respondent poses a threat of disruption or interference with the normal operations of the university; or

- (iv) If the respondent is charged with the commission of a criminal offense as defined in section 2901.01 of the Revised Code.
- (b) In the event that an interim measure is imposed, the student or student group/organization will be notified either in person or by regular U.S. or certified mail of the cause for the interim measure. The respondent will also be notified via their official university email address. The interim measure becomes effective immediately upon notification. A hearing panel will convene as expeditiously as possible to review the case. The hearing will follow the procedures outlined in paragraph (E)(4) of this policy and may proceed before, during, or after any criminal proceedings.
- (c) In the case of an interim suspension, the student or student group/organization shall be denied access to all housing facilities and/or to the campus (including classes) and/or all other university activities or privileges for which the student or student group/organization might otherwise be eligible, unless determined otherwise by the student conduct administrator.

(9) Appeals.

- (a) The decision or sanction imposed by a student conduct body may be appealed by the respondent or complainant (“the appellant”) within five university working days of notification of the decision. If an appeal is not received within this time frame, the decision reached by the student conduct body will be final.
- (b) Requests for appeals shall be made in writing and shall be emailed or delivered to the office of student conduct. The request for appeal should indicate the grounds on which the decision is being appealed, referencing at least one of the grounds for the appeal (see paragraph (E)(9)(d) of this policy) along with supporting information.
- (c) Once a request for appeal has been submitted and until the appeal decision has been communicated to the appellant, all

sanctions except any issued as interim measures, such as interim suspensions, will be held in abeyance.

- (d) Appellate hearings are not a re-hearing of the student conduct case. Except as required to explain the basis of new evidence, an appellate hearing shall be limited to review of the record of the initial hearing and supporting documents for one or more of the following grounds:
- (i) A claim that the original hearing was conducted in violation of procedural requirements set forth in “The Student Code of Conduct” and to determine whether these violations could have affected the outcome of the hearing.
 - (ii) A claim that the decision reached regarding the respondent did not have a reasonable basis for the conclusion reached and that it was not based on proof by a preponderance of the evidence.
 - (iii) A claim that the sanction(s) imposed was/were disproportionate and without basis to the violation of “The Student Code of Conduct” for which the respondent was found responsible.
 - (iv) A claim that there is new information, sufficient to alter a decision or other relevant facts not presented in the original hearing because such information and/or facts were not known by the appellant at the time of the original hearing.
- (e) The burden of proof rests with the appellant.
- (f) The appellant may, in preparing the request for appeal, have access to records of the case, which must be reviewed in the office of student conduct.
- (g) A request for appeal in a case adjudicated by a conduct officer will be reviewed by the student conduct administrator. A request for appeal in a case adjudicated by a student conduct board hearing panel will be reviewed

- by an appellate hearing panel. An appellate hearing panel is composed of three members from the student conduct board selected by the student conduct administrator.
- (h) Once a request for appeal has been submitted by the complainant or respondent, the other party shall receive a copy of the request for appeal and may submit a written response to the request for appeal, which will be considered alongside the request for appeal. Any written response must be submitted within five university working days of notification of the submission of a request for appeal.
- (i) The appellate hearing panel or the student conduct administrator will review the appeal to determine whether one of the grounds listed in this policy has been met.
- (j) If an appellate hearing panel or student conduct administrator determines that a request for appeal has met one or more of the grounds, the following options are available:
- (i) Remand the case to the original panel for reconsideration consistent with the granted grounds for appeal.
- (ii) Uphold the original decision.
- (k) If the appellate hearing panel or student conduct administrator determines that the request for appeal does not meet one of the grounds, the appeal will be dismissed and the original decision will be upheld.
- (l) The decision of the appellate hearing panel or student conduct administrator after an appellate review is final.
- (10) Conduct procedures for university housing. Deputy conduct officers have been designated by the student conduct administrator to assist in the review of alleged violations of policy originating within university housing.

- (a) The responsibility for the enforcement of rules and regulations governing student conduct in the residence halls, as outlined in the “Resident Handbook,” is delegated by the student conduct administrator to a conduct officer.
 - (b) Any student, faculty member, or university official may file a written report against any student living in a residence hall for alleged violations of policy within the residence hall, campus dining facilities, or at any residence hall function.
 - (c) Upon receipt of a written report, the conduct officer will conduct an investigation to determine whether there is reasonable cause to believe that a violation of “The Student Code of Conduct” may have occurred. If the conduct officer believes that such a violation did occur they will follow the procedures outlined in paragraph (E)(4) of this policy to address the alleged violation.
- (11) Student conduct record. The student conduct administrator shall maintain all student conduct records of information received and action taken by the respective student conduct bodies.
- (a) Conduct sanctions shall not be made part of the student’s academic record but shall become part of the student’s conduct record. Student conduct records shall be expunged seven years after final disposition of the case, excluding students who were sanctioned with residence hall expulsion, university suspension, university expulsion, or revocation or withholding of a degree which shall be expunged fifteen years after final disposition of the case resulting in such action. Upon graduation, the student may petition the student conduct officer for removal of all files contained in their student conduct records. The student may appeal a negative response of the student conduct officer the student conduct administrator.
 - (b) Records regarding university expulsion or university suspension of a student group/organization shall be kept indefinitely.

- (c) All material gathered from a substantiated conduct case (residence hall, academic, and other) shall become part of any new case against the same respondent(s) after the new charges have been substantiated.
- (d) Student conduct records are maintained only in the names of respondents found responsible for violations of university policy, local, state or federal law.
- (12) Special procedures. To ensure continued participation of students, faculty, and administration in the student conduct process and to ensure speedy disposition of conduct cases, the president of the university is empowered to develop a subcommittee structure in the event of a large number of student conduct cases. Such subcommittee shall be empowered to hear and adjudicate cases in accordance with the provisions of “The Student Code of Conduct” and shall ensure that all elements of procedural due process delineated in this article are observed.
- (13) Responsible action exemption. The university encourages students to seek immediate medical attention for themselves or others during alcohol and/or drug-related emergencies. When students act as responsible bystanders, the university may choose to resolve alcohol and/or drug violations informally rather than through the student conduct process. The office of student conduct determines when students are eligible for responsible action exemption on a case-by-case basis. In instances involving possible sexual misconduct, the office of student conduct will seek input from the Title IX office before making a determination. For exemption to be considered, the following must occur:

 - (a) Students must directly contact law enforcement, medical personnel, or university staff to request medical assistance.
 - (b) Students must identify themselves and the student(s) of concern to first responders.
 - (c) Students must comply with specific instructions given by responding personnel.

Students exempted from alcohol and/or drug charges will not face formal sanctions, but are required to meet with a conduct officer to discuss the incident and learn about campus and community resources. If a student is under twenty-one years of age at the time of the incident, the conduct officer may notify parents or guardians of the exemption.

Documentation of exemptions will be maintained by the office of student conduct as informational records and are not considered part of a student's conduct record. Incident information will not be released by the office of student conduct when contacted for background checks/transfer verifications.

The university reserves the right to deny exemption for any case in which violations are repeated or egregious, including activities related to hazing. Students will only receive one exemption during their tenure at the university.

Members of student organizations that actively seek medical assistance during alcohol and/or drug-related emergencies may be granted exemption from organizational conduct charges. Incidents involving student organization intervention will be considered on a case-by-case basis. The same standards outlined above apply.

- (14) Serious misconduct policy. "Serious misconduct" is defined as "any act of sexual assault, domestic violence, dating violence, stalking, sexual exploitation, any assault that employs the use of a deadly weapon," as defined in section 2923.11 (A) of the Revised Code, or causes serious bodily injury.

Additional parameters will be placed upon students returning from suspension for violations of serious misconduct, including conduct probation with loss of good standing for one calendar year, preventing the student from participating in any extracurricular functions including athletics, student organizations, and student employment. After one year, students may petition the vice president for student affairs for permission to participate in extracurricular activities and employment.

- (F) Article V. Title IX sexual harassment procedures (per university policy 3356-2-05).

(1) Grievance process.

(a) Time frame. The process outlined below is expected to occur within ninety calendar days from the date a complaint is filed. The Title IX coordinator, or designee, may extend this time period by providing written notice to the parties citing the reason(s) for the extension. The complainant or respondent may request a temporary delay of the grievance process for good cause by written request to the Title IX coordinator. Good cause includes, but is not limited to, the absence of party, a party's advisor or a witness, or the accommodation for disabilities.

(b) Report. Information, however received, alleging sexual harassment, as defined in this policy, and provided to a person with the authority to initiate corrective action. A report may lead to further action, including the filing of a formal complaint, depending on the alleged facts and circumstance.

(c) Formal complaint. A formal complaint is a verbal or written account which alleges a conduct which could violate this policy and is made to a person with authority to initiate corrective action. A complaint may be submitted by mail, email, in person, by telephone or electronically at TitleIX@ysu.edu.

(2) Notice.

(a) Upon receipt of a formal complaint, the university shall provide the following written notice to the parties who are known: notice of this grievance process, including any informal resolution process; and notice of the allegations of sexual harassment as defined above, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.

(b) If in the course of an investigation the university decides to investigate allegations about the complainant or respondent that are not included in the notice provided, the university

shall provide notice of the additional allegations to the parties whose identities are known.

(c) Notice to the university staff listed below of sexual harassment or allegation of sexual harassment constitutes actual notice to the university and triggers the university's obligation to respond.

(i) Title IX coordinator and deputy Title IX coordinators.

(ii) Director of equal opportunity and policy development.

(iii) Vice presidents and associate vice presidents.

(iv) Academic deans and chairpersons.

(v) Supervisors/managers.

(vi) Coaches and assistant coaches.

(3) Consolidation of formal complaints. The university may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Where a grievance process involves more than one complainant or more than one respondent, references in this policy to the singular "party," "complainant," or "respondent" include the plural, as applicable.

(4) Dismissal of formal complaint. The Title IX coordinator shall dismiss formal complaints that do not meet the following criteria.

(a) Mandatory dismissal.

- (i) Would not constitute sexual harassment as defined in this policy even if proved.
 - (ii) The alleged sexual harassment did not occur in the university's education program or activity.
 - (iii) The alleged conduct did not occur in the United States.
 - (b) Discretionary dismissal.
 - (i) Complainant notifies the Title IX coordinator in writing that they would like to withdraw the formal complaint.
 - (ii) The respondent is no longer enrolled or employed by the university.
 - (iii) Specific circumstances prevent the university from gathering sufficient evidence.
 - (c) The dismissal of a formal complaint shall be done simultaneously and in writing to the parties.
 - (d) A dismissal of a formal complaint may be appealed pursuant to paragraph (F)(10) of this policy.
 - (e) A formal complaint which is dismissed pursuant to this policy may be considered under a different university policy, such as policy 3356-2-3, "Discrimination/harassment" or 3356-7-04, "Workplace and off-campus violence, threats, and disruptive behavior," or under "The Student Code of Conduct."
- (4) Informal resolution. At any time prior to reaching a determination regarding responsibility, the university may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.
 - (a) Both parties' voluntary, written consent to the informal resolution process is necessary. At any time prior to

agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

(b) Informal resolution is not an option for resolving allegations that an employee or faculty member sexually harassed a student.

(6) Investigation. The Title IX coordinator or designee is responsible for investigating formal complaints which meet the criteria of this policy.

(a) The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the investigator and not on the parties.

(b) The respondent is not considered responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

(c) The university shall not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the university obtains that party's voluntary, written consent to do so for a grievance process under this section or as permitted by law.

(d) The parties shall have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence during the course of the investigation. All parties are free to discuss the allegations under investigation or to gather and present relevant evidence.

(e) All parties shall have the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or

- proceeding by the advisor of their choice including an attorney. However, the advisor may not speak during any interview or proceedings, with the exception of the cross-examination portion of any hearing.
- (f) Any party whose participation is invited or expected shall receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.
- (g) Both parties shall receive an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- (h) Prior to completion of the investigative report, the investigator shall send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties shall have ten calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- (i) The investigator shall make all evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
- (j) The investigator shall create an investigative report that fairly summarizes relevant evidence and shall provide a copy, in electronic or hard copy format, to the parties and their advisors at least ten calendar days prior to any hearing. Either party can submit a written response to the investigator during these ten days.
- (7) Hearings. Formal complaints that are not resolved informally or dismissed will result in a live hearing.

- (a) The hearing will be scheduled by the office of student conduct and will be held before a Title IX decision-maker. Where the complainant and respondent are both employees and/or faculty members, the Title IX coordinator will convene the hearing.
- (b) Live hearings may be conducted with all parties physically present in the same geographic location, or participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- (c) The decision-maker shall permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing shall be conducted directly, orally, and in real-time by the party's advisor of choice and never by a party personally.
- (d) At the request of either party, the hearing may occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.
- (e) Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker shall first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Parties may not challenge the relevancy determination of the decision-maker, except on appeal.
- (f) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

- (g) If a party does not have an advisor present at the live hearing, the university shall provide, without fee or charge to that party, an advisor of the university's choice to conduct cross-examination on behalf of that party.
- (h) If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) shall not rely on any statement of that party or witness in reaching a determination regarding responsibility, provided, however, that the decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- (i) Credibility determinations shall not be based on a person's status as a complainant, respondent, or witness.
- (j) Parties are not required to divulge any medical, psychological, or similar privileged records as part of the hearing process.
- (k) The decision-maker shall create an audio recording for a live hearing and an audiovisual recording for a virtual live hearing. Such recording will be available to the parties for inspection and review upon written request to the convener.

(8) Findings.

- (a) The hearing decision-maker shall issue a written determination simultaneously to the parties regarding responsibility/policy violation(s) and sanctions/discipline when responsibility/policy violation is found to have occurred. To reach this determination, the preponderance of the evidence standard (whether it is more likely than not that the alleged conduct occurred) will be used.
- (b) The determination regarding responsibility and sanction(s)/discipline becomes final either on the date that the university provides the parties with the written determination of the result of the appeal, if an appeal is

filed; or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

(c) The written determination shall include:

- (i) Identification of the allegations potentially constituting sexual harassment.
- (ii) A description of the procedural steps which were followed starting with the formal complaint and continuing through determination.
- (iii) The finding of facts that support the determination.
- (iv) A conclusion applying the appropriate definition of the university's policy to the facts.
- (v) A rationale for the result of each allegation regarding the determination of responsibility.
- (vi) For respondents who are students, the hearing decision-maker shall consult with the vice president of student experience or their designee regarding sanctions. For respondents who are employees or faculty members the hearing decision maker shall consult with the chief human resources officer, or their designee, regarding discipline.
- (vii) Information regarding whether remedies designed to restore or preserve equal access to the university's education program or activity will be provided to the complainant. The Title IX coordinator is responsible for effective implementation of any remedies.
- (viii) The procedures and bases for the complainant and respondent to appeal the determination.

(9) Sanctions/discipline.

(a) Students.

- (i) Possible sanctions for student respondents: warning, conduct probation with or without restrictions, restitution, educational sanctions, deferred suspension, residence hall suspension, university suspension, residence hall expulsion, university expulsion, revocation of admission and/or degree, withholding degree, fines.
 - (ii) Students who have been found responsible for serious misconduct and are returning from a sanction of suspension will be subject to additional parameters, including conduct probation with loss of good standing for one calendar year, preventing the student from participating in any extracurricular functions, including athletics, student organizations, and student employment. Serious misconduct is defined as any act of sexual assault, domestic violence, dating violence, stalking, sexual exploitation, or any assault that employs the use of a deadly weapon, as defined in section 2923.11(A) of the Revised Code, or causes serious bodily injury.
 - (b) Possible sanctions/discipline for employee or faculty respondents: employment probation, demotion or reassignment, suspension with or without pay for a specific period of time, termination of employment, ineligibility for rehire, and/or other sanctions or remedies as deemed appropriate under the circumstances.
- (10) The appeal process.
- (a) Filing an appeal.
 - (i) Appeals are not a re-hearing of the allegation(s).
 - (ii) Only a complainant or respondent (referred to as party or parties) may request an appeal.
 - (iii) An appeal must be submitted in writing to the Title IX coordinator within five working days from receipt of a decision using the “Title IX Appeal Request Form” and include all supporting material.

- (iv) A party may appeal the determination regarding responsibility, sanctions/discipline and/or the university's dismissal of a formal complaint or any allegations therein.
- (v) There are four grounds for appeal:
- (1) Procedural irregularity that significantly impacted the outcome of the matter (for example material deviation from established procedures). The appeal request must cite specific procedures and how they were in error; and/or
 - (2) New evidence that was not reasonably available at the time the original decision was made that could have affected the outcome. A summary of this new evidence and its potential impact must be included in the request. (Note: Failure to participate or provide information during an investigation or hearing, even based on concern over a pending criminal or civil proceeding, does not make information unavailable during the original investigation or hearing); and/or
 - (3) The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. The appeal must cite specific examples of how the bias affected the outcome.
 - (4) The discipline/sanction(s) imposed are substantially outside the parameters or guidelines set by the university for this type of violation or the cumulative conduct record of the responding party.

- (b) Title IX appellate review officer (hereinafter referred to appellate review officer). Upon receipt of a request for appeal, the Title IX coordinator will designate a Title IX appellate review officer as follows:
- (i) Appeals where the respondent is a student, the appellate officer will be either the vice president for student affairs or their designee or a deputy Title IX coordinator who did not participate in the investigation or hearing.
 - (ii) Appeals where the respondent is a faculty member or employee, the appellate officer will be either the chief human resources officer or their designee or a deputy Title IX coordinator who did not participate in the investigation or hearing.
 - (iii) The appellate officer cannot be the investigator, Title IX coordinator, or the person who acted as the decision-maker regarding the determination of responsibility/policy violation, or dismissal.
- (c) Appeal procedures:
- (i) Generally, within five business days after receipt of the request for appeal by the appellate review officer, the appellate review officer will conduct an initial review of the appeal request(s) to determine whether the appeal is timely and satisfies the grounds for appeal.
 - (ii) If the appeal request is not timely or does not satisfy the grounds for appeal, the appeal request will be denied, the parties will be notified, and the finding and sanction or responsive action/remedies will stand. The decision not to accept an appeal request is final and is not subject to further appeal.
 - (iii) If the appeal request is timely and meets the ground for appeal, the Title IX coordinator will notify the parties that the appeal has been accepted and will notify the non-appealing party that they may file a

response within three business days from notification.

- (iv) The appellate review officer will then review the issues presented in the appeal and any response(s).
- (v) The standard on appeal is whether there is relevant evidence/information such that a reasonable person would support the decision(s).
- (vi) The appellate review officer can take one of the following actions:
 - (1) Affirm the original findings;
 - (2) Remand the case to the original investigators or hearing panel for consideration of new evidence or to remedy a procedural irregularity;
 - (3) Remand the case to a new investigator in a case of bias. The appellate review officer, may order a new investigation with a new investigator or hearing panel; or
 - (4) Administratively alter the finding if bias, procedural irregularity or new evidence, unknown or unavailable during the original investigation, substantially affected the original finding, and the associated sanctions or responsive action.
- (vii) Decisions rendered by the appellate review officer or actions taken following the decisions appellate review officer's decision are final and not subject to further appeal.
- (viii) Cases that are sent back to the investigator or hearing panel are not eligible for a second appeal.

(G) Article VI. Academic integrity violation procedures.

- (1) General.

- (a) Academic honesty is essential to the educational process and serves to protect the integrity of the university community. Therefore, all members of the university community have a responsibility for maintaining high standards of honesty and ethical practice. Cheating, plagiarism, and other forms of academic dishonesty constitute a serious violation of university policy, as outlined in paragraph (D) of this policy. Students should consult with the faculty member if they are not sure what may constitute a violation of the academic integrity policy.
 - (b) Students suspected of violations of the academic integrity policy may be charged with a violation of university policy under the student conduct standards as outlined in paragraph (D)(1) of this policy. Cases of alleged violations of the academic integrity policy shall be resolved as outlined below.
 - (c) The process outlined below is the only approved process by which faculty members can address alleged violations of the academic integrity policy. Failure to follow this process or use of any process other than this will result in nullification of any charges against the student and nullification of any sanctions levied against the student. If, following nullification of the charges and sanctions, the faculty member refuses to rectify the impacted grades or assignments, the student has the right to file a grievance against the faculty member. Any internal college, departmental, or program processes used to address alleged violations of policy or concerns about student conduct are secondary to the processes outlined herein.
- (2) Academic integrity conference.
- (a) After the faculty member has gathered evidence of a possible violation, they shall notify the student within forty-eight hours in writing, via university email, of the allegations and invite the student to participate in an academic integrity conference. The faculty member and student may hold the conference without written notification. This academic integrity conference shall

occur within five university working days of the written notification to the student.

- (b) The academic integrity conference is the first step in this process, and serves to provide the student with the opportunity to discuss the allegations made by the faculty member. During this meeting, the student should have the opportunity to address the allegations, and to review all relevant information and documentation to the allegations.

In situations where the course is taught primarily online and/or where the student is unable to physically present for the academic integrity conference, the meeting may be conducted via email, phone, or skype, as appropriate. The faculty member may consult with the judicial chair of the academic grievance subcommittee or the office of student conduct for direction in such situations.

- (c) If, after meeting with the student, the faculty member determines that no violation of the academic integrity policy occurred and/or the student is not responsible for a violation of the academic integrity policy, the faculty member can dismiss the charges by not filling out the academic integrity form.
- (d) If the faculty member concludes that the student is responsible for a violation of the academic integrity policy, the faculty member shall select an appropriate sanction, as outlined in paragraph (F)(3) of this policy, and will complete the academic integrity form. While the student may sign the form immediately, they have up to five university working days to do so. The student has the option to accept the charge but contest the sanction, or they can agree to both the charge and sanction.
- (e) If the student signs the academic integrity form, acknowledging responsibility for the alleged violation and accepting the sanction, the decision is final and there is no appeal process.

- (i) The student will return the form to the faculty member. The faculty member will sign the form, and will submit copies of any documentation or statements with the academic integrity form.
 - (ii) The faculty member will forward the form to the departmental chairperson for their signature, acknowledging the case has been brought to their attention. The chairperson has the option to submit a written statement to be included with the academic integrity form.
 - (iii) The chairperson will then forward the form and all documents to the dean for their signature, acknowledging the case has been brought to their attention. The dean has the option to submit a written statement to be included with the academic integrity form.
 - (iv) The dean will then forward the form and all documents to the office of student conduct to be placed in the student's file.
 - (v) The dean of graduate studies will be notified and provided a copy of the form and all documents for cases involving graduate students.
 - (vi) No further action is required unless the recommended sanction includes program removal, suspension, or expulsion. In cases where one of these sanctions is recommended, the case will be forwarded to the judicial chair of the academic grievance subcommittee for review.
- (3) Failure to appear, respond or sign.
- (a) If the student fails to respond to the faculty member's request for an academic integrity conference, or fails to attend an academic integrity conference within five university working days of notice by the faculty member, the following will occur:

- (i) The faculty member will complete and sign the academic integrity form without the student's signature. They will then submit the form along with copies of any documentation or statements to the chairperson for their signature, acknowledging the case has been brought to their attention. The chairperson has the option to submit a written statement to be included with the form.
- (ii) The chairperson will then forward the form and all documents to the dean for their signature, acknowledging the case has been brought to their attention. The dean has the option to submit a written statement to be included with the form.
- (iii) The dean will then forward the form and all documents to the office of student conduct to be placed in the student's file. The office of student conduct will then forward the academic integrity form and all documents to the judicial chair of the academic grievance subcommittee for further action.
- (iv) The dean of the college of graduate studies will be notified and provided a copy of the form and all documents for cases involving graduate students.
- (b) If the student declines to accept responsibility for the charges and/or declines to accept the sanctions selected by the faculty member, the faculty member should complete the form as outlined above.
- (4) Academic grievance subcommittee referrals.

 - (a) If the student declines to accept responsibility for the charges, and/or declines to accept the sanctions selected by the faculty member, the case will be referred to the office of student conduct and forwarded to the judicial chair to initiate a hearing before the academic grievance subcommittee.

- (b) Regardless of whether the academic integrity form is signed, in cases where program removal, suspension, or expulsion is recommended by the faculty member, the case will be referred to the office of student conduct and forwarded to the judicial chair to initiate a hearing before the academic grievance subcommittee. A representative from the office of student conduct must be present at all such hearings to serve in an advisory capacity.
- (5) Academic grievance subcommittee structure.

 - (a) Judicial chair. Associate provost for academic administration or designee appointed by the provost.
 - (b) Faculty members are appointed by the academic senate and serve a two-year term. One faculty member shall be selected from each of the six colleges. At least three of these appointees will have graduate faculty status. In cases involving graduate matters, only graduate faculty will be appointed. Six faculty members with graduate faculty status will be appointed by graduate council to hear cases involving graduate students.
 - (c) Undergraduate student members are appointed by the vice president for student affairs and serve a two-year term. In addition, six graduate students (preferably one from each college) will be appointed by the graduate council to hear cases involving graduate students.

 - (i) Students must complete an application available through the office of student conduct.
 - (ii) One undergraduate student member is selected from each of the six colleges.
 - (iii) Students must have a minimum GPA of 2.5 for undergraduate students and a 3.0 for graduate students.

- (iv) Students must not have a previous student conduct record.
 - (v) Students should be sophomore status or above.
- (6) Academic grievance subcommittee hearing procedures.
- (a) In cases where the student failed to respond to a request from the faculty member for an academic integrity conference, cases where the student failed to return the signed academic integrity form to the faculty member within the given timeframe, cases wherein the student disputes the charges or sanctions, or in cases when the faculty member recommends program removal, suspension, or expulsion, a hearing by the academic grievance subcommittee is initiated.
 - (b) Within five university working days of receiving the academic integrity form and any supporting documentation of evidence from the faculty member, the judicial chair shall contact the student involved and request a statement and any documentation or evidence they would like to have considered in the hearing. The student will have five university working days to submit these items to the judicial chair.
 - (c) Within two university working days of receiving the statement and evidence, the judicial chair shall distribute copies of the academic integrity form and any documentation or evidence produced by the student and faculty member to the academic grievance subcommittee members, the student, faculty member, department chairperson, and appropriate dean. The academic integrity form, course syllabus (submitted by the faculty member, student, or both), and any documentation or evidence produced by the student, faculty member, chairperson, or dean compose the academic integrity packet.
 - (d) A hearing date, time, and location for the academic grievance subcommittee hearing will be established by the judicial chair. Academic grievance subcommittee members

shall have a minimum of three university working days to review all written materials in the academic integrity packet. The hearing notice shall be sent to the parties directly involved in the grievance procedure, excluding advisors and witnesses. Parties directly involved include:

- (i) Faculty/student. The party who files the academic integrity form and the party who is alleged to have violated the academic integrity policy. If either party cannot or refuses to attend the hearing, they may provide written statements to be submitted for evidence. Faculty members are permitted to have a substitute who will exercise all the rights and responsibilities of the absent faculty member.
- (ii) Department chairperson. The chairperson of the department in which the faculty member resides. The chairperson's attendance is optional. If the chairperson is in attendance they will be brought in to speak with the hearing panel after the presentation of information by the faculty member and student and without the faculty member or student present. The chairperson's role in the hearing is to provide information on any knowledge they have of the case as well as to provide insight into and clarify any questions regarding the particular culture of the department or expectations of students in the department.
- (iii) Dean. The dean of the college in which the faculty member's department is housed. The dean's attendance is optional. In addition, the dean of graduate studies has the option to attend in cases that involve graduate students and graduate faculty members. If the dean is in attendance, they will be brought in to speak with the hearing panel after the presentation of information by the faculty member and student and without the faculty member or student present. The dean's role in the hearing is to provide information on any knowledge they have of the case as well as to provide insight into and clarify

any questions regarding the particular culture of the department or expectations of students in the department.

- (iv) Academic grievance subcommittee hearing panel members. Derived from the membership of the student academic grievance subcommittee of the academic senate. At minimum, each hearing panel consists of three faculty members, three undergraduate students, and the judicial chair. In hearings involving allegations against a graduate student, graduate college representatives will form the hearing panel. The hearing panel conducts the formal hearing and renders a decision. No member of a hearing panel will hear a case directly involving themselves.
- (v) Advisors. The student and the faculty member may each avail themselves of the services of an advisor throughout the academic integrity process. An advisor may be drawn from within or outside the university community. Advisors may not present testimony or speak on behalf of the party whom they are advising. They are permitted, however, to give notes or whisper instructions/advice to the party whom they are advising. Examples of advisors include a parent, attorney, clergy, other faculty member, or coach. The advisor may not be the chairperson or dean for the college in which the faculty member or student is housed. In situations where a graduate assistant is considered the instructor of record and is the party who submitted the academic integrity form, the chairperson may serve as an advisor to the graduate assistant and is permitted to stay throughout the hearing.

In cases in which the student is a dully enrolled high school and university student (through the Youngstown early college or the college credit plus program), the student may have both a parent and a secondary advisor present for the hearing.

(vi) Witness(es). Witnesses who have something to add to the hearing either in support of the faculty member or student are permitted. While the number of witnesses is not limited, the number of witnesses that present repetitive testimony may be limited at the discretion of the judicial chair.

(e) If the student or faculty member is unable to be physically present for the hearing, then both the faculty member and student will be made available for the hearing through the same electronic means in order to provide equal treatment to all parties. This may include either teleconference or skype, as deemed appropriate by the judicial chair.

(7) Rights of hearing parties.

(a) The following rights are guaranteed to the student and the faculty member:

(i) The right to be present.

(ii) The right to be accompanied by an advisor of their choice.

(iii) The right to speak in support of their argument.

(iv) The right to bring witnesses in support of their case.

(v) The right to present any relevant information directly supporting their written items in the academic integrity packet, including oral testimony.

(vi) The right to refute information presented.

(vii) The right to consult with the judicial chair or the office of student conduct regarding the hearing, their testimony or the presentation of any testimony in support of their case.

(b) The judicial chair has the right to:

- (i) Limit the amount of time testimony is presented by any given individual;
 - (ii) Remove disruptive individuals from the room;
 - (iii) Ensure that only the members of the hearing panel, student, and faculty member are present in the room;
 - (iv) Ensure that all witnesses remain outside the hearing room and are brought in and dismissed after their testimony is presented;
 - (v) Extend the timeline for the hearing process.
- (8) Deliberation and findings.
- (a) The hearing panel shall meet in closed session to review the information presented and reach a decision. The hearing panel shall vote using secret ballots tallied by the judicial chair. The judicial chair will only vote in circumstances of a tie among the hearing panel members.
 - (b) If the hearing panel determines that the student is responsible for a violation of the academic integrity policy, the hearing panel may consider previously resolved cases (on file with the office of student conduct) involving the student when assigning an appropriate sanction. The judicial chair will present such information to the hearing panel only after a determination of responsibility on the case in question has been reached.

The standard of proof utilized in all university student conduct proceedings shall be a preponderance of evidence. Preponderance of the evidence is known as the balance of probabilities, met if the proposition is more likely to be true than not true. Effectively, the standard is satisfied if there is greater than fifty per cent chance that the proposition is true.

- (c) Both parties shall be informed of the hearing panel's decision in writing within three university working days. This statement shall be prepared and signed by the judicial chair and forwarded to the office of student conduct, graduate school dean when appropriate, provost and all parties directly involved in the hearing, except advisors and witnesses.
 - (i) Notice of the hearing panel's decision ends the academic grievance subcommittee's involvement in the disposition of the case.
 - (ii) A file of all pertinent documents for all academic integrity hearings shall be kept by the office of the provost and the office of student conduct.
 - (iii) Any change of grade as a result of the hearing panel's decision should be made by the faculty member and signed by the respective chairperson and/or dean within five university working days. If the faculty member, chairperson and/or dean refuse to sign the grade change form, then the provost will do so.

(9) Appeals.

- (a) Only students may appeal the decision of the academic grievance subcommittee regarding for cases involving alleged violations of the academic integrity policy. The appeal can only be based on procedural violations and must be submitted within five university working days from the date on which the student was notified of the hearing panel's decision. The request for an appeal is submitted in writing to the judicial chair.
- (b) The judicial chair will forward the written appeal to the academic senate executive committee within two university working days.
 - (i) If the academic senate executive committee determines that no procedural violations occurred or

that any procedural violations were minor and did not affect the original hearing panel's decision, the original hearing panel's decision is upheld and the case is closed.

(ii) If the academic senate executive committee determines that procedural violations may have occurred and were potentially substantive enough to have affected the hearing panel's decision, the case will be referred to a three-person appellate hearing panel consisting of one student and two faculty members. This appellate hearing will take place within twelve university working days of receipt of the written appeal.

(c) Appellate hearing panel.

(i) No member of the appellate hearing panel will hear a case directly affecting themselves.

(ii) Prior to the appellate hearing, members of the appellate hearing panel shall review all relevant documents.

(iii) The chair of the appellate hearing panel shall inform both parties of the decision as soon as reasonably possible. A written statement of the decision shall be prepared and signed by the chair of the appellate hearing panel, forwarded to the student, faculty member, office of student conduct, and office of the provost within five university working days of the decision via university email.

(iv) A file of all pertinent documents for all appeals shall be kept by the office of student conduct and/or the office of the provost.

(v) The decision reached by the appellate hearing panel is final and may not be appealed.

- (d) At the discretion of the chair of the appellate hearing panel, the timeline under the appeal process may be extended.
 - (e) If the appeal results in a grade change, the grade change form should be completed by the faculty member and signed by the respective chairperson and/or dean within three university working days. If the faculty member, chairperson, and/or dean refuse to sign the grade change form, then the provost will do so.
- (10) Sanctions. A list of possible sanctions and guide to selecting sanctions is available in the appendices. Sanctions for violations of the academic integrity policy may include, but are limited to, the following:
- (a) Issue an official warning.
 - (b) Lowering the grade on the exam, paper or assignment in question.
 - (c) Lowering the final grade for the course.
 - (d) Requesting additional action from the academic grievance subcommittee, including removal from a course, removal from an academic program, university suspension, or expulsion.
 - (e) Other sanctions as deemed appropriate by the faculty member. The faculty member may consult with the judicial chair, office of student conduct, chairperson or dean regarding appropriate sanctions.
- (11) Role of the student conduct administrator (“SCA”). The student conduct administrator or designee has the following responsibilities with regards to all cases involving alleged violations of the academic integrity policy.
- (a) To create/maintain a student conduct file containing the completed academic integrity form and supporting documents.
 - (b) To expunge all records as outlined in this policy.

- (c) In cases where the academic integrity form is completed by all parties, they will acknowledge receipt of this form by emailing the student, faculty member, chairperson, and dean with a letter that details the resolution of the case.
- (d) In cases where the student has already been found responsible for a previous academic integrity violation, any additional violation will result in a review of all cases by the office of student conduct for possible additional charges and sanctioning.

(H) Article VI. Section 3345.22 of the Revised Code, the “1219 hearing” process.

- (1) Background. Disruptive behavior and the “1219” procedure. The Ohio campus disruption act, also known as Ohio House Bill 1219, is codified in sections 3345.22 and 3345.23 of the Revised Code. The purpose of the law is to protect university students, faculty, staff, and other members of the campus community from crimes of violence committed in the vicinity of the university or upon people or property at the university.

A “1219 hearing” is appropriate when a student is arrested for a crime of violence committed on or near the university. If a student is convicted of an offense of violence that occurred on or near the university, the student will be automatically suspended pursuant to section 345.23 of the Revised Code. The purpose of the “1219 hearing” is to remove students from campus who may be a threat to the safety and security of the student body or campus community.

- (2) Definition of a “crime of violence.” There are over thirty crimes of violence considered violations of the “1219” law, including but not limited to the following: arson, assault, burglary, domestic violence, discharged firearm, felonious assault, gross sexual imposition, inciting to violence, inducing panic, intimidation, kidnapping, menacing, murder, rape, riot, robbery, sexual battery, and voluntary manslaughter.

(3) Jurisdiction of the “1219 hearing.”

- (a) If a student is arrested for a crime of violence referenced in division (D) of section 3345.23 of the Revised Code, they may be temporarily suspended from the university according to “The Student Code of Conduct,” which is referred to as an interim suspension. This suspension will last during the process of the “1219 hearing” and continue until the student meets with the office of student conduct. The results of the “1219 hearing” discussed below does not alter the student’s status under an interim suspension.
- (b) A “1219 hearing,” which is distinctly separate from a conduct conference or a student conduct board hearing, will be held shortly after a student’s arrest for a crime of violence. The hearing can be continued for good cause. The purpose of the “1219 hearing” is to determine by a preponderance of the evidence whether the student committed an offense of violence.
- (c) If the referee, as appointed by the university (office of the general counsel), finds that the student did commit an offense of violence on or near the university, the referee will then determine if the student should be under strict probation or suspended from the university pending the outcome of the criminal case. However, as noted above, if the student is under an interim suspension, the student will remain suspended, even if they only receive strict probation from the referee, until the conclusion of the student conduct process administered by the office of student conduct.
- (d) Following the “1219 hearing,” the criminal case outcome will determine the student’s status under section 345.23 of the Revised Code. If the student is convicted of an offense of violence in the criminal case, the student will be suspended from the university for at least one year.
- (e) Upon acquittal, or upon any final judicial determination not resulting in conviction of an offense of violence, the “1219” suspension automatically terminates and the student in question shall be reinstated and the record of the “1219”

suspension expunged from the person's university record. The criminal process and "1219 hearing" are separate. The outcome of the "1219 hearing" has no bearing on the criminal case.

(f) When a student is found not guilty, they may return to school, but upon conclusion of the "1219 hearing" and possibly while the criminal case is still underway, the university may, and in nearly all cases, will initiate the student conduct process. The student may also be under the restriction of an interim suspension. Unless the student is not under an interim suspension or has been found responsible of a violation of ""The Student Code of Conduct", the student would be permitted to return to school.

(g) If the student is found guilty at the criminal trial for an offense of violence on or near the university, they will be suspended from Youngstown state university for the period of one year. The student will receive a written notice of the suspension from the office of student conduct. The student must receive approval from the board of trustees to be permitted to return to the university. This one-year suspension will still be imposed even if the student is found not responsible for a violation of ""The Student Code of Conduct".

(4) The "1219 hearing" process. The "1219 hearing" will be an adversary proceeding. Unlike a student conduct hearing, a "1219 hearing" will be conducted by a referee appointed by the university. A university attorney will present the evidence at the hearing on behalf of the university. The student has the right to:

(a) Be represented by an attorney.

(b) To cross-examine witnesses called by the state (the university).

(c) Call upon his/her own witnesses.

(d) To present evidence.

- (e) To give a statement (but not required to do so). If the student does not appear at the hearing, the student will be suspended. In the absence of a waiver of the right against compulsory self-incrimination, the testimony of a student whose suspension is being considered, given at the hearing, shall not subsequently be used in any criminal proceeding against the student.
- (5) Burden of proof. Preponderance of the evidence is the standard use for all “1219 hearings.” Preponderance of the evidence is known as the balance of probabilities met if the proposition is more likely to be true than not true. Effectively, the standard is satisfied if there is greater than fifty per cent chance that the proposition is true. The referee must find that the student committed the offense by a preponderance of the evidence.
- (I) Article VII. Parental/guardian notification policy. Youngstown state university is committed to an educational environment that promotes the safety, responsible decision-making, and social and intellectual development of all students. Furthermore, the university is concerned with taking a proactive approach in regards to students who may be experiencing problems with alcohol or other drugs. It is the policy of Youngstown state university to notify parents of students under twenty-one years of age if such students have been found responsible for violating institutional policies regarding alcohol or other drugs, in an effort to create a positive support network for students.

 - (1) Parameters.

 - (a) This policy will be applied in situations where students under the age of twenty-one have been found responsible for a violation of university policies regarding drugs or alcohol.
 - (b) The office of student conduct shall be responsible for administering all procedures of the parental/guardian notification policy.
 - (2) Procedures.

- (a) Parents/guardians shall be notified when the underage student is found responsible for a violation of the drug or alcohol policies.
 - (b) The vice president for student affairs, or designee, may make an exception to the parental/guardian notification policy if in their judgment it is determined that harm would come to the student as a result of parental/ guardian notification.
 - (c) The notification will be provided in writing from the office of student conduct and will be mailed to the student's home address.
 - (d) The notification letter will inform parents or guardians that their student has been found responsible for a violation of an alcohol or drug policy. Included with the letter will be answers to frequently asked questions. Parents or guardians will be encouraged to discuss the incident with the student.
 - (e) The office of student conduct will be responsible for responding to questions from parents/guardians. If a parent or guardian is interested in reviewing their student's conduct file, the student generally must sign a waiver to release this information. There are exceptions to this that will be determined on a case by case basis.
- (J) Article VIII. Interpretation and revisions. Any question of interpretation or application regarding "The Student Code of Conduct" shall be referred to the student conduct administrator for final determination.
- "The Student Code of Conduct" shall be reviewed every three years under the direction of the student conduct administrator. Any member of the university community may recommend a change to "The Student Code of Conduct" to the vice president for student affairs. The vice president for student affairs shall distribute the recommendation to the appropriate areas and gather feedback. If the change is endorsed by the vice president for student affairs, the change shall be presented to the board of trustees for adoption.

(K) Glossary of terms when used in “The Student Code of Conduct.”

- (1) The term “due process” is an assurance that all accused students will receive notice of charges, notice of the evidence to be used against them, and the opportunity to participate in a hearing prior to the deprivation of any educational property interest.
- (2) The term “academic grievance subcommittee” is a group of university students and faculty selected and trained to adjudicate hearings wherein a student has allegedly violated the academic integrity policy for the university. Each hearing has a hearing panel consisting of at least six members from the academic grievance subcommittee.
- (3) The term “appellate hearing panel” shall mean any person or persons authorized on a case-by-case basis by the student conduct administrator to consider a request for appeal from a student conduct body’s determination that a student has violated “The Student Code of Conduct” or from the sanctions imposed by the student conduct body.
- (4) The terms “can,” “may,” or “should” specify a discretionary provision of “The Student Code of Conduct.”
- (5) The term “complainant” shall mean any person who submits a referral alleging that a student violated “The Student Code of Conduct.”
- (6) The term “deputy conduct officer” shall mean a university official authorized on a case-by-case basis by the student conduct administrator to serve as a charging administrator to review complaints, determine responsibility, and impose sanctions upon students found to have violated “The Student Code of Conduct.”
- (7) The term “faculty member” shall mean any person employed by the university to conduct classroom or teaching activities or who is otherwise considered by the university to be a member of its faculty. In certain situations, a person may be both “student” and “faculty member.” One’s status in a particular situation shall be determined by the relevant circumstances.

- (8) The terms “file” or “records” mean information relating to a current or former student which is stored in a fashion that facilitates recovery of that information by reference to the individual in whatever form or medium such gathering of information is created, kept, or maintained.
- (9) The term “function” shall mean all student activities or events occurring at the university or sponsored by registered student organizations, groups, or members of the academic community.
- (10) The term “group” shall mean a number of students who are associated with each other and who have not complied with university requirements for registration as an organization.
- (11) The terms “hearing panel” or “hearing panel members” shall mean individuals who have been selected or assigned to adjudicate a hearing. These individuals are selected from a trained body, including the student conduct board and the academic grievance subcommittee.
- (12) The term “hearing panel advisor” shall mean the student conduct administrator, or designee, or appointee. The hearing panel advisor has responsibility for ensuring that policies and procedures within this document are adhered to within any student conduct process. The hearing panel advisor may be involved in any part of the student conduct process, and may provide input or answers, or otherwise answer questions asked by any parties.
- (13) The term “may” is used in the permissive sense.
- (14) The term “member of the university community” shall include any person who is a student, faculty member, university official, any other person employed by the university, or any person lawfully present on university premises.
- (15) The term “organization” shall mean a university-registered student organization which has complied with formal requirements of official registration.
- (16) The term “policy” shall be defined as the written regulations of the university as found in, but not limited to, “The Student Code of

Conduct,” “Resident Handbook,” “Penguin Student Handbook,” the university website, undergraduate/graduate catalogs, university policies, and board of trustees policies.

- (17) The term “respondent” shall mean any student accused of violating “The Student Code of Conduct.”
- (18) The terms “shall,” “must,” “will,” or “is required” specify a mandatory requirement of the code.
- (19) The term “student” shall include all persons registered for courses, seminars, and workshops at the university, either full-time or part-time, pursuing undergraduate, graduate, professional studies, or continuing education programs. Also included are those individuals accepted for admission or living in the residence halls, whether or not actually enrolled at the university.
- (20) The term “student conduct administrator” is the vice president for student affairs, or designee, who shall be responsible for the administration of the code and the university student conduct process.
- (21) The term “student conduct board” is a group of university students, staff, and faculty selected and trained to adjudicate hearings wherein students have allegedly violated university policy. Each hearing has a hearing panel consisting of three members from the student conduct board.
- (22) The term “student conduct body” shall mean student conduct officer, any deputy conduct officer, or any hearing panel of the student conduct board authorized by the student conduct administrator to determine whether a student has violated “The Student Code of Conduct” and to recommend imposition of sanctions.
- (23) The term “student conduct officer” is the associate director of student conduct who is the university official assigned to serve as the primary charging administrator by the student conduct administrator to review complaints, determine responsibility, and impose sanctions upon students found to have violated “The Student Code of Conduct.”

- (24) The term “student conduct board” is a group of campus students, staff and faculty selected and trained to adjudicate hearings wherein students are alleged to have violated university policy.
- (25) The terms “university” or “institution” mean Youngstown state university and collectively those responsible for its operation.
- (26) The term “university premises” shall be defined as all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the university including adjacent streets, sidewalks, and parking lots.
- (27) The term “university official” shall mean any person employed by, appointed to, authorized to act on behalf of or performing administrative or professional work for the university.
- (28) The term “university working day” refers to any day of the week excluding Saturdays, Sundays, or official holidays.
- (29) The term “weapon” shall have the same meaning as in university policy 3356-7-03 concerning weapons on campus (rule 3356-7-03 of the Administrative Code).
- (30) All other terms have their natural meaning unless the context otherwise dictates.

Replaces: 3356-8-01.1
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CERTIFIED ELECTRONICALLY

Certification

10/16/2020

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