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## STUDENT CODE OF CONDUCT

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**PURPOSE:** To outline policies and procedures to help promote growth and learning as students interact with their environment and accept responsibility for decision-making.

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### BOISE STATE UNIVERSITY STUDENT CODE OF CONDUCT

#### I. Article 1 - Student Rights and Responsibilities

##### A. Introduction

Each member of the University Community is obligated to assume individual responsibility for her/his personal freedom and actions. As members of the University, students enjoy the same freedoms of speech, peaceful assembly, and right of petition that all citizens enjoy. Each student, as a member of this community, is responsible for being familiar with the policies of Boise State University and with local, state, and federal laws since these reasonably guide our behaviors.

The Student Code of Conduct exists to assist in providing the best possible learning and living environment for all students. The University upholds the values of honesty, trust, fairness, civility, respect, and responsibility as the foundation for a successful academic environment. As a tool, the Student Code of Conduct will help promote growth and learning as students interact with their environment and accept responsibility for decision-making. The Boise State University student conduct process will help educate students about their responsibilities as members of an academic community and will impose sanctions when student conduct puts the community in jeopardy.

One purpose of the University is to create an environment where civil discourse may occur free from discrimination, harassment, threats or intimidation. The pursuit of higher learning through civil discourse, both in and out of the classroom, is encouraged and welcomed for all who attend the University

##### 1. Section 1 - Freedom of Association

Students are free to organize and to participate in voluntary associations of their own choosing, subject only to reasonable University regulations ensuring that such associations are not discriminatory in their treatment of other members of the University. Students are responsible for ensuring that their associations are not operated in a manner that substantially interferes with the rights of others. Freedom of association may not be forbidden in response to the general political or philosophical objectives of any particular group.

## 2. Section 2 - Freedom of Speech and Assembly

No rule will restrict any student expression solely on the basis of disapproval or fear of his/her ideas or motives. Students and student organizations will be free to examine and discuss all questions of interest to them, and to express opinions publicly and privately. This does not, however, negate the students' accountability as citizens to the laws of the larger society. Modes of expression or assembly that are illegal, manifestly unreasonable in terms of time, place, or manner may be forbidden. Individual students and student organizations are responsible for not speaking in the name of Boise State University, on official stationery, or in any way that might suggest official University support for individual or group views not officially held by the University.

Students and student organizations will be free to support causes by orderly and peaceful assembly that does not infringe upon the rights of others nor interrupt the day-to-day activities of the university or university personnel. They are responsible for making it clear that such expressions represent the views of the students or student organizations, and not the University.

Student groups are allowed to invite and to hear any person of their own choosing. Routine procedures required by the University before a guest speaker is invited to appear on campus are designed to ensure that there is orderly scheduling of facilities and adequate preparation for the event. Institutional control of campus facilities will not be used as a device of censorship. It will be made clear to the academic and larger community that sponsorship of guest speakers does not necessarily imply approval or endorsement of the views expressed, either by the sponsoring group or the University.

Boise State University recognizes the rights of members of the University community to freedom of speech and assembly, and believes in fostering discussion and the free exchange of ideas at the University. However, as a matter of law and University policy, these rights and interests are restricted, and must be exercised on University premises in a manner consistent with the mission and operation of the University and with the rights of other members of the University community. Therefore, the University adopts policies and procedures that balance the freedoms, rights, and responsibilities of the University community.

In order to provide consistency in the application of University policies to on-campus protests, the following guidelines for responding to demonstrations on University property will be followed:

- a. All students, undergraduate and graduate, have a right to demonstrate on University premises provided that the time, place, or type of behavior does not materially disrupt classes or other University business and does not involve substantial disorder or the invasion of the rights of others.
- b. Any demonstration within a campus building will take place only during the normal operating hours of the building.
- c. Students are prohibited from blocking free entry to or free exit from buildings, interfering with free movement, or presenting obstacles to regular University activities. Obstacles are defined as any physical denial or restriction of a person's ability to freely reach or leave a given area, or harassment as defined in the Student Code of Conduct. "Obstacles" are defined as any

devices, bodies, or signs that cause interference with free movement, or any sounds that prevent normal communication.

- d. A demonstration in a building or area is limited to such a number of persons that the area can reasonably accommodate on grounds of public safety, as determined by a University official.
- e. The use of amplification devices is prohibited on the University campus unless authorized by the appropriate university official.

3. Section 3 - Freedom of the Press

There will be no ideological censorship in the determination of printed matter available on campus; access to publications is not to be denied because of disapproval of their content. However, any student publication supported by compulsory student fees or by substantial institutional subsidy will be subject to the rules and regulations of the State Board of Education or their designees acting as trustees of Boise State University. Students involved in publications are responsible for being familiar with these rules and regulations.

4. Section 4 - Freedom in the Classroom

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

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

5. Section 5 - Nondiscrimination

It is the policy of Boise State University not to discriminate against any individual in matters of admission, employment, housing, services, or in the educational programs or other activities based on non-meritorious

factors including, but not limited to, age, race, color, religion, disability, gender, sexual orientation, gender identity/expression, national origin, ancestry, disability, veteran status, or political affiliation.

6. Section 6 - Student Records

To safeguard student privacy, personally identifiable student records and information are not to be made available to unauthorized on-campus or off-campus personnel without the expressed written consent of the student or as required or allowed by law. In accordance with federal and state laws and regulations, as well as Boise State University's Student Records Policy, the university may, without the consent of the student, (a) disclose to anyone certain types of "directory-type" information, consisting of local address and telephone number, home address, gender, marital status, major field of study, school within the university, dates of attendance, student certification, Boise State University degree(s) conferred, scholarships received, and awards, recognitions, and honors, etc., (b) share certain other records and information, consisting of the student's class schedule, other institutions attended, date of birth, country of citizenship, name of parent(s), and number of dependents, with university personnel who have a need to know the content of those records in order to carry out their official duties, (c) disclose student records and information in the event of an emergency, if deemed necessary within the discretion of the Vice President for Student Affairs or other authorized university personnel, in cases when the student cannot be contacted to provide written consent, (d) disclose information concerning certain types of illnesses which must be reported to the Health Department, police, or other government officials, (e) disclose records and information in response to a lawfully-issued subpoena, court order, or, in certain cases, a request for information by local, state, or federal police or investigatory agencies.

A student may at any time request in writing that "directory-type" information pertaining to the student not be disclosed to anyone outside the university without the student's written permission, in which case the university shall honor such written request until rescinded in writing by the student, unless disclosure is otherwise required by law or pursuant to Boise State University's Student Records policy. Students have the right to access their official University records in accordance with the university's Student Records policy. See FERPA, HIPPA, and the Cleary Act. For the Counseling Center, Student Health Services, and Career Center, the privilege of students to see the material placed in files is limited though the material may be discussed with the individual student at the discretion of the department head. Restrictions on disclosure of such materials are not only those listed but must also be consistent with the professional ethics and established procedure of these services.

All student conduct records will be destroyed after a period of seven (7) years, unless a sanction includes expulsion. In those instances, conduct records are kept indefinitely. Any recording of a conduct hearing will be destroyed at the conclusion of one year following completion of the individual conduct process. Other student records shall be retained for the minimum period required to serve the basic official functions of the office or department involved in the keeping of such records, in accordance with the Student Records Policy and the individual practices and policies of each such office or department.

For additional information pertaining to the disclosure of student records, consult Boise State University's Student Records policy.

7. Section 7 - Recognized Campus Organizations

A recognized organization is a group of Boise State students organized for a stated purpose that has official recognition from the ASBSU. Affiliation with an extramural organization will not of itself disqualify a student organization from either institutional recognition or the use of University facilities, although reasonable provisions may be made to safeguard the autonomy of a campus organization from domination by outside groups. All groups will avoid presenting their actions or views as those of the University as stated under Section 2 – Freedom of Speech and Assembly. The Student Code of Conduct applies to all organizations as well as to individual students. If an organization violates the Student Code of Conduct, the individual students involved also assume responsibility for the organization’s actions, recognizing that organizations cannot exist or act without the cooperation of individual members.

8. Section 8 - Equal Protection

The University has an obligation to apply its rules equally to all students. This does not mean, however, that the University is required to refrain from taking action against some offenders because there are others who cannot be identified, or who are not similarly charged. Procedural fairness incorporates adequate notice of the charges, the opportunity for a fair hearing, and the right of appeal.

9. Section 9 - Freedom from Sexual Harassment and Misconduct

Boise State University is committed to establishing and maintaining a safe and healthy environment for all its members. Sexual harassment and misconduct of any kind undermines individual growth, self-respect, and the safety of the university community. It represents socially irresponsible and damaging behavior and will not be tolerated by the university community. Any person, regardless of gender, may commit or be a survivor of sexual harassment and /or sexual misconduct. This policy is gender neutral and applies equally to all sexual orientations and gender identities/expressions. See the Boise State University anti-harassment policy 1070.

Any student who feels that she/he may have been sexually assaulted should contact the Boise Police Department at 911 for legal redress. In addition, students who have been sexually assaulted are encouraged to contact support services at the Counseling Center (426-1601) and the Women’s Center (426-4259). Survivors of sexual harassment or sexual misconduct are encouraged to file a Code of Student Conduct complaint through the Office of Student Rights and Responsibilities (426-1527) if the accused person(s) is also a student.

10. Section 10 - Student Contact Information

All students are responsible for maintaining their current addresses and phone numbers with the Registrar’s Office. All students are also responsible for frequently monitoring campus email and the University web site, since these means of communication have replaced mass mailings as the University’s most effective ways to distribute information to the community.

II. Article 2 - Definitions

1. Section 1 - University

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

2. Section 2 - Student

The term "**student**" includes all persons who meet one or more of the following criteria:

- a. are formally admitted;
- b. are enrolled full or part-time;
- c. are degree or non-degree seeking;
- d. are taking credit or non-credit courses;
- e. are enrolled in Continuing Education or "personal enrichment" courses;
- f. are attending post-secondary education institutions other than Boise State University, yet, reside in University housing; or
- g. are on continuing student status between enrolled terms, during vacation periods, during orientation, or during summer breaks

3. Section 3 - Faculty Member

The term "**faculty member**" means any person who conducts classroom activities for the University.

4. Section 4 - University Official

The term "**University official**" includes:

- a. any person employed by the University performing assigned administrative or professional responsibilities;
- b. any student who is an assigned or appointed formal member of a University Conduct Body.

5. Section 5 - Member of the University Community

The term "**member of the University community**" includes any person who is:

- a. a student;
- b. a faculty member;
- c. a University official; or
- d. identified to conduct business for the University.

A person's status in a particular situation will be determined by the Vice President for Student Affairs or her/his designee.

6. Section 6 - University Premises

The term "**University premises**" includes all land, buildings, facilities, and other property in the possession of (or owned, used, leased, or controlled) by the University including, but not limited to, items such as adjacent streets and sidewalks, computers and web sites, vehicles.

7. Section 7 - Organization

The term "organization" means any group of individuals who have complied with the formal requirements for University recognition. These groups may include, but are not limited to, athletic teams or clubs, student organizations, service clubs, sororities and fraternities.

8. Section 8 - Conduct Body

The term "**Conduct Body**" means any person or persons authorized by the Vice President for Student Affairs or her/his designee to determine

whether a student has violated the Student Code of Conduct and to determine appropriate sanctions for the violation. This can be a single individual, such as a Hearing Officer (individual faculty or staff member), a group of people, such as a Conduct Board or Appellate Board, and/or in instances of academic dishonesty, a faculty member.

9. Section 9 - Student Conduct Administrator

The term “**Student Conduct Administrator**” means the University official authorized by the Vice President for Student Affairs to:

- a. advise Respondents and Complainants on student conduct processes and procedures;
- b. serve as a hearing officer as designated by the Vice President for Student Affairs;
- c. serve as the advisor to the student conduct process;
- d. maintain official conduct records;
- e. monitor sanction compliance;
- f. coordinate the training and development of student conduct bodies;
- g. serve as the primary liaison to Campus Safety and Security.

10. Section 10 - Quorum

The term “**quorum**” means one more than fifty percent of the voting membership of a conduct body. A conduct body consisting of a single individual always consists of a quorum.

11. Section 11 - Ex Officio

The term “**Ex Officio**” means any person designated as a member of a board or committee as a result of his/her official position. Ex Officio members are designated as either voting or non-voting members depending on specific circumstances as defined in Article Twelve: Conduct Bodies.

12. Section 12 - Will

The term “**will**” is used in the imperative sense.

13. Section 13 - May

The term “**may**” is used in the permissive sense.

14. Section 14 - Vice President for Student Affairs

The “**Vice President for Student Affairs**” is the person designated by the University President to be responsible for the administration of the Student Code of Conduct.

15. Section 15 - Policy

The term “**policy**” is defined as the written regulations of the University as outlined in, but not limited to:

- a. the University Undergraduate and Graduate Catalogs (<http://registrar.boisestate.edu/> )
- b. the University Student Housing policies (<http://housing.boisestate.edu/>)
- c. the University Policy Manual (<http://boisestate.edu/policy>)

- d. the policies, procedures and regulations of the State Board of Education (<http://www.boardofed.idaho.gov>).
16. Section 16 - Working Days

The term “**Boise State University working days**” refers to days that University administrative offices are open as prescribed by the Official University Calendar.
  17. Section 17 - Assignment

The term “**assignment**” includes any task or action, graded or not graded, assigned by a faculty member to an individual, group, or team as part of the requirements of a course. It includes, but is not limited to, any task or action undertaken in class, on line, and at home. It includes, but is not limited to, readings, quizzes, tests, examinations, essays, papers, reports, discussions, projects, surveys, labs, problems, practicum, guides, presentations, speeches, debates, artwork, designs, models, performances, and extra credit.
  18. Section 18 - Academic Dishonesty

The term “**academic dishonesty**” may include cheating, plagiarism, or other forms of academic dishonesty. All assignments submitted by a student must represent her/his own ideas, concepts, and current understanding or must cite the original source. Attempts to violate the academic integrity of an assignment do not have to be successful to be considered academic dishonesty. Academic dishonesty may include, but is not limited to:

    - a. **Stealing and/or Possessing Unauthorized Material** - The unauthorized appropriation, possession or use of the property of another; the forgery or misuse of documents;
    - b. **Fabrication and Falsification** - The unauthorized alteration or invention of any information or citation;
    - c. **Multiple Submission** - The submission of substantial portions of the same assignment for credit more than once without the prior permission of all involved faculty members;
    - d. **Abuse of Academic Material** - Destroying, stealing, or making inaccessible library or other academic resource material;
    - e. **Complicity in Academic Dishonesty** - Intentionally or knowingly helping or attempting to help another commit an act of academic dishonesty.
  19. Section 18A - Cheating

The term “**cheating**” includes any action where an individual or group either carries out or attempts to carry out dishonest work and/or where an individual or group either assists or attempts to assist an individual or group to carry out dishonest work. If students are uncertain whether an action constitutes cheating, they have a responsibility to ask the faculty member for the course for clarification. Cheating includes, but is not limited to:

    - a. using or providing any unauthorized assistance in class assignments, standardized tests, credential tests, and professional licensing tests;

- b. unauthorized copying of class assignments—such as examinations—before, during, or after the assignment, either for your own use or for the use of others;
- c. having someone else complete a class assignment in your place;
- d. completing a class assignment for someone else;
- e. collaborating on an assignment unless it has been explicitly permitted by the faculty member;
- f. depending on or providing the aid of sources not authorized by the faculty member in preparing for exams, writing papers, preparing reports, solving problems, or carrying out other assignments;
- g. acquiring, without permission, any assignment or other academic material belonging to a member of the University faculty or staff;
- h. creating, keeping, or using unauthorized collections of assignments;
- i. turning in substantial portions of the same academic work to more than one course without the prior permission of the faculty members;
- j. plagiarizing (see Section 18B).

20. Section 18B - Plagiarism

The term “**plagiarism**” at its most basic level means to steal someone else’s words, composition, research, and/or ideas. Plagiarism is both cheating and theft. Given the seriousness of this offense, students have a responsibility to understand its meaning and implications for the academic community. Plagiarism can be committed in any type of assignment. Plagiarism includes but is not limited to

- a. the use by direct quotation of another person’s work, published or unpublished, without clearly setting off the quotation and/or without full and clear acknowledgment;
- b. the use by paraphrase of another person’s work, published or unpublished, without full and clear acknowledgment;
- c. the use of another person’s ideas, arguments, and/or thesis from a published or unpublished work without full and clear acknowledgment;
- d. the use of another person’s research from a published or unpublished work without full and clear acknowledgment;
- e. the use of materials prepared by a person or agency engaged in the selling of term papers or other academic materials.

21. Section 19 - Education Record

The term “**education records**” includes any record (in any medium) maintained by Boise State University or an agent of the university that is directly related to a student, except the following

- a. personal record kept by a staff/faculty member if it is kept in the sole possession of the maker of the record;
- b. employment records of a student, provided the records are used only in relation to the student’s employment;

- c. records maintained by the Counseling Center and Health Center concerning a student's status as client of the Center(s);
- d. alumni records that contain information about students after they are no longer in attendance at the University and that do not relate to them as students; or
- e. records maintained by Boise State University if the record is maintained solely for law enforcement purposes and is revealed only to law enforcement agencies of the same jurisdiction.

**Copies of Educational Records** – The right to view records does not necessarily include the right to receive copies of records. Boise State University reserves the right to deny copies of records in any of the following situations:

- a. The student lives within commuting distance of Boise State University;
- b. The student has an unpaid financial obligation to Boise State University;
- c. There is an unresolved conduct action against the student.

The fee for copies, if allowed, will be the current rate on campus per page. Boise State University may also charge for copying time and postage. See Boise State University student records policy 2250.

22. Section 20 - Off Campus

The term "**off-campus**" includes anywhere that is not University premises. Conduct off-campus in violation of the Student Code of Conduct that affects the clear and distinct interest of the University is subject to conduct sanctions. Specifically included within the University's interest are violations that:

- a. involve conduct directed at other members of the University community
- b. disrupt educational or other functions of the University
- c. occur during or at University-sponsored events
- d. occur during the events of organizations affiliated with the University, including the events of student organizations
- e. occur during a Study Abroad Program; or
- f. pose a threat to the health and/or safety of members of the University community

23. Section 21 - Attempt

The term "**attempt**" includes any conduct that is tried, whether or not it is successful. An individual student or a student organization may be disciplined for attempting to violate the Student Code of Conduct, even though the attempt is not successful

24. Section 22 - Consent

The term "**consent**" is considered to be giving permission for, or agreeing to, an act or activity through verbal communication. Consent will not be considered given unless there is a clear verbal statement that is made free of force, threat, intimidation or coercion. Consent must be verbal, conscious, and explicit and must be present throughout the activity. Neither silence nor a prior relationship is sufficient to indicate consent. Consent can be revoked at any time during an encounter and

must be respected. Someone who is incapacitated in any way cannot give consent. Consent will not be considered given by someone who is asleep, drugged, intoxicated, unconscious, harassed, coerced, threatened, or forced. Consent for sexual activity cannot be given by a minor (anyone under 18 years of age).

25. Section 23 - Standard of Evidence

The term “**standard of evidence**” will mean a “preponderance of evidence.” A “preponderance of evidence” means that the evidence given is enough to suggest that a circumstance is more likely than not to have occurred as described.

III. Article 3 - Authority and Jurisdiction of the Student Code of Conduct

The Student Code of Conduct is not a code of criminal law; criminal law concepts, processes, and procedures do not apply to it. The University will take appropriate action when student conduct runs contrary to the University mission. The University reserves the right to take necessary and appropriate action to protect the health, safety, and well-being of the University community and its members.

The Student Conduct Administrator (or his/her designee) will determine which Conduct Body will be authorized to hear each case. Policies will be developed for the administration of the conduct program and procedural rules for the conduct of hearings, which are not inconsistent with provision of the Student Code of Conduct. Evidence will be admitted without regard to the rules of evidence in a court of law. Decisions made by a Conduct Body and/or the Student Conduct Administrator will be made with the spirit of the Student Code of Conduct in mind. All decisions will be final, pending the standard right of appeal.

Students and student organizations are subject to the provisions of local, state, and federal law and to all legal and judicial authorities as part of their responsibilities to the larger society. If a visitor or guest of a university student or organization does not comply with university policies and/or with local, state, or federal law, the student or organization may be subject to University sanctions, as well as to the provisions of local, state, or federal law. Proceedings under the Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

The University reserves the right to address inappropriate student or organization conduct that occurs off campus when such behavior runs counter to the University mission and contrary to the Student Code of Conduct.

University students enjoy all the rights, privileges, and responsibilities of citizenship. Students are also subject to their obligations as members of the academic community. When the interests of the University community are clearly involved, the authority of the institution may be asserted.

IV. Article 4 - Proscribed Conduct

Any student found to have committed, or attempted to commit, any of the following misconduct is subject to sanctions outlined in the Student Code of Conduct:

1. Section 1 - Academic Dishonesty

A violation may include cheating, plagiarism, or other forms of academic dishonesty. All assignments submitted by a student must represent her/his own ideas, concepts, and current understanding or must cite the original source. Academic dishonesty includes assisting a student to cheat, plagiarize, or commit any act of academic dishonesty. Attempts to violate academic integrity do not have to be successful to be considered academic dishonesty. Academic dishonesty includes turning in substantial portions of the same academic work to more than one course without the prior permission of the faculty members.

2. Section 2 - Alcohol

A violation may include, but is not limited to, possession, consumption, or distribution of alcoholic beverages. This is prohibited in University-owned, -leased, or -operated facilities and on campus grounds unless otherwise allowed by University policy. Disruptive behavior exhibited as the result of consumed alcohol is prohibited campus-wide even if the alcohol was consumed elsewhere. Members of the University community will adhere to all state and federal laws with regard to alcohol.

3. Section 3 - Drugs

A violation may include, but is not limited to the possession, manufacture, distribution, use, or sale of drugs or drug paraphernalia and narcotics classified as illegal, except those taken under a doctor's prescription. This is prohibited on University-owned or -controlled property, in University housing, and/or at any University-sponsored or -supervised function. Disruptive behavior exhibited as the result of the use of a drug is prohibited campus-wide even if a drug was consumed elsewhere. A violation may occur if the odor of a drug is present when it can reasonably be traced to a specific individual or location by more than one individual. Members of the University community will adhere to all state and federal laws with regard to illegal substances.

4. Section 4 - Disorderly Conduct

A violation may include, but is not limited to, any behavior that disrupts or obstructs any University activity, including but not limited to teaching, research, administration, proceedings, recreational activities, guest speaker presentations, and cultural events. It includes any behavior that causes a substantial disruption to the living or learning environment of the campus. Disorderly conduct may include disruptive noises or strong odors that can be reasonably traced to a specific individual or location, and may include the unauthorized use of electronic or other devices to make an audio and/or visual record of any person without his/her prior knowledge and consent when such a recording is likely to cause distress or injury.

5. Section 5 - Harassment

A violation may include conduct towards another person or group of persons including, but not limited to:

- a. unwelcome comments or other behavior that unreasonably interferes with an individual's work, academic performance, or living conditions, or participation in a University activity;
- b. unwelcome comments or other behavior that creates an intimidating, hostile, or offensive environment for that individual's work, education, living conditions, or participation in a University activity;
- c. retaliation against any person filing a conduct complaint or against any person participating in the conduct process;
- d. implied or stated threats of violence.

See the Boise State University anti-harassment policy1070.

6. Section 6 - Physical Assault

A violation may include, but is not limited to:

- a. unwanted physical contact;

- b. use of violence and/or fighting.

7. Section 7 - Sexual Conduct and Misconduct

Consent for sexual activity must be given free of force, threat, intimidation, or coercion. Consent must be verbal, conscious, and explicit and must be present throughout the activity. Neither silence nor a prior relationship is sufficient to indicate consent. Consent can be revoked at any time during a sexual encounter and must be respected. Someone who is incapacitated in any way cannot give consent. Consent will not be considered given by someone who is asleep, drugged, intoxicated, unconscious, harassed, coerced, threatened, or forced into sexual activity. Consent for sexual activity cannot be given by a minor (anyone under 18 years of age). See Article 2, Sec. 22.

8. Section 7A - Sexual Harassment

A violation may include, but is not limited to:

- a. any action or statement of a sexual nature which is embarrassing, harassing, intimidating, or abusive;
- b. unwanted comments, communications, jokes, or requests of a sexual nature;
- c. unwelcome and persistent sexually explicit statements or stories;
- d. repeated use of sexually degrading words, gestures, or sounds to describe a person;
- e. recurring derogative comments or questions about an individual's sexual orientation and/or behavior;
- f. any kind of unwelcome sexual advances;
- g. repeated phone calls, messages, and/or other communications sexual in nature, even after statements have indicated that there is no interest;
- h. threats of retaliation as a result of a sexual encounter;
- i. implied or stated threats of sexual violence.

Sexual harassment can occur with any combination of genders, gender identities/expressions, and sexual orientation. See Boise State University anti-harassment policy 1070.

9. Section 7B - Sexual Misconduct

Sexual misconduct is defined as:

- a. touching an individual's intimate areas (primary genital area, groin, inner thigh, buttocks, or breast) without or against the individual's consent and/or forcing another individual to touch an individual's intimate areas without or against the individual's consent; and/or
- b. attempted or actual penetration, no matter how slight, of the genital, anal, and/or oral openings of an individual by any part of another person's body or by any object, without or against the individual's consent or under coercion.

See Article 1: Student Rights and Responsibilities, Section 9 - Freedom from Sexual Harassment and Misconduct, for further information

Sexual misconduct may include, but is not limited to, one or more actions of a sexual nature that:

- a. is carried out without explicit consent by both parties;
- b. occurs under coercion;
- c. occurs with the threat of force and/or verbal abuse;
- d. occurs with the use of a weapon and/or physical force;
- e. occurs through a position of authority.

Sexual misconduct can occur with any combination of genders, gender identities/expressions, and sexual orientations

10. Section 8 - Stalking

A violation may include, but is not limited to, any intentional behavior that is directed at a specific person that frightens, intimidates, or harasses that person. Stalking may be directed toward that person or a member of that person's family. A stalking violation may be filed when a pattern of behavior consisting of two or more incidents occurs. Stalking behavior includes, but is not limited to, communicating orally, in writing, or electronically with another individual or remaining in the physical presence of the other person.

11. Section 9 - Hazing

A violation may include, but is not limited to, any act that endangers the mental or physical health or safety of a student, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. It includes, but is not limited to, any behavior that may endanger an individual's physical safety or produce physical, emotional, or psychological discomfort, fright, humiliation, and/or embarrassment, whether it is intentional or unintentional. The express or implied consent of the victim will not be considered a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this section.

12. Section 10 - Lewd and Indecent Conduct

A violation may include, but is not limited to, actions that are offensive to accepted standards of decency such as indecent, vulgar, obscene, profane, or offensive actions.

13. Section 11 - Theft

A violation may include, but is not limited to, taking or attempting to take another's property—personal, public or institutional—without his/her express permission. This includes, but is not limited to, physical, electronic, and intellectual property.

14. Section 12 - Firearms/Weapons

A violation may include, but is not limited to, the possession, wearing, carrying, transporting, or use of a firearm or other weapon, incendiary device, or explosive. Such actions are strictly forbidden on University-owned or -controlled premises and/or in university and personal vehicles. This policy includes devices such as paint-ball and air-soft guns that otherwise may be considered toys. See Boise State University Policy1080.

15. Section 13 - Abuse of Computer Facilities and Resources

A violation may include, but is not limited to, the actual and/or attempted mistreatment, misuse, or disruption of any University computer facilities and resources, including but not limited to, those of offices, departments,

colleges, and libraries. Such behavior includes, but is not limited to, possessing passwords without proper authorization, spreading computer viruses, using computers to hack into computer systems, downloading or sending unauthorized or illegal materials, and allowing others to access material from your computer while utilizing university resources.

16. Section 14 - Destruction/Damage or Misuse of Property

A violation may include, but is not limited to, destruction, damage, or misuse of University or private property.

17. Section 15 - Unauthorized Entry

A violation may include, but is not limited to, any unauthorized entry—either physical or electronic, either actual or attempted—into any University facility, building, or computer system.

18. Section 16 - Falsification of University Records

A violation may include, but is not limited to, willful falsification of official records or documents, or omission with the intent to deceive. Falsification of University Records includes, but is not limited to, the forgery, alteration, or misuse of University documents, records, academic record change forms, fee receipts, identification cards, meal tickets, parking permits, financial aid forms, telephone billing cards, and ASBSU forms or documents. Violations also may include computer tampering.

19. Section 17 - Falsification of Identity

A violation may include misrepresentation of identity as a member of the University for dishonest purposes, either on or off University premises, including but not limited to, claiming faculty, staff, official, or student status to which an individual is not entitled.

20. Section 18 - Riotous Acts

A violation may include, but is not limited to, participation in an on-campus or off-campus demonstration that disrupts the normal operations of the University and infringes on the rights of other members of the University community. This includes leading or inciting others to disrupt scheduled and/or normal activities within any University building or area. It includes intentional obstruction that unreasonably interferes with freedom of movement for either pedestrians or vehicles.

21. Section 19 - Official Orders

A violation may include, but is not limited to, failure to comply with directions of University officials or law enforcement officers acting in the performance of their duties and/or failure to identify oneself to these persons when requested to do so.

22. Section 20 - Gambling

A violation may include, but is not limited to, any game or contest played for money or for any form of property or item of value unless approved by an authorized University Official. Gambling includes, but is not limited to, games played with cards, dice, or other gambling devices that involve betting and/or wagering.

23. Section 21 - Fiscal Misconduct

A violation may include, but is not limited to:

- a. falsification of Boise State University or student organization financial records;

- b. any purchase and/or financial transaction made without appropriate organization membership and institutional approval, including, but not limited to, long-distance calls, copier use, signature of contracts, travel expenses, rentals;
- c. failure to relinquish student organization financial records to officers/advisors, and/or Boise State/ASBSU officials
- d. failure to uphold the financial obligations and agreements entered into on the part of an individual or student organization;
- e. the writing of non-sufficient funds (NSF) checks to the University;
- f. forgery;
- g. embezzlement.

24. Section 22 - Bribery and/or Extortion

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

25. Section 23 - Group Offenses

A violation may include, but is not limited to, actions by organizations, societies, clubs, and similarly organized groups that result in violations of University policies. Sanctions for groups may result in permanent or temporary suspension, loss of recognition or charter, social probation, or other actions deemed appropriate by the University. An individual involved in a group offense and/or sanction can also be subject to additional individual charges and sanctions.

26. Section 24 - Abuse of Student Conduct Process

A violation may include, but is not limited to, falsifying, distorting, or misrepresenting information presented to a conduct body, and/or knowingly instituting a conduct proceeding without cause.

27. Section 25 - Other Acts of Misconduct

A violation may include, but is not limited to, breaking any local, state, or federal laws, and/or breaking any University or ASBSU policies. University Student Code of Conduct proceedings may be instituted against a student charged with violation of a local, state, or federal law that also may be a violation of the Student Code of Conduct.

V. Article 5 - Complaints

1. Section 1 - Conduct Complaints

Any member of the University community may file charges against any student for alleged violations of the Student Code of Conduct. In addition, the University may initiate charges against a student when there is no other individual to act as Complainant. Charges will be prepared in writing and directed to the Office of Student Rights and Responsibilities for processing. Any allegation should be submitted as soon as possible after the event takes place.

Students who are present when a violation occurs or who allow a violation of the Student Code of Conduct to occur may also have charges filed against them. Charges may be filed if a student fails to report Code violations or fails to remove him/herself from incriminating situations.

A complaint should be filed within 30 days of an incident, though the Student Conduct Administrator may, at his/her discretion, extend that deadline as necessary when circumstances merit an extension.

2. Section 2 - Discrimination Complaints

Any member of the University community who feels that he/she has been discriminated against on the basis of race, color, age, gender, religion, sexual orientation, veteran status, physical and/or mental ability, and/or national origin or ancestry should contact and consult with the Affirmative Action Office.

See Boise State University policy on Nondiscrimination and Affirmative Action 1060.

3. Section 3 - Harassment Complaints

Any member of the University community who feels that he/she has been harassed by a student, faculty member, or official for reasons of race, color, age, gender, religion, sexual orientation, veteran status, physical and/or mental ability, and/or national origin or ancestry, as well as individuals who believe they have been harassed for other reasons, should contact and consult with the Office of Student Rights and Responsibilities and/or the Affirmative Action Office.

See Boise State University Anti-Harassment policy 1070.

VI. Article 6 - Procedures for Academic and Classroom Misconduct

The procedures for violations of academic dishonesty differ from those for non-academic violations or violations that include allegations of non-academic violations. The university recognizes that when allegations of academic dishonesty occur, the process must include the faculty member, department chair, and/or college dean responsible for the course and/or program. Faculty are charged with determining class content and how it is delivered. They are responsible for maintaining appropriate academic standards and evaluating whether students comply with university and course standards as outlined in the Student Code of Conduct, in the course syllabus, and in written and verbal directions for assignments. It is therefore appropriate in those instances where a faculty member believes that a student has committed some form of academic dishonesty in that faculty member's course that the faculty member determine responsibility and apply a sanction for the course, up to failure in that course. Equally, department chairs and college deans are responsible for maintaining appropriate academic standards and evaluating whether students comply with university and academic program standards as outlined in the Student Code of Conduct and in academic program criteria. It is therefore appropriate in those instances when a student has been found responsible for academic dishonesty that the department chair and/or college dean may impose an additional action (which is not subject to appeal) of removal from an academic program.

1. Section 1 - Procedures for Academic and Classroom Misconduct

When academic dishonesty has been alleged, the following procedure will be used.

- a. the faculty member will document the incident of academic dishonesty, being as complete as possible;
- b. the faculty member will notify the student of his/her belief that the student has committed academic dishonesty and will provide the

student with an opportunity to respond to the allegation before making a final decision;

- c. if the complaint is made by someone other than the faculty member, the faculty member will be informed and brought into the discussion;
- d. the faculty member will notify the student of the sanction given for her/his academic dishonesty and his/her right to appeal;
- e. depending on the violation, the sanction may include, but is not limited to, receiving a failing grade on the assignment and/or receiving a failing grade in the course;
- f. the faculty member will notify the Office of Student Rights and Responsibilities in writing on the appropriate form, sending copies to the department chair and to the college dean;
- g. the faculty member may make recommendations to the Office of Student Rights and Responsibilities to take further action up to and including suspension and/or expulsion from the University;
- h. the Office of Student Rights and Responsibilities will notify the student that a Student Conduct complaint has been received;
- i. the student has until the stated deadline in the notification letter to submit an appeal in writing to the Office of Student Rights and Responsibilities;
- j. appeals will be heard by the Appellate Board.

Students found responsible for more than one act of academic dishonesty will be referred to the Student Conduct Appellate Board. The Board will review the student's record of academic dishonesty for possible further sanctioning, which may include suspension and/or expulsion from Boise State University.

2. Section 2 - Classroom Misconduct and Classroom Dismissal

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

VII. Article 7 - Procedures for Nonacademic Misconduct

1. Section 1- Nonacademic Conduct Complaints

When a conduct report is received that is not related to academic dishonesty, the Student Conduct Administrator or her/his designee will conduct an investigation to determine if the charges have merit, including meeting with the accused if at all possible. The Administrator or designee will determine whether the complaint has merit and/or if it can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to the Office of Student Rights and Responsibilities. Such disposition will be final and there will be no subsequent proceedings.

If the charges cannot be disposed of by mutual consent, the Student Conduct Administrator or her/his designee will refer the incident for review by another Conduct Body for a formal hearing. Both the complainant and the respondent can express a preference for a conduct

hearing before a hearing officer or a conduct board. The Student Conduct Administrator will consider their requests when referring the case to a conduct body.

2. Section 2 - Hearings & Procedures for Breach of Nonacademic Conduct

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

- a. The Office of Student Rights and Responsibilities will notify all parties or groups named in an official complaint that charges have been filed.

Notice of the hearing will have been fulfilled if a notice has been mailed via U.S. Postal Service to the address listed with the Student Contact Information at the Registrar's Office post-marked at least seven (7) days in advance of the hearing or emailed to the student's Boise State University email account within seven (7) days of the hearing, or placed in the student's residence hall mailbox at least three (3) Boise State University working days in advance of the hearing.

- b. Submission of relevant information to the Student Conduct Administrator (such as witness lists, witness statements, and Respondent's response) by the Complainant and the Respondent must occur seventy-two (72) hours prior to the conduct hearing. This relevant information must be available to the Complainant and Respondent twenty-four (24) hours prior to the conduct hearing. This will include providing the Complainant and Respondent with the "Hearing Checklist."
- c. The Conduct Body must constitute a quorum for the hearing to proceed.
- d. The hearing will proceed according to the "Hearing Checklist."
- e. Hearings will be conducted in private. Admission of any person to the hearing will be at the discretion of the Student Conduct Administrator.
- f. In hearings involving more than one accused student, the chair of the Conduct Body, at his or her discretion, may permit the hearings concerning each student to be conducted separately or at the same time.
- g. The Complainant, the Respondent, and the University have the privilege of presenting witnesses, subject to cross-questioning by the Conduct Body.
- h. All questions during the hearing will come from the Conduct Body. The Complainant and Respondent may suggest possible questions to the Conduct Body Chair; however, the Complainant/Respondent will not ask questions of witnesses or each other directly.
- i. The Complainant and the Respondent have the right to be assisted by any advisor of their choosing from the University community. However, the Complainant and/or the Respondent is responsible for presenting his/her own information; therefore,

advisors are not permitted to participate directly in any hearing before a Conduct Body.

- j. If the Respondent, after receiving notice (as outlined in point 1 above), does not appear before the Conduct Body, the Conduct Body may hear the information of the Complainant, even without the Respondent being present.
- k. When appropriate, the Student Conduct Administrator may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Complainant, Respondent, and/or witnesses during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, closed circuit television, video conferencing, video recording, audio recording, written statement, or other means.
- l. All procedural questions during the hearing are subject to the final decision of Conduct Body Chair at the time of the hearing.
- m. At the end of the hearing, all disseminated materials will be returned to the Student Conduct Administrator.
- n. After the hearing, the Conduct Body will determine (by simple majority vote if the Conduct Body consists of more than one person) whether the Respondent has violated the Student Code of Conduct.
- o. The Conduct Body's determination will be made on the basis of whether it is more likely than not that the Respondent violated the Student Code of Conduct.
- p. Decisions regarding the case will be made available in writing to the Respondent and Complainant via the Office of Student Rights and Responsibilities office within five (5) Boise State University working days of the hearing.
- q. University personnel with a need to know may be notified of the outcome of the hearing.
- r. Appeals must be submitted in writing to the Office of Student Rights and Responsibilities by the deadline stated in the decision letter.

### 3. Section 3 - Record of Hearing

A single record, such as a written record or audio recording, of every hearing before a Conduct Body will be maintained by the Office of Student Rights and Responsibilities. The record will be the sole property of Boise State University. No other audio or visual recordings of hearings will be allowed. Deliberations will not be recorded. All audio and visual recordings will be destroyed at the conclusion of one year following completion of the individual conduct process. The written decision letters will remain as the official University record. Student conduct records will be kept for the duration of seven years, unless a student has been expelled, in which case the record will be kept indefinitely. In some circumstances, such as informal hearings with Residence Life Hearing Officers, the hearing may not be recorded. It is the sole discretion of the hearing officer to determine whether or not an official audio or visual recording of a hearing will be made.

4. Section 4 - Nonacademic Conduct Hearings Rights and Responsibilities

a. Complainant Rights

- 1) To write a conduct report stating the charges and citing any details pertaining to the sections in the Student Code of Conduct that have allegedly been violated;
- 2) To have a conduct hearing;
- 3) To have access to all documents or information pertaining to the complaint entered by the Respondent and/or witnesses;
- 4) To have notification of date, time, and place of the conduct hearing;
- 5) To have an advisor of his/her choosing from the University community present at the hearing; the advisor is not permitted to participate directly in any hearing before a Conduct Body;
- 6) To challenge any member of the Conduct Body if the Complainant believes that the person is biased (challenges to be ruled on by the Student Conduct Administrator);
- 7) To have witnesses speak at the hearing. Testimony from witnesses who will not be at the hearing may be introduced in signed, written form. The respondent may submit written questions to these witnesses. However, failure for any reason to receive answers to such questions will not affect the admissibility of the written testimony;
- 8) To learn whether the Respondent has been found "responsible" or not but not necessarily to learn of any conduct sanctions;
- 9) The Student Right-to-Know and Campus Security Act allows Universities to inform victims of an alleged crime of violence of the outcome (final decision and any sanctions) of the student conduct proceeding against the alleged perpetrator;
- 10) Universities are required to inform the victim of an alleged sexual assault of the final outcome of the conduct proceeding against the alleged perpetrator;
- 11) To appeal according to procedures outlined in the Student Code of Conduct.

b. Complainant Responsibilities

- 1) To write a conduct report, initiating the student conduct process. Complainants must understand that this report will be considered the main basis of their own case if the Respondent appeals. Therefore, this report should be written as carefully and completely as possible;
- 2) To submit all written information such as witness lists and/or witness statements at least seventy-two (72) hours prior to the designated hearing time;

- 3) To pick up from the Office of Student Rights and Responsibilities twenty-four (24) hours prior to the conduct hearing all supporting information and the witness list that was submitted by the Respondent;
- 4) To arrange for his or her witness(es) and his or her advisor to be present during the hearing;
- 5) To present his or her own case;
- 6) To secure his or her copy of the decision at a time and place specified by the Conduct Body;
- 7) To file an appeal that follows appeal procedures as outlined in the Student Code of Conduct.

c. Respondents Rights

- 1) To receive notification of specific charges filed and procedures involved in a conduct hearing;
- 2) To write a response to the charges and to cite any details or information not stated in the Complainant's conduct report;
- 3) To have a conduct hearing;
- 4) To choose not to participate in a conduct hearing. Not participating does not constitute an admission of responsibility and will not automatically result in a student being found responsible;
- 5) To have access to all documents or information pertaining to the complaint entered by the Complainant and/or witnesses;
- 6) To have notification of date, time, and place of the conduct hearing;
- 7) To have an advisor of his/her choosing from the University community present at the hearing; the advisor is not permitted to participate directly in any hearing before a Conduct Body;
- 8) To challenge any member of the Conduct Body if the Respondent believes that the person is biased (challenges to be ruled on by the Student Conduct Administrator);
- 9) To have witnesses speak at the hearing. Testimony from witnesses who will not be at the hearing may be introduced in signed, written form. The Complainant may submit written questions to these witnesses. However, failure for any reason to receive answers to such questions will not affect the admissibility of the written testimony;
- 10) To appeal according to procedures outlined in the Student Code of Conduct.

c. Respondent Responsibilities

- 1) To write a response to the specific charges. Respondents must understand that this response will be considered the main basis of their own case if the

Complainant appeals. Therefore, this response should be written as carefully and completely as possible;

- 2) To submit all written information such as witness lists and/or witness statements at least seventy-two (72) hours prior to the designated hearing time;
- 3) To pick up from the Office of Student Rights and Responsibilities twenty-four (24) hours prior to the conduct hearing all supporting information and the witness list which was submitted by the Complainant;
- 4) To arrange for his or her witness(es) and his or her advisor to be present during the hearing;
- 5) To present his or her own case;
- 6) To secure his or her copy of the decision at a time and place specified by the Conduct Body;
- 7) To file an appeal that follows appeal procedures as outlined in the Student Code of Conduct.

#### VIII. Article 8 - Mediation

Boise State University offers mediation services for disputes through a cooperative partnership between the Boise State University Conflict Management Program and the Office of Student Rights and Responsibilities. Members of the University community can send disputes to mediation if all parties agree and if the Office of Student Rights and Responsibilities agrees that mediation is appropriate. If a dispute is already in the student conduct process, mediation will pause the process. If mediation does not succeed, the student conduct process resumes where it left off. Any party in a dispute is free to decline mediation or withdraw from mediation without it affecting the student conduct process.

Mediation is a voluntary, informal, and confidential method for addressing disputes involving students and other members of the University. Outcomes may be reported to the Office of Student Rights and Responsibilities and may be placed in a student's conduct file for accountability. Mediators report to the Office of Student Rights and Responsibilities that the mediation occurred and when it is completed to the satisfaction of all parties.

Mediation is not arbitration. The mediator(s) will not come up with a solution or impose it upon the parties. The mediator(s) will not choose a side and attempt to get the other party to agree. The role of the mediator(s) is to make sure that the parties involved clearly communicate with each other and attempt to resolve their own dispute. Mediators do not solve the problem.

Mediation can be requested by either party in a dispute by contacting the Office of Student Rights and Responsibilities. Mediators will be selected from a list of trained mediators provided by the Office of Conflict Management Services and the Office of Student Rights and Responsibilities.

#### IX Article 9 - Appeals

Appeals on decisions made by the Conduct Body for either academic or nonacademic conduct violations will be made to the Appellate Board via the Office of Student Rights and Responsibilities. When an appeal is made, sanctions may be placed in a pending status by the student conduct administrator until the appeal process has been exhausted. Select sanctions may remain implemented pending the outcome of the appeals process to ensure the safety and well being of members of the University community or preservation of University property. The pending status of sanctions does not apply in cases of Interim Sanctions (see Article 11).

Both the Complainant and the Respondent have the right to file an appeal. The Complainant can appeal the decision on whether or not the Respondent was found responsible but cannot appeal sanctions. The University reserves the right to determine the appropriate sanctions and educational outcomes for Respondents. Decisions made by the Appellate Board are final and cannot be appealed.

All appeals will be submitted in writing to the Office of Student Rights and Responsibilities by the date stated in the original decision letter. Appeals will be considered only when it is clearly established by the Respondent or the Complainant, in a concise written statement, that one of the following occurred.

1. The decision was unreasonable based on the information presented at the hearing and/or based on the violation of the Student Conduct Code;
2. For Respondents, the sanction was unreasonable based on the information presented at the hearing and/or based on the violation of the Student Code of Conduct;
3. It can be demonstrated that the Conduct Body was biased;
4. The Conduct Body misinterpreted the Student Code of Conduct or University policies upon which the complaint and/or the decision was based;
5. A procedural error occurred to the extent that it resulted in an unfair hearing, such as not having a reasonable opportunity to prepare and present information;
6. Relevant information sufficient to alter a decision was not brought out in the original hearing because such information was not known to the person appealing at the time of the original hearing;

When the written appeal is received, the Appellate Board will convene to review the appeal. The review of the appeal will be in closed session. Neither the Complainant nor the Respondent is allowed to be present during the appeal review. With the exception of appeals involving new information, the board will limit itself to reviewing the written appeal, hearing documents, and the recording of the hearing. The Appellate Board is charged solely with determining whether the appeal has merit based on the above stated guidelines. If the appeal is based on more than one of the above stated guidelines, the Appellate Board may reach a decision on each guideline separately.

The Appellate Board will base their decisions on the information presented, and make a determination of "what is most likely to have happened." Decisions regarding an appeal require a simple majority vote.

If an appeal is determined not to have merit, the matter will be considered final and binding for all involved. The Board will affirm the original finding and outcome.

If an appeal is determined to have merit, the Appellate Board will review and discuss all significant materials. The Board will then recommend to the Vice President for Student Affairs or his/her designee one of the following actions:

1. uphold the original decision and sanctions;
2. require a new hearing with a new conduct body;
3. send the appeal back to the original conduct body for review of decision and/or sanctions. Upon review by the original conduct body, the decision will be final, binding, and a conclusion to the appeals process;
4. reverse the original decision by finding that a violation or no violation of the Student Code of Conduct occurred;
5. amend sanctions when the original sanctions imposed are found to be unreasonable by University precedent.

The Board will review all materials—including but not limited to, documents and recordings of hearings—whenever a substantial change is made to a decision reached at a hearing.

The Vice President for Student Affairs, or her/his designee, will carry out the recommendations of the Appellate Board unless a recommendation is significantly different from University precedent for similar appeals.

During the summer session or during University breaks, appeals may be reviewed and decided upon by an appeal body that includes one student, one faculty member, and one university official, each to be appointed by the Vice President for Student Affairs.

X. Article 10 - Conduct Sanctions

Sanctions are imposed for the purposes of restoring the standards of the University community, educating students about the seriousness of their actions, promoting positive growth, and maintaining the safety of the students involved and of the University community. Failure to comply with sanctions from an official conduct decision within the specified time period(s) may result in further and immediate sanctions. The University will consider as an aggravating factor in determining sanctions any violation of law or of this code where the accused student intentionally selected the person and/or target of the violation based on actual or perceived age, race, color, religion, disability, gender, sexual orientation, gender identity/expression, national origin, ancestry, disability, veteran status, or political affiliation. (See Article 1, Sec. 5 - Nondiscrimination) More than one of the following sanctions listed may be imposed for any single violation.

1. Section 1 - Warning

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

2. Section 2 - Conduct Sanctions

A written notice for violation of specific sections of the code. Probation is for a designated period of time. Violations while on probation may include the probability of more severe conduct sanctions.

3. Section 3 - Restitution

Monetary payment to reimburse for damage to or misappropriation of property, to replace damaged or misappropriated property, and/or to reimburse for medical expenses incurred by a third party as a direct result of misconduct.

4. Section 4 - University Service

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

5. Section 5-Fines

Monetary penalty imposed for a violation of the Student Code of Conduct.

6. Section 6 - Loss of Privileges

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

- a. removal from University-owned housing;
- b. removal from a student office such as student leadership positions (elected or appointed);
- c. removal from an athletic team or club sport;

- d. loss of employment on campus;
  - e. banning from specific University premises.
7. Section 7 - Student Housing Suspension  
Removal of the student from Student Housing for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
8. Section 8-Student Housing Expulsion  
Permanent removal from the Student Housing system.
9. Section 9 - HOLD on Academic Records  
Action restricting admission and registration until a conduct sanction is met. A HOLD will restrict the University from releasing official academic transcripts and awarding a diploma until the obligation is met.
10. Section 10 - University Suspension  
Action terminating registration in some or all classes for a prescribed period of time. Conditions for readmission may be specified by the Conduct Body. The student is readmitted on probation for the duration of her/his university career.
11. Section 11 - University Expulsion  
Action terminating a student's registration and relationship with the University. This action separates a student from the University permanently for all future terms.
12. Section 12 - Sanctions Imposed for Violation of Article 4  
Section 2—Alcohol  
Sanctions imposed for violation of Article 4, Section 2—Alcohol in the Student Code of Conduct will be addressed based on the nature of the infraction as required by the Idaho State Board of Education. The sanctions will include, at a minimum:
- a. First Infraction: Warning or conduct probation;
  - b. Second Infraction Without Injury; or Without Conduct Likely to Lead to Injury: Referral to conduct board/administrative hearing officer for action, which must include a treatment and/or educational program;
  - c. Second Infraction With Injury; or Conduct Likely to Lead to Injury: Referral to conduct board/administrative hearing officer for action, notification to the criminal justice system, probation, and a treatment or educational program;
  - d. Third Infraction Without Injury; or Without Conduct Likely to Lead to Injury: Referral to conduct board/administrative hearing officer for appropriate action, which at a minimum must include suspension from the University for one academic term;
  - e. Third Infraction With Injury; or Conduct Likely to Lead to Injury: Referral to conduct board/administrative hearing officer for appropriate action, which at a minimum must include referral to the criminal justice system and suspension from the institution for one year.

13. Section 13 - Group and/or Organization Sanctions  
Any student group and/or organization may be subject to the following sanctions:
  - a. Those sanctions listed above;
  - b. Loss of selected rights and privileges for a specified period of time;
  - c. Deactivation and/or loss of privileges, including loss of University recognition, for a specified period of time.
14. Section 14 - Revocation of Admission and/or Degree  
Admission to or a degree awarded by Boise State University may be revoked for fraud, misrepresentation, or other violations of Boise State University standards in obtaining the admission or degree, or for other serious violations committed by a student prior to graduation.
15. Section 15 - Withholding Degree  
Boise State University may withhold awarding a degree otherwise earned until the completion of the Student Conduct process as set forth in the Student Code of Conduct, including the completion of all sanctions imposed, if any.

XI. Article 11 - Interim Sanctions

The Vice President for Student Affairs or her/his designee may take immediate action when necessary to secure the health and/or safety of a member of the University and/or to address an alleged violation of the Student Code of Conduct. This action will take place in the form of Interim Sanctions.

Interim Sanctions include, but are not limited to:

1. immediate suspension from the University;
2. loss of privileges which may include restrictions from a specific area of campus or to a specific area of campus;
3. hold being placed upon a student's registration and records;
4. referral for a medical or psychological evaluation at the student's expense;
  - a. This evaluation may be conducted by a qualified professional approved by the University;
  - b. The evaluation may be used to determine the appropriateness of withdrawing the Interim Sanctions.

At the time that the Interim Sanction(s) are instituted, the Vice President for Student Affairs or her/his designee will:

1. inform the accused student of the Interim Sanction(s);
2. inform the accused student of the reason for the Interim Sanction(s);
3. inform the accused student that a hearing will take place to review the Interim Sanction(s).

Interim Sanction Hearing Procedures:

1. As soon as is practical (but no later than seven (7) Boise State University working days from the Interim Sanction action), a meeting will take place with the Vice President of Student Affairs or his/her designee to review the Interim Sanction(s);

2. The student will have an opportunity to demonstrate to the Vice President for Student Affairs or his/her designee why the conditions specified in the Interim Sanction(s) should not continue;
3. An advisor of his/her choosing from the University community may accompany the student; the advisor is not permitted to participate directly in the meeting.

Based on the reasonable evaluation of the information presented at the review, the Vice President for Student Affairs or her/his designee will notify the student within forty-eight (48) hours of the decision to:

1. remove the Interim Sanction(s) and take no further conduct action
2. remove the Interim Sanction(s) but proceed to a full conduct hearing regarding the accused student's conduct as prescribed in the Student Code of Conduct;
3. sustain the Interim Sanction(s) until such time as a formal hearing regarding the accused student's conduct may be held.

## XII. Section 12 - Conduct Bodies General Provisions and Responsibilities

Appointment to a conduct body is defined by the requirements of each body. Individuals making appointments will consider the diversity of the University in determining their choices. The Vice President for Student Affairs may remove a member from a Conduct Body when the member has failed to perform his or her responsibilities, and may remove a student member found in violation of the Student Code of Conduct from a Conduct Body.

The Student Conduct Board and the Appellate Board will each have a list of alternate members who can be called on to provide quorums in order to prevent unreasonably long delays in addressing complaints and appeals.

### 1. Section 1 - Student Conduct Board

By delegation of the President of the University, the Student Conduct Board will have jurisdiction of the Student Code of Conduct with the exception of violations of academic integrity. The Student Conduct Board will review complaints referred to them by the Student Conduct Administrator based on the Student Code of Conduct unless complaints fall under the jurisdiction of the ASBSU Judiciary.

The Student Conduct Board is composed of:

- a. three students, with at least one student living in University Housing;
- b. one faculty member, selected by the Faculty Senate;
- c. one staff member, selected by the Vice President for Student Affairs;
- d. the Student Conduct Administrator (ex officio and non-voting).

In addition to following the definition of quorum found in Article 2, Section 10, at least one student member and one faculty or staff member must be present to hold a board hearing:

### 2. Section 2 - Administrative Hearing Officers

The Vice President for Student Affairs will select faculty and/or staff members to serve as Administrative Hearing Officers who generally hear nonacademic cases. When the Student Conduct Administrator determines that there is a need for an administrative hearing, the

Administrative Hearing Officer will have the authority to uphold the Student Code of Conduct.

3. Section 3 - Appellate Board

The Appellate Board is the highest and final board in the conduct system and, as such, will hear appeals from cases heard by the Student Conduct Board and Administrative Hearing Officers and appeals from cases of violation of academic integrity. All Conduct Bodies are subordinate to the Appellate Board.

The Appellate Board is composed of the following members of the Student Policy Board:

- a. the Vice President for Student Affairs or her/his designee;
- b. four students, appointed by the ASBSU President;
- c. two faculty members, appointed by the President of the Faculty Senate;
- d. one Student Affairs staff member, appointed by the Vice President for Student Affairs;
- e. the Student Conduct Administrator (non-voting);
- f. in cases of academic dishonesty, the Dean and/or Associate Dean of the appropriate college (ex officio and non-voting) may attend proceedings in order to represent the academic standards of that college;
- g. in cases of suspected plagiarism, the Director of the Writing Center or the Director of the First-Year Writing Program (ex officio and non-voting) may serve as an adviser to the Board.

In addition to following the definition of quorum found in Article 2, Section 10, at least one representative from each group (student, faculty and staff) must be present to hold an appeal meeting.

4. Section 4 - Student Policy Board

By delegation of the President of the University, the Student Policy Board, with the Vice President for Student Affairs as chair, is designated as the primary agency for the development and administration of the Student Code of Conduct, the student conduct system, and other student policies and procedures relating to student life on the campus of Boise State University.

The Student Policy Board is composed of:

- a. the Appellate Board;
- b. the Student Conduct Administrator (voting capable);
- c. the ASBSU President;
- d. the ASBSU Chief Justice;
- e. one ASBSU Senator;
- f. the President of the RHA;
- g. the Student Chair of the Student Conduct Board.

XIII. Article 13 Interpretation

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

The Student Code of Conduct is subject to change. In general, the Student Code of Conduct will undergo a review once every five years to determine if significant changes need to be made. The review committee will include at least one representative each from the student body, the faculty, and the staff. The review may be made sooner at the discretion of the Vice President of Student Affairs. The University is responsible for notifying students when significant changes are made and students are responsible for being aware of changes. The Code applies to anyone who was a student at the time of a violation of the Code. The Code in place at the time of the violation is the one that applies to that violation. For the most recent version of the Student Code of Conduct, please visit: [www.boisestate.edu/osrr](http://www.boisestate.edu/osrr)

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