

*The Clarion University Student Code of Conduct is adapted from The NCHERM Group Model Developmental Code of Student Conduct and is used here with permission.*

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## PREFACE

### Core Values of Student Conduct at Clarion University

- **Integrity:** Clarion University students exemplify honesty, honor and a respect for the truth in all of their dealings.
- **Community:** Clarion University students build and enhance their community.
- **Social Justice:** Clarion University students are just and equitable in their treatment of all members of the community and act to discourage and/or intervene to prevent unjust and inequitable behaviors.
- **Respect:** Clarion University students show positive regard for each other, for property and for the community.
- **Responsibility:** Clarion University students are given and accept a high level of responsibility to self, to others and to the community.

Clarion University students are responsible for knowing the information, policies and procedures outlined in this document. The University reserves the right to make changes to this code as necessary and once those changes are posted online, they are in effect. Students are encouraged to check online [www.clarion.edu/studentrights](http://www.clarion.edu/studentrights) for the updated versions of all policies and procedures.

# Clarion University: Student Code of Conduct

## SECTION 1: MISSION

The Clarion University community is committed to fostering a campus environment that is conducive to academic inquiry, a productive campus life and thoughtful study and discourse. The student conduct program within the Office of Judicial and Mediation Services is committed to an educational and developmental process that balances the interests of individual students with the interests of the University community.

A community exists on the basis of shared values and principles. At the University, student members of the community are expected to uphold and abide by certain standards of conduct that form the basis of the *Student Code of Conduct*. These standards are embodied within a set of core values that include integrity, community, social justice, respect, and responsibility.

Each member of the University community bears responsibility for their conduct and to assume reasonable responsibility for the behavior of others. When members of the community fail to exemplify these five values by engaging in violation of the rules below, campus conduct proceedings are used to assert and uphold the *Student Code of Conduct*.

The student conduct process at the University is not intended to punish students; rather, it exists to protect the interests of the community and to challenge those whose behavior is not in accordance with University policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with our community expectations. When a student is unable to conform their behavior to community expectations, the student conduct process may determine that the student should no longer share in the privilege of participating in this community.

Students should be aware that the student conduct process is quite different from criminal and civil court proceedings. Procedures and rights in student conduct procedures are conducted with fairness to all, but do not include the same protections of due process afforded by the courts. Due process, as defined within these procedures, assures written notice and a hearing before an objective decision-maker. No student

will be found in violation of University policy without information showing that it is more likely than not that a policy violation occurred and any sanctions will be proportionate to the severity of the violation and to the cumulative conduct history of the student.

## SECTION 2: JURISDICTION

Students at the University are provided a copy of the *Student Code of Conduct* annually in the form of a link on the University website. Hard copies are available upon request from the Office of Judicial and Mediation Services. Students are responsible for having read and abiding by the provisions of the *Student Code of Conduct*.

The *Student Code of Conduct* and the student conduct process apply to the conduct of individual students, both undergraduate and graduate, and all University-recognized students, recognized student organizations and clubs. For the purposes of student conduct, the University considers an individual to be a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest in the University.

The University retains conduct jurisdiction over students who choose to take a leave of absence, withdraw or have graduated for any misconduct that occurred prior to the leave, withdrawal or graduation. If sanctioned, a hold may be placed on the student's ability to re-enroll and/or obtain official transcripts and/or graduate and all sanctions must be satisfied prior to re-enrollment eligibility. In the event of serious misconduct committed while still enrolled but reported after the accused student has graduated, the University may invoke these procedures and should the former student be found responsible, the University may revoke that student's degree.

The *Student Code of Conduct* applies to behaviors that take place on the campus, at University-sponsored events and may also apply off-campus when the Director of Judicial Affairs (or designee) determines that the off-campus conduct affects a substantial University interest.<sup>1</sup> The University does routinely review public information contained in local news which may pertain to student conduct. A substantial University interest is defined to include:

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<sup>1</sup> Adapted, with gratitude, from Penn State University.

- Any situation where it appears that the student's conduct may present a danger or threat to the health or safety of him/herself or others; and/or
- Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational mission and/or interests of the University;

The *Student Code of Conduct* may be applied to behavior conducted online, via email or other electronic medium. Students should also be aware that online postings such as blogs, web postings, chats and social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. The University does not regularly search for this information but may take action if and when such information is brought to the attention of University officials. However, most online speech by students not involving University networks or technology will be protected as free expression and not subject to this Code, with two notable exceptions:

- A true threat, defined as “a threat a reasonable person would interpret as a serious expression of intent to inflict bodily harm upon specific individuals.”
- Speech posted online about the University or its community members that causes a significant on-campus disruption to normal operations.

The *Student Code of Conduct* applies to guests of community members and Recognized Student Organizations/Registered University Organizations whose hosts may be held accountable for the misconduct of their guests. The Code may also be applied to resident non-students, campers and high school bridge/extension/partner/Upward Bound/Trio/dual-credit and continuing education programs by contractual agreements. Visitors to and guests of the University may seek resolution of violations of the *Student Code of Conduct* committed against them by members of the University community.

There is no time limit on reporting violations of the *Student Code of Conduct*; however, the longer someone waits to report an offense, the more difficult it becomes for

University officials to obtain information and witness statements, and to make determinations regarding alleged violations.

Though anonymous allegations are permitted, doing so may limit the University's ability to investigate and respond to an allegation. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Office of Judicial and Mediation Services and/or to University Police.

A responding student facing an alleged violation of the *Student Code of Conduct* is not permitted to withdraw from the University until all allegations are resolved.

University email is the University's primary means of communication with students. Students are responsible for all communication delivered to their University email address.

### SECTION 3: VIOLATIONS OF THE LAW

Alleged violations of federal, state and local laws may be investigated and addressed under the *Student Code of Conduct*. When an offense occurs over which the University has jurisdiction, the University conduct process will usually go forward notwithstanding any criminal allegation that may arise from the same incident.

The University reserves the right to exercise its authority of interim suspension upon notification that a student is facing criminal investigation and/or allegation. (additional grounds for interim suspension are outlined below, on p. 42.) Interim suspensions are imposed until a hearing can be held, typically within 10 days unless there are extenuating circumstances warranting an extension (22 Pa. Code § 505.9<sup>2</sup>). Within that time, the suspended student may request an immediate hearing from the Director of Judicial Affairs to show cause why the interim suspension should be lifted. This hearing may resolve the allegation, or may be held to determine if the interim suspension should be continued. The interim suspension may be continued if a danger to the community is posed and the University may be delayed or prevented from conducting its own investigation and resolving the allegation by the pendency of the criminal process. In such cases, the University will only delay its hearing until such time as it can

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<sup>2</sup> <http://www.pacode.com/secure/data/022/chapter505/chap505toc.html>

conduct an internal investigation or obtain sufficient information independently or from law enforcement upon which to proceed. A short delay for allegations involving sexual misconduct offenses to allow law enforcement to complete evidence gathering for purposes of criminal prosecution is permitted, though implementation of short-term or initial remedies is typically not delayed.

Students accused of crimes may request to take a leave from the University until the criminal charges are resolved. In such situations, the University procedure for voluntary leaves of absence is subject to the following conditions:

- The responding student must comply with all campus investigative efforts that will not prejudice their defense in the criminal trial;
- The responding student must comply with all interim actions and/or restrictions imposed during the leave of absence; and
- The responding student must agree that, in order to be reinstated to active student status, they must first be subject to, and fully cooperate with, the campus conduct process and must comply with all sanctions that are imposed.

#### SECTION 4: THE POLICIES

##### A. Core Values and Behavioral Expectations

The University considers the behavior described in the following sub-sections as inappropriate for the University community and in opposition to the core values set forth in this document. These expectations and rules apply to all students regardless of learning environment, whether undergraduate, graduate, doctoral, professional, part time, or full time. The University encourages community members to report to University officials all incidents that involve the following actions. Any student found to have committed or to have attempted to commit the following misconduct is subject to the sanctions outlined in Section 7: Conduct Procedures.

***Integrity: University students exemplify honesty, honor and a respect for the truth in all of their dealings. Behavior that violates this value includes, but is not limited to:***

- 1) **Falsification.** Knowingly furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification or financial instruments.
- 2) **Academic Dishonesty.** Acts of academic dishonesty as outlined in the *Code of Academic Integrity*.
- 3) **Unauthorized Access.** Unauthorized access to any University building (i.e. keys, cards, etc.) or unauthorized possession, duplication or use of means of access to any University building or failing to timely report a lost University identification card or key.
- 4) **Collusion.** Action or inaction with another or others to violate the *Student Code of Conduct*.
- 5) **Trust.** Violations of positions of trust within the community.
- 6) **Election Tampering.** Tampering with the election of any University-recognized student organization.
- 7) **Taking of Property.** Intentional and unauthorized taking of University property or the personal property of another, including goods, services and other valuables.
- 8) **Stolen Property.** Knowingly taking or maintaining possession of stolen property.

***Community: University students build and enhance their community. Behavior that violates this value includes, but is not limited to:***

- 9) **Disruptive Behavior.** Substantial disruption of University operations including obstruction of teaching, research, administration, other University activities, and/or other authorized non-University activities which occur on campus or are University sponsored activities occurring elsewhere.
- 10) **Rioting.** Causing, inciting or participating in any disturbance that presents a clear and present danger to self or others, causes physical harm to others, or damage and/or destruction of property.



- 11) Unauthorized Entry.** Misuse of access privileges to University premises or unauthorized entry to or use of buildings, including trespassing, propping or unauthorized use of alarmed doors for entry into or exit from a University building.
- 12) Trademark.** Unauthorized use (including misuse) of University or organizational names and images.
- 13) Damage and Destruction.** Intentional, reckless and/or unauthorized damage to or destruction of University property or the personal property of another.
- 14) Acceptable Use of Technology Resources.** Violating the University Acceptable Use of Technology Resources, found online at: <http://www.clarion.edu/about-clarion/computing-services/about-computing-services/acceptable-use-policy.html>.
- 15) Gambling.** Gambling as prohibited by the laws of the Commonwealth of Pennsylvania. (Gambling may include raffles, lotteries, sports pools and online betting activities. For more information see *Community Standards*.)
- 16) Weapons.** Possession, use, or distribution of explosives (including fireworks and ammunition), guns (including air, BB, paintball, facsimile weapons and pellet guns), or other weapons or dangerous objects such as arrows, axes, machetes, nunchucks, throwing stars, or knives with a blade of longer than four (4) inches, including the storage of any item that falls within the category of a weapon in a vehicle parked on University property<sup>3</sup>.
- 17) Tobacco.** Smoking or tobacco use including use of electronic smoking devices in any area of campus where smoking or tobacco use are prohibited<sup>4</sup>.

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<sup>3</sup> Subject, of course, to statutorily conveyed rights to carry/possess weapons on campus and/or in locked vehicles on campus. More information on the University Policy may be found at <http://www.clarion.edu/about-clarion/offices-and-administration/university-support-and-business/human-resources/policies/WEAPONS%20FIREARMS%20AND%20DANGEROUS%20DEVICES%20POLICY.pdf>

<sup>4</sup> Clarion University of Pennsylvania complies with the Pennsylvania Clean Indoor Air Act. The Clean Indoor Air Act (Act 27 of 2008) prohibits smoking in a public place or a workplace. All University facilities are public and, as a result, smoking is prohibited in all University facilities.

**18) Fire Safety.** Violation of local, state, federal or campus fire policies including, but not limited to:

- a) Intentionally or recklessly causing a fire which damages University or personal property or which causes injury;
- b) Failure to evacuate a University-controlled building during a fire alarm;
- c) Improper use of University fire safety equipment; or
- d) Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on University property. Such action may result in a local fine in addition to University sanctions.

**19) Ineligible Pledging or Association.** Pledging or associating with a student organization without having met eligibility requirements established by the University.

**20) Animals.** Animals, with the exception of animals that provide assistance (e.g. seeing-eye dogs), or registered and approved comfort animals, and pets as outlined in the Residence Life and Housing Handbook, are not permitted on campus except as permitted by law.

**21) Wheeled Devices.** Skateboards, roller blades, roller skates, bicycles and similar wheeled devices are not permitted for use inside University buildings, University Housing, or on tennis courts. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities, and individuals may be liable for damage to

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In addition, the University treats smokeless tobacco and electronic smoking devices in the same manner in which other tobacco products are treated. As a result, smokeless tobacco and electronic smoking devices are prohibited in all University facilities.

The prohibition on smoking includes building entrances, areas near windows and/or ventilation units for buildings. In general, student and employees should smoke in areas away from normal building entrance and exit traffic.

The University asks that all students and employees be respectful of others and follow the information outlined above. Students or employees who do not abide by the above expectations may be asked to vacate any of the above areas and/or to relinquish any smoking item while in these areas.

Employees are also reminded that smoking in University owned vehicles is prohibited.

University property caused by these activities. Self-Balancing Scooters are prohibited for use and/or storage on campus which includes but is not limited to University Housing. Use of a Segway is permitted outdoors and should follow the wheeled devices policy.

***Social Justice: Students recognize that respecting the dignity of every person is essential for creating and sustaining a flourishing university community. They understand and appreciate how their decisions and actions impact others and are just and equitable in their treatment of all members of the community. They act to discourage and challenge those whose actions may be harmful to and/or diminish the worth of others. Conduct that violates this value includes, but is not limited to:***

**22) Discrimination.** Any act or failure to act that is based upon an individual or group's actual or perceived status, including sex, gender identity or expression, race, color, age, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion or creed, or sexual orientation/affection, predisposing genetic characteristic, or other protected status that is sufficiently severe that it limits or denies the ability to participate in or benefit from the University's educational program or activities.

**23) Harassment.** Any unwelcome conduct based on actual or perceived status including: race, color, sex, religion, national origin, affectional or sexual orientation, gender identity, age, disability, or veteran status. Any unwelcome conduct should be reported to campus officials, who will act to remedy and resolve reported incidents on behalf of the reporting party and community.

a) Hostile Environment. Sanctions can and will be imposed for the creation of a hostile environment only when harassment is sufficiently severe, pervasive (or persistent) and objectively offensive that it unreasonably interferes with, limits or denies the ability to participate in or benefit from the University's educational or employment program or activities.

**24) Retaliatory Discrimination or Harassment.** Any intentional, adverse and/or harassing action taken by a responding individual or allied third party, absent legitimate nondiscriminatory purposes, against a participant, or supporter of a participant in a civil rights grievance proceeding or other protected activity under this Code.

**25) Bystanding.**

- a) Complicity with or failure of any student to appropriately address known or obvious violations of the *Student Code of Conduct* or law;
- b) Complicity with or failure of any organized group to appropriately address known or obvious violations of the *Student Code of Conduct* or law by its members.

**26) Abuse of Conduct Process.** Abuse or interference with, or failure to comply in, University processes including conduct and academic integrity hearings including, but not limited to:

- a) Falsification, distortion, or misrepresentation of information;
- b) Failure to provide, destroying or concealing information during an investigation of an alleged policy violation;
- c) Attempting to discourage an individual's proper participation in, or use of, the campus conduct system;
- d) Harassment (verbal or physical) and/or intimidation of a member of a campus conduct body prior to, during, and/or following a campus conduct proceeding;
- e) Failure to comply with the sanction(s) imposed by the campus conduct system; and/or
- f) Influencing, or attempting to influence, another person to commit an abuse of the campus conduct system.

***Respect: University students show positive regard for each other and for the community. Behavior that violates this value includes, but is not limited to:***

**27) Harm to Persons.** Intentionally or recklessly causing physical harm or endangering the health or safety of any person.

**28) Threatening Behaviors:**

- a) **Threat.** Written or verbal conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property.
- b) **Intimidation.** Intimidation defined as implied threats or acts that cause a reasonable fear of harm in another.

**29) Bullying and Cyberbullying.** Bullying and cyberbullying are repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally, and are not protected by freedom of expression.

**30) Hazing.** Defined as an act that endangers the mental or physical health or safety of a student, or that 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. Participation or cooperation by the person(s) being hazed does not excuse the violation. Failing to intervene to prevent and/or failing to discourage and/or failing to report those acts may also violate this policy. (See the *Community Standards* for more information.)

**31) Intimate Partner/Relationship Violence.** Violence or abuse by a person in an intimate relationship with another. (See the *Community Standards* and Sexual Misconduct Policy for further information.)

**32) Stalking.** Stalking includes a course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to feel fear. (See the *Community Standards* and Sexual Misconduct Policy for further information.)

**33) Sexual Misconduct.** Includes, but is not limited to, sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, and/or sexual exploitation. (See *Community Standards* and Sexual Misconduct Policy for further information.)

**34) Public Exposure.** Includes deliberately and publicly exposing one's intimate body parts, public urination, defecation, and public sex acts.

***Responsibility: University students are given and accept a high level of responsibility to self, to others and to the community. Behavior that violates this value includes, but is not limited to:***

**35) Alcohol.** Use, possession, or distribution of alcoholic beverages or paraphernalia except as expressly permitted by law and the University's Alcohol Policy. (See *Community Standards* for further information.)

- 36) Drugs.** Use, possession or distribution of illegal drugs and other controlled substances or drug paraphernalia except as expressly permitted by law and the University's Drug Policy. (See *Community Standards* for further information.)
- 37) Prescription Medications.** Abuse, misuse, sale, or distribution of prescription or over-the-counter medications.
- 38) Failure to Comply.** Failure to comply with the reasonable directives of University officials or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so.
- 39) Financial Responsibilities.** Failure to promptly meet financial responsibilities to the institution, including, but not limited to; knowingly passing a worthless check or money order in payment to the institution or to an official of the institution acting in an official capacity.<sup>5</sup>
- 40) Arrest.** Failure of any student to accurately report an off-campus arrest by any law enforcement agency for any crime (including non-custodial or field arrests) to the Office of Judicial and Mediation Services within seventy-two (72) hours of release.
- 41) Other Policies.** Violating other published University policies or rules, including all Residence Hall policies and Student Organization conduct policies.
- 42) Health and Safety.** Creation of health and/or safety hazards (dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs, etc.).

## SECTION 5: OVERVIEW OF THE CONDUCT PROCESS

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

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<sup>5</sup> Recognized Student Organizations and Recognized University Organizations fall outside this scope.

process and all applicable timelines commence with notice to an administrator of a potential violation of University policies.<sup>6</sup>

NOTICE. Once notice of a potential conduct violation is received from any source (alleged reporting party, Community Assistant (CA), Security Aid (SA), third party, online, etc.), the University may proceed with a preliminary inquiry and/or may schedule an initial educational meeting/conference with the responding student to explain the conduct process to the responding student and gather information.

#### **A. STEP 1: Preliminary Inquiry and/or Educational Meeting/Conference**

The University conducts a preliminary inquiry into the nature of the incident, allegation or notice, the evidence available, and the parties involved. The preliminary inquiry may lead to:

- 1) A determination that there is insufficient evidence to pursue the investigation, because the behavior alleged, even if proven, would not violate the *Student Code of Conduct*, (e.g.: for reasons such as mistaken identity or allegations of behavior that fall outside the code);
- 2) A more comprehensive investigation, when it is clear more information must be gathered (see detailed procedures below); or
- 3) A formal allegation of a violation and/or an educational conference with the responding student.

When an initial educational meeting/conference is held, the possible outcomes include:

- A decision not to pursue the allegation based on a lack of or insufficient evidence. The matter should be closed and records should so indicate;
- A decision on the allegation, also known as an “informal” or “administrative” resolution to an uncontested allegation (see immediately below); or
- A decision to proceed with additional investigation and/or referral for a “formal” resolution through the University Conduct Board process.

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<sup>6</sup> In Title IX related issues, the “administrator” is any “mandated reporter” as defined under Title IX and/or campus policy.

If a decision to not pursue on the allegation is made and the finding is that there is insufficient evidence to support charges under the *Student Code of Conduct*, the process will end. The reporting party may request that the Title IX Coordinator or designee reopen the investigation and/or grant a hearing. This decision shall be in the sole discretion of the Title IX Coordinator or designee and will only be granted for extraordinary cause. If the University's finding is that the responding student is in violation, and the responding student accepts this finding within three days, the University considers this an "uncontested allegation." The administrator conducting the initial educational conference will then determine the sanction(s) for the misconduct, which the responding student may accept or reject. If accepted, the process ends.<sup>7</sup>

If student accepts the findings, but rejects the sanction, the University will conduct a sanction-only hearing conducted by a University Conduct Board which will determine a sanction for the case. Students still may appeal the decision of the University Conduct Board to an Appeals Officer. Once the appeal is decided, the process ends.

If the administrator conducting the educational conference determines that it is more likely than not that the responding student is in violation, and the responding student rejects that finding in whole or in part, then it is considered a contested allegation and the process moves to Step 2.

## **B. STEP 2: Formal Hearing**

In a contested allegation, additional investigation may then be commenced and/or a hearing may be held when there is reasonable cause to believe that a policy or policies have been violated. A formal notice of the allegation will be issued, and a hearing will be held before the University Conduct Board (UCB), which issues a finding.<sup>8</sup> If the finding is that the responding student is not responsible, the process ends. Applicable appeals options are described below.

## **C. STEP 3: Review and Finalize Sanction(s).**

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<sup>7</sup> In cases of minor misconduct, both steps in this paragraph can be accomplished in one meeting.

<sup>8</sup> The findings of the hearing should only be overturned or modified when necessary to conform to Title IX and/or to repair error that would result in appeal.



If the student is found in violation(s), sanctions will be determined by the UCB except in situations covered by Title IX as it relates to sexual misconduct. Sanctions for cases involving sexual misconduct are recommended by the UCB to the Title IX Coordinator who will review and finalize the sanctions. This decision is subject to the University appeals process by the responding party/parties and reporting party/parties.

## **SECTION 6: STUDENT CONDUCT AUTHORITY**

### **A. Authority**

The President has delegated authority over student conduct to the Vice President for Student Affairs. The Vice President for Student Affairs appoints a Director of Judicial Affairs to oversee and manage the student conduct process. The Director of Judicial Affairs may appoint administrative hearing and appeals officers as deemed necessary to efficiently and effectively supervise the student conduct process. All appeals are considered at the level of the President.

The Director of Judicial Affairs (or designee) or Title IX Coordinator, as appropriate, will assume responsibility for the investigation of an allegation of misconduct to determine if the allegation has merit.

### **B. Gatekeeping**

No allegation will be forwarded for a hearing unless there is reasonable cause to believe a policy has been violated. Reasonable cause is defined as some credible information to support each element of the offense, even if that information is merely a credible witness or reporting party's statement. An allegation wholly unsupported by any credible information will not be forwarded for a hearing.

### **C. Conflict Resolution Options**

The Director of Judicial Affairs, or designee, has discretion to refer an allegation for mediation or other forms of appropriate conflict resolution. All parties must agree to conflict resolution and to be bound by the decision with no review/appeal. Any unsuccessful conflict resolution can be forwarded for formal processing and hearing; however, at no time will allegations of physical sexual misconduct or violence be mediated as the sole institutional response. The Director of Judicial Affairs, or designee, may also suggest that allegations that do not involve a violation of the *Student Code of Conduct* be referred for mediation or other appropriate conflict resolution.

#### **D. Composition of the University Conduct Board (UCB)**

The Director of Judicial Affairs, or designee, will be responsible for assembling the UCB according to the following guidelines:

- 1) The membership of the UCB is selected from a pool of faculty, staff and students who are appointed and trained annually by the Director of Judicial Affairs or designee.
- 2) For each allegation, a UCB will be chosen from the available pool, and is usually comprised of two student members, three faculty/staff members or administrators, and one faculty/staff member or administrator to chair the hearing in a non-voting capacity. Availability may determine a different composition for the UCB, and in allegations involving discrimination, sexual misconduct, or other sensitive issues, the Director of Judicial Affairs or designee will usually use three faculty/administrative/staff members for the panel and a chair. The Director of Judicial Affairs or designee appoints the non-voting chair of the UCB, who assures that University procedures are followed throughout the hearing. An alternate will also be selected for each UCB when possible.
- 3) Members are drawn from the panel pool, with the only requirement being that they be objective about the individuals involved in the case.

Responding students and any reporting parties may request removal based on substantive reasoning. The Director of Judicial Affairs (or designee) will make this final decision for removal. An all faculty/administrative/staff panel is used to hear sensitive issues involving sexual misconduct. The Director of Judicial Affairs will determine when an all professional staff UCB will be required.

The Director of Judicial Affairs (or designee) will have final authority to approve all those serving on the UCB. The non-voting advisor to the Board is the Director of Judicial Affairs (or designee) with responsibility for training the Board, conducting preliminary investigations, and ensuring a fair process for the reporting party and responding student. In the event of a resignation from the Board, the Director of Judicial Affairs (or designee) will solicit a replacement from the group from which the representative came. Decisions made, and sanctions imposed, by the Board or an AHO will be final and implemented, pending the normal appeal process. At the discretion of the Director of

Judicial Affairs (or designee), implementation of sanctions may be stayed pending review.

#### **E. Administrative Hearing Officers**

Administrative Hearing Officers (AHO) are chosen from a pool of annually trained administrators or staff members selected by the Director of Judicial Affairs. AHOs are professional hall staff and/or graduate students and/or approved paraprofessional staff, staff from Judicial and Mediation Services, and designated staff at the Venango College. Other full time professional staff may be designated as necessary and are generally members of the University Conduct Board pool.

#### **F. University Conduct Board Pool**

To serve in the panel pool, students must:

- 1) Be in academic good standing and have completed 15 hours of academic credit with a cumulative GPA of at least 2.0.
- 2) Be in good standing with the conduct process throughout the semester in which they serve. Good standing is defined as having no record of misconduct during the semester(s) in which a student wishes to serve on the panel. A serious history of misconduct could disqualify a student for service. This includes repeated student misconduct and/or violations of Academic Integrity.
- 3) Submit a letter of recommendation from a faculty member or administrator from within the University community.

Student Senate provides students appointed to serve on the University Conduct Board and membership is also comprised of other student volunteers. Faculty Senate also appoints members of the Board who serve a designated term as noted by Faculty Senate. Additional membership is also included as faculty, administrative, and staff volunteers.

#### **G. Interpretation and Revision**

The Director of Judicial Affairs will develop procedural rules for the administration of hearings that are consistent with provisions of the *Student Code of Conduct*. Material

deviation from these rules will, generally, only be made as necessary and will include reasonable advance notice to the parties involved, either by posting online and/or in the form of written communication. The Director of Judicial Affairs may vary procedures with notice upon determining that changes to law or regulation require policy or procedural alterations not reflected in this *Code*. The Director of Judicial Affairs may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. Any question of interpretation of the *Student Code of Conduct* will be referred to the Director of Judicial Affairs, whose interpretation is final. The *Student Code of Conduct* will be updated annually under the direction of the Director of Judicial Affairs with a comprehensive revision process being conducted every 5 years.

## SECTION 7: FORMAL CONDUCT PROCEDURES

### University as Convener

The University is the convener of every action under this *Code*. Within that action, there are several roles. The responding student is the person who is alleged to have violated the Code. The reporting party, who may be a student, employee, visitor, or guest, may choose to be present and participate in the process as fully as the responding student. There are witnesses, who may offer information regarding the allegation. There is an investigator(s) whose role is to present the allegations and share the evidence that the University has obtained regarding the allegations.

## **Group Violations**

### **Recognized Student Organization (RSO)**

#### **Hearing Procedures**

#### **University Conduct Board Jurisdiction over RSOs**

Cases involving the alleged violation of any University policy or regulation, misconduct, or disruptive behavior by a RSO, or other groups in the process of becoming recognized.

- Cases may be heard against an RSO if students involved in the alleged offense belong to a particular RSO, or if the planning or leadership of an event where an alleged offense occurred are members of a particular RSO.
- The University Conduct Board shall also review appeals from student boards of whatever type that have imposed sanctions on a RSO. This review process is considered a document review to determine if the decision is fact based and sanctioning reasonable for the alleged violation(s).

#### **Informal Hearings**

Cases not involving the revocation of recognition may be heard informally, as specified by University procedures, with notice and the opportunity to be heard afforded to the RSO. The Director of the Center for Leadership and Involvement (CLI), or his/her designee, will discuss the charges with representatives of the RSO and afford the RSO an informal hearing. Should justification be found, or should the alleged misconduct merit consideration of loss of recognition, the matter will be referred for a formal hearing.

## Formal Hearings

Such hearings shall be conducted, as warranted, by the Office of Judicial and Mediation Services or the University Conduct Board. The University's rules of procedure for formal hearings shall provide RSOs with the following procedure guarantees:

- reasonable specific advanced written notice of charges containing a description of the alleged acts of misconduct, including time, date, and place of occurrence; and the rules of conduct allegedly violated by the RSO;
- reasonably advanced written notice of the date, time, and place of the hearing, unless such right is waived in writing by the RSO;
- a reasonably sufficient interval between the date of notification of charges and the date of the hearing, to allow the RSO to prepare a defense;
- an opportunity for submission of written physical and testimonial evidence, and for reasonable questioning of witnesses by the RSO and the accuser;
- an impartial hearing which may consist of a committee, board, panel, or individual appointed by the University;
- maintenance of a written summary or digital recording of the hearing at University expense, though RSO may be required to pay the cost of copies of requested records;
- a decision based upon presented evidence sufficient to make a reasonable person believe that a fact sought to be proved is more likely than not;
- a written adjudication in which the facts and reasons for the decision are set forth with reasonable specificity shall be issued within 30 working days after the close of the proceedings. In cases of alleged sexual misconduct, the reporting party or parties shall be informed of the outcome of the hearing;<sup>9</sup> and
- a RSO may identify an advisor, who may be an attorney, to be present at hearings. The advisor may only consult and interact privately with the RSO, unless otherwise determined by the University regarding a particular case. In cases of alleged sexual assault, the accuser is entitled to have an advisor present at the hearing.

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<sup>9</sup> See ([www.clarion.edu/sexualmisconduct](http://www.clarion.edu/sexualmisconduct)) for more information.

A student group or organization and its officers and membership may be held collectively and individually responsible when violations of this code by the organization or its member(s):

- Take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit;
- Have received the consent or encouragement of the organization or of the organization's leaders or officers; or
- Were known or should have been known to the membership or its officers.

Hearings for student groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual and the organization.

## **Amnesty**

### **1) For Reporting Parties**

The University provides amnesty to reporting parties who may be hesitant to report to University officials because they fear that they themselves may be accused of policy violations, such as underage drinking, at the time of the incident. Educational options will be explored, but no conduct proceedings or conduct record will result.<sup>10</sup>

### **2) For Those Who Offer Assistance**

To encourage students to offer help and assistance to others, University pursues a policy of amnesty for minor violations when students offer help to others in need. At the discretion of the Director of Judicial Affairs, amnesty may also be extended on a case-by-case basis to the person receiving assistance. Educational options will be explored, but no conduct proceedings or conduct record will result.

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<sup>10</sup> Records regarding the provision of amnesty, however, will be maintained.

### **3) For Those Who Report Serious Violations**

Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the University are offered amnesty for their minor violations. Educational options will be explored, but no conduct proceedings or record will result.

Abuse of amnesty requests can result in a decision by the Director of Judicial Affairs not to extend amnesty to the same person repeatedly.

### **4) Safe Harbor**

The University has a Safe Harbor policy for students. The University believes that students who have a drug and/or addiction problem deserve help. If any University student brings their own use, addiction, or dependency to the attention of University officials outside the threat of drug tests or conduct sanctions and seeks assistance, a conduct allegation will not be pursued. A written action plan may be used to track cooperation with the Safe Harbor program by the student. Failure to follow the action plan will nullify the Safe Harbor protection and campus conduct processes will be initiated.

## **Notice of Alleged Violation**

Any member of the University community, visitor or guest may allege a policy violation(s) by any student for misconduct under this *Code* by submitting an incident report at [www.clarion.edu/judicial](http://www.clarion.edu/judicial), by contacting Judicial and Mediation Services in 212 Becht Hall, or by working with Residence Life and Housing Staff to properly document an incident.

Notice may also be given to the Director of Judicial Affairs (or designee) and/or to the Title IX Coordinator, when appropriate. Additionally, administrators may act on notice of a potential violation whether a formal allegation is made or not. All allegations can be submitted by the person experiencing the misconduct or a third party, and should be submitted as soon as possible after the offending event occurs. The University has the right to pursue an allegation or notice of misconduct on its own behalf and to serve as convener of the subsequent campus conduct process.



The Director of Judicial Affairs (or designee) will assume responsibility for the investigation of the alleged violation as described in the sub-section below.

## Investigation

The Director of Judicial Affairs or Title IX Coordinator will appoint an investigator(s) for allegations under this *Student Conduct of Code*.<sup>11</sup> The University may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The University will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. University action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

The investigator(s) will take the following steps, if not already completed by the Coordinator or designee.

- 1) Initiate any necessary remedial actions on behalf of the reporting party (if any).
- 2) Determine the identity and contact information of the reporting party, whether that person is the initiator of the allegation, the reporting party, or a University proxy or representative.
- 3) Conduct an immediate preliminary inquiry to identify an initial list of all policies that may have been violated, to review the history of the parties, the context of the incident(s), any potential patterns and the nature of the allegation.

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<sup>11</sup> For any allegation that falls under Title IX (e.g. sexual misconduct) or involves any other form of discrimination, the Director of Judicial Affairs will work under the direction of the Title IX Coordinator.

- a) If the reporting party is reluctant to pursue the allegation, determine whether the allegation should still be pursued and whether sufficient independent evidence could support the allegation without the participation of the reporting party.
  - b) Notify the reporting party of whether the University intends to pursue the allegation regardless of their involvement, and inform the reporting party of their rights in the process and option to become involved if they so choose.
  - c) Preliminary inquiry usually takes between 1-7 business days to complete.
- 4) If indicated by the preliminary investigation and authorized by the Title IX Coordinator or Director of Judicial Affairs, conduct a comprehensive investigation to determine if there is reasonable cause to believe that the responding student violated University policy, and to determine what specific policy violations should serve as the basis for the allegation.
- a) If there is insufficient evidence through the investigation to support reasonable cause, the allegations will be closed with no further action.
  - b) A comprehensive investigation usually takes between one day and two weeks, though longer investigations may be warranted in some cases.
- 5) Meet with the reporting party to finalize their statement, which will be drawn up by the investigator or designee as a result of this meeting.
- 6) Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding student, who may be given notice of the interview prior to or at the time of the interview.
- a) Prepare the notice of alleged policy violation(s) on the basis of the reasonable cause determination, which may be delivered prior to, during or after the responding student is interviewed, at the discretion of the investigator(s).
- 7) Interview all relevant witnesses, summarize the information they are able to share and have each witness sign the summary to verify its accuracy.
- 8) Obtain all documentary evidence and information that is available.
- 9) Obtain all physical evidence that is available.

- 10) If possible, provide written notification to the parties prior to their interviews that they may have the assistance of an advisor of their choosing present for all meetings attended by the advisee.
- 11) Provide reporting party and responding party with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result.
- 12) Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding.
- 13) Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses.
- 14) Provide parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered.
- 15) Complete the investigation promptly, and without unreasonable deviation from the intended timeline.
- 16) Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate.
- 17) Once the report is complete, the report is shared with the parties for their review and comment. The investigators may incorporate feedback from the parties as appropriate.
- 18) Complete the investigation promptly by analyzing all available evidence without unreasonable deviation from the intended timeline.
- 19) Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not) in consultation with the Director of Judicial Affairs and/or Title IX Coordinator.
- 20) Prepare an investigation report.
- 21) Present the investigation report and findings to the responding student, who may:
  - a) accept the findings;
  - b) accept the findings in part and reject them in part; or
  - c) reject all findings.

22) Share the findings and update the reporting party on the status of the investigation and the outcome.<sup>12</sup>

At any point during the investigation, if it is determined there is no reasonable cause to believe that University policy has been violated, the Director of Judicial Affairs and/or the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the University's investigation and the conduct process. Failure of a witness to cooperate with and/or participate in the investigation or conduct process constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation do not have the ability to offer evidence later during the appeal if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other conduct proceedings.

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<sup>12</sup> Where allegations fall within Title IX and/or VAWA Section 304, the following description of the sharing of the outcome will pertain to all steps in the process in which the outcome is shared. The appropriate administrator will inform the parties of the final determination within three (3) days of the resolution, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and any appeals options that are available.

## Advisor

Each party is allowed to have an advisor of their choice present with them for all conduct meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually otherwise not involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus community.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the University an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Director of Judicial Affairs and/or Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The University expects that the parties will wish to share documentation related to the allegations with their advisors. The University provides a consent form that authorizes such sharing.<sup>13</sup> The parties must complete this form before the University is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The University expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. The University will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process, and is not locked into using the same advisor throughout. The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

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<sup>13</sup> Please go to [https://publicdocs.maxient.com/reportingform.php?ClarionUniv&layout\\_id=11](https://publicdocs.maxient.com/reportingform.php?ClarionUniv&layout_id=11) to complete the form for release of information.

## Findings

The following options (1-3) describe how to proceed depending on whether the responding student is found responsible and whether the responding student accepts or rejects the findings and/or the sanctions either in whole or in part.

### **1) The Responding Student is Found “Not Responsible”**

Where the responding student is found not responsible for the alleged violation(s), the investigation will be closed. The reporting party, if any, may request that the Vice President for Student Affairs review the investigation file to possibly re-open the investigation or convene a hearing. The decision to re-open an investigation or convene a hearing rests solely in the discretion of the Vice President for Student Affairs in these cases, and is granted only on the basis of extraordinary cause.

### **2) The Responding Student Accepts a Finding of “Responsible”**

#### **a) The Responding Student Accepts a Finding of “Responsible” and Accepts the Recommended Sanctions.**

Should the responding student accept the finding that they violated University policy, the investigator will recommend appropriate sanctions for the violation. In cases involving discrimination, recommended sanctions will act to end the discrimination, prevent its recurrence, and remedy its effects on the reporting party and the University community. If the responding student accepts these recommended sanctions, the sanctions are implemented by the Director of Judicial Affairs and the process ends. There will be a three-day period for review between the date of acceptance and when the resolution becomes final. Should the responding student decide to reject the sanctions within that time period, Option 2B, below, will apply. This outcome is not subject to appeal.

#### **b) The Responding Student Accepts a Finding of “Responsible” and Rejects the Sanctions Recommended.**

If the responding student accepts the “responsible” findings, but rejects the recommended sanctions, there will be a UCB hearing on the sanction, only. Hearing procedures are detailed below.

### **3) Responding Student Rejects the Findings Completely or In-part**

#### **a) Responding Student Rejects the Findings Completely**

Where the responding student rejects the finding that they violated University policy, a formal hearing will be convened within seven business days, barring exigent circumstances.

At the hearing, the investigator(s) will present their report to the panel, the panel will hear from the parties, and any necessary witnesses. The investigation report will be considered by the panel, which renders an independent and objective finding. UCB procedures are detailed below.

If the panel finds the responding student not responsible for all violations, the Director of Judicial Affairs (or designee) will timely inform the parties of this determination and the rationale for the decision in writing. This determination is subject to appeal by any party to the allegation. Appeal review procedures are outlined below.

If the UCB finds a violation, it will determine sanctions/responsive actions and render a decision typically within ten (10) days of the hearing and timely notify the parties in writing. An appeal of sanction(s) may be filed by any party to the allegation as detailed below.

#### **b) Responding Student Accepts the Findings in Part and Rejects in Part**

Where the responding student rejects in part the finding that they violated University policy, there will be a formal hearing solely on the disputed allegations within ten business days, barring exigent circumstances. If the University Conduct Board finds a violation, it will



determine sanctions/responsive actions and render a decision typically within 10 business days of the hearing and timely notify the parties in writing. For all findings holding a responding student responsible for a violation, the University will follow the sanctioning process detailed on pages 40-46 below. If the Panel finds the responding student “Not Responsible” on any of the contested allegations, the process will move to the Sanctioning Phase on only the uncontested allegations, as detailed on pages 40-46 below. An appeal of sanction(s) may be filed by any party to the allegation as detailed below.

### **Special Hearing Provisions for Sexual Misconduct, Discrimination and Other Allegations of a Sensitive Nature**

All hearings under this sub-section will be conducted by a three member administrative University Conduct Board (UCB) drawn from the UCB pool. For sexual misconduct, discrimination and other allegations of a sensitive nature, whether the alleged reporting party is serving as the reporting party or as a witness, alternative testimony options may be provided, such as placing a privacy screen in the hearing room or allowing the alleged reporting party to testify from another room via audio or audio/video technology. While these options are intended to help make the reporting party more comfortable, they are not intended to work to the disadvantage of the responding student. Assistive technology will also be used for responding students if they are unable to attend in person but wish to participate. Examples would be to use telephone or video conferencing if that option is requested by the student and the UCB is able to accommodate. Ability to video conference is not guaranteed due to venue and technology limitations.

The past sexual history or sexual character of a party will not be admissible by the other parties in hearings unless such information is determined to be highly relevant by the panel Chair. All such information sought to be admitted by a party or the University will be presumed irrelevant until a showing of relevance is made, in advance of the hearing or in recess, to the Chair. Demonstration of pattern, repeated, and/or predatory behavior by the responding student, in the form of previous findings in any legal or campus proceeding, or in the form of previous good faith allegations, will always be relevant to the finding, not just the sanction, and will be admissible. To the extent

possible, the parties will be notified in advance if any such information is deemed relevant and will be introduced in the hearing.

### **Interim Remedies/Actions**

The Title IX Coordinator or Director of Judicial Affairs (or designee) may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to counseling and health services
- Education to the community
- Altering the housing situation of the responding party (or the reporting party, if desired)
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Implementing trespass restrictions on a party or parties
- Offering adjustments to academic deadlines, course schedules, etc.

The University will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.

### ***Statement of the Reporting Party's Rights:***

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to University officials;
- The right to be informed in advance of any public release of information regarding the incident;
- The right not to have any personally identifiable information released to the public, without their consent;

- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right not to be discouraged by University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well;
- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus law enforcement and other campus officials;
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
- The right to a campus no contact order (or a trespass order against a student or non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
  - Change of an on-campus student's housing to a different on-campus location;
  - Assistance from University support staff in completing the relocation;

- Transportation accommodations;
  - Arranging to dissolve a housing contract and pro-rating a refund;
  - Exam (paper, assignment) rescheduling;
  - Taking an incomplete in a class;
  - Transferring class sections;
  - Temporary withdrawal; and
  - Alternative course completion options.
- The right to have the University maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures;
  - The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
  - The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;
  - The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, prior to a finding by the appropriate administrator;
  - The right to be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
  - The right not to have irrelevant prior sexual history admitted as evidence;
  - The right to regular updates on the status of the investigation and/or resolution;
  - The right to have reports addressed by investigators and appropriate administrators who have received at least eight hours of annual sexual misconduct training;

- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings and/or interviews that are closed to the public;
- The right to petition that any University representative in the process be recused on the basis of demonstrated bias or conflict-of-interest;
- The right to bring a victim advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding;
- The right to have the university compel the participation of student, faculty and staff witnesses, and the opportunity (if desired) to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence;
- The right to submit an impact statement in writing to the appropriate administrator following determination of responsibility, but prior to sanctioning;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties; and
- The right to be informed in writing of when a decision by the University is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.

***Statement of the Responding Party's Rights:***

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct and/or discrimination made in good faith to University administrators;
- The right to be informed in advance, when possible, of any public release of information regarding the report;
- The right to be treated with respect by University officials;

- The right to have University policies and procedures followed without material deviation;
- The right to be informed of and have access to campus resources for medical, health, counseling, and advisory services;
- The right to timely written notice of all alleged violations, including the nature of the violation, the applicable policies and procedures and possible sanctions;
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, prior to the finding by the appropriate administrator;
- The right to be informed of the names of all witnesses whose information will be used to render a finding, prior to final determination, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports addressed by investigators and appropriate administrators who have received annual training;
- The right to petition that any University representative be recused from the resolution process on the basis of demonstrated bias and/or conflict-of-interest;
- The right to meetings and interviews that are closed to the public;
- The right to have the University compel the participation of student, faculty and staff witnesses, and the opportunity to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence;

- The right to have an advisor of their choice to accompany and assist throughout the campus resolution process;<sup>14</sup>
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to provide an impact statement in writing to the appropriate administrator following any determination of responsibility, but prior to sanctioning;
- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision of the University is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.

### **Notice of Hearing**

Once a determination is made that reasonable cause exists for the Director of Judicial Affairs (or designee) to refer an allegation for a hearing, notice will be given to the responding student. Notice will be in writing and may be delivered by one or more of the following methods: in person by the Director of Judicial Affairs (or designee); mailed to the local or permanent address of the student as indicated in official University records; or emailed to the student's University-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered. The letter of notice will:

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<sup>14</sup> See pages 29-30 for the role of an Advisor.

- 1) Include the alleged violation and notification of where to locate the *Student Code of Conduct* and University procedures for resolution of the allegation; and
- 2) Direct the responding student to contact the Director of Judicial Affairs (or designee) within a specified period of time to respond to the allegation. This time period will generally be no less than two days<sup>15</sup> from the date of delivery of the summons letter.

A meeting with the Director of Judicial Affairs (or designee) may be arranged to explain the nature of the allegation and the conduct process. At this meeting, the responding student may indicate, either verbally or in writing, to the Director of Judicial Affairs (or designee), whether they admit to or deny the allegations.

### **Interim Action**

Under the *Student Code of Conduct*, the Vice President of Student Affairs (or designee) may impose restrictions and/or separate a student from the community pending the scheduling of a campus hearing on alleged violation(s) of the *Student Code of Conduct* when a student represents a threat of serious harm to others, is facing allegations of serious criminal activity, to preserve the integrity of an investigation, to preserve University property and/or to prevent disruption of, or interference with, the normal operations of the University. Interim actions can include separation from the institution or restrictions on participation in the community for no more than ten (10) business days pending the scheduling of a campus hearing on alleged violation(s) of the *Student Code of Conduct*. Interim suspensions may be required for more than ten (10) business days dependent on the investigation and/or other extenuating circumstances. A student who receives an interim suspension may request a meeting with the Vice President for Student Affairs or designee to demonstrate why an interim suspension is not merited. Regardless of the outcome of this meeting, the University may still proceed with the scheduling of a campus hearing.

During an interim suspension, a student may be denied access to University housing and/or the University campus/facilities/events. As determined appropriate by the

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<sup>15</sup> "Day", used throughout this document, refers to normal business days when the University is in operation.



Director of Judicial Affairs, this restriction may include classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Director of Judicial Affairs and with the approval of, and in collaboration with, the appropriate Dean(s), alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding student.

## Hearing Options & Preparation

Except in an allegation involving failure to comply with the summons of the Director of Judicial Affairs (or designee), no student may be found to have violated the *Student Code of Conduct* solely as a result of the student's failure to appear for a hearing. In all such instances, conduct hearings will proceed as scheduled and the information in support of the allegation will be presented to, and considered by the panel presiding over the hearing.

At any point prior to the hearing, where the responding student admits to violating the *Student Code of Conduct*, the Director of Judicial Affairs (or designee) may invoke administrative hearing procedures to determine and administer appropriate sanctions without a formal hearing. This process is also known as an *educational conference*. In an administrative conference, allegations will be heard and determinations will be made by the Director of Judicial Affairs or designee.

Where the responding student denies violating the *Student Code of Conduct*, a formal hearing will be conducted. This process is known as a University Conduct Board (UCB) hearing. At the discretion of the Director of Judicial Affairs (or designee), a request by one or more of the parties to the allegation for an administrative conference may be considered. Students who deny a violation for which a UCB hearing will be held will be given a minimum of seven days to prepare unless all parties wish to proceed more quickly. Preparation for a UCB hearing is summarized in the following guidelines:

- 1) Notice of the time, date and location of the hearing will be in writing and may be delivered by one or more of the following methods: in person by the Director of Judicial Affairs (or designee); mailed to the local or permanent address of the student as indicated in official University records; or emailed to the student's University-issued email account. Once mailed, emailed and/or received in-

person, such notice will be presumptively delivered. Redacted copies of the reports and other information for the case may be requested by the responding party by completing a request form found at [www.clarion.edu/judicial](http://www.clarion.edu/judicial).

- 2) The reporting party may fully participate in the hearing or may elect to have the University administration present the evidence. Where there is no reporting party, the University administration will serve as the reporting party.
  
- 3) If a responding student fails to respond to notice from the Director of Judicial Affairs (or designee), the Director of Judicial Affairs (or designee) may initiate an allegation for failure to comply with the directives of a University official and give notice of this offense. Unless the student responds to this notice within three (3) days by answering the original notice, an administrative conference may be scheduled and held on the student's behalf. As a result, the student may be administratively withdrawn from attending classes or a disciplinary hold may be placed on their University account, deeming them ineligible to register for courses or University housing until such time as the student responds to the initial allegation.
  
- 4) At least three (3) days before any scheduled formal hearing, the following will occur:
  - a) The responding student will deliver to the Director of Judicial Affairs (or designee) a written response to the allegation;
  
  - b) The responding student will deliver to the Director of Judicial Affairs (or designee) a written list of all suggested eye witnesses they plan to call at the hearing and including any character witnesses;
  
  - c) The responding student will deliver to the Director of Judicial Affairs (or designee) all physical evidence the student intends to use or needs to have present at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Director of Judicial Affairs can arrange for its presence;

- d) The reporting party will deliver to the Director of Judicial Affairs (or designee) a written list of all suggested witnesses for the University to call at the hearing;
  - e) The reporting party will deliver to the Director of Judicial Affairs (or designee) all items of physical evidence needed at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Director of Judicial Affairs can arrange for its presence; and
  - f) The reporting party and the responding student will notify the Director of Judicial Affairs (or designee) of the names of any advisors/advocates who may be accompanying the parties at the hearing.
- 5) The Director of Judicial Affairs (or designee) will ensure that the hearing information and any other available written documentation is shared with the parties at least two (2) days before any scheduled hearing. In addition, the parties will be given a list of the names of all the UCB members in advance. Should any party object to any panelist, that party must raise all objections, in writing, to the Director of Judicial Affairs immediately. A UCB member will only be unseated if the Director of Judicial Affairs concludes that their bias precludes an impartial hearing of the allegation. Additionally, UCB members who feel they cannot make an objective determination must recuse themselves from the proceedings.

### **University Conduct Board (UCB) Hearing Procedures**

The Director of Judicial Affairs (or designee) will appoint one UCB member as the Chair for the hearing. The parties have the right to be present at the hearing; however, they do not have the right to be present during deliberations. If a student cannot attend the hearing, it is that student's responsibility to notify the Director of Judicial Affairs no less than three (3) days prior to the scheduled hearing to arrange for another date, time and location. Except in cases of grave or unforeseen circumstances, if the responding student fails to give the requisite minimum three (3) day notice, or if the responding student fails to appear, the hearing will proceed as scheduled. If the reporting party fails

to appear, the allegation may be dropped unless the University chooses to pursue the allegation on its own behalf, as determined by the Director of Judicial Affairs.

The Director of Judicial Affairs (or designee), and the Chair and the voting UCB members will conduct UCB hearings according to the following guidelines:

- 1) Hearings will be closed to the public.
- 2) Admission to the hearing of persons other than the parties involved will be at the discretion of the board chair and the Director of Judicial Affairs (or designee).
- 3) In hearings involving more than one responding student, the standard procedure will be to hear the allegations jointly; however, the Director of Judicial Affairs (or designee) may permit the hearing pertinent to each responding student to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding student.
- 4) The reporting party, the responding student, the panel, and the Director of Judicial Affairs (or designee) will have the privilege of questioning all present witnesses and questioning all present parties (directly or through the Chair, at the discretion of the Chair). Unduly repetitive witnesses can be limited at the discretion of the UCB Chair.
- 5) Pertinent records, exhibits, and written statements may be accepted as information for consideration by the UCB. Formal rules of evidence are not observed. The Chair may limit the number of character witnesses presented or may accept written affidavits of character instead.
- 6) All procedural questions are subject to the final decision of the Chair. The Chair may consult the Director of Judicial Affairs (or designee).
- 7) After a panel hearing, the panel will deliberate and determine, by majority vote, whether it is more likely than not that the responding student has violated the *Student Code of Conduct*. The Director of Judicial Affairs (or designee) will be present and available as a resource during all deliberations. Once a finding is determined, if the finding is that of a policy violation, the UCB will determine an

appropriate sanction(s). The Director of Judicial Affairs (or designee) is responsible for informing the UCB of applicable precedent and any previous conduct violations or other relevant pattern information about the responding student. The Chair will prepare a written deliberation report and deliver it to the Director of Judicial Affairs (or designee), detailing the recommended finding, how each member voted, the information cited by the panel in support of its finding and/or sanctions, and any information the panel excluded from its consideration and why. This report should conclude with any sanctions and recommended remedies. This report should not typically exceed two pages in length and must be submitted to the Director of Judicial Affairs within two (2) days of the end of deliberations.

- 8) The Director of Judicial Affairs (or designee) will implement the UCB's finding and sanctions and will communicate that outcome to the parties within 10 business days of the hearing. Notification will be made in writing and may be delivered by one or more of the following methods: in person by the Director of Judicial Affairs (or designee); mailed to the local or permanent address of the student as indicated in official University records; or emailed to the student's University-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.
- 9) In cases of sexual misconduct and other crimes of violence, notice of the outcome will be delivered to all parties simultaneously, meaning without substantial delay between the notifications to each. The notice will include the findings, any sanctions and a rationale therefor, as well as the right to be informed of when the decision is considered final, any changes to the sanction that occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.
- 10) There will be a single verbatim record, such as an audio recording, for all UCB hearings. Deliberations will not be recorded. The record will be the property of the University and maintained according to the University's record retention policy.

## Conduct Sanctions

One or more of following sanctions may be imposed upon any student for any single violation of the *Student Code of Conduct*:

- 1) *Warning*: An official written notice that the student has violated University policies and/or rules and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the University.
- 2) *Restitution*: Compensation for damage caused to the University or any person's property. This could also include situations such as failure to return a reserved space to proper condition – labor costs and expenses. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.
- 3) *Educational Opportunities*: Include but are not limited to Online Judicial Modules, workshops for alcohol, controlled substances, and quality of life concerns. Additionally, students may be required to participate in the Judicial Mentoring Program, or other opportunities tailored to preventing recidivism.
- 4) *Fines*: Reasonable fines may be imposed.
- 5) *Community/University Service Requirements*: For a student or organization to complete a specific supervised University service.
- 6) *Loss of Privileges*: The student will be denied specified privileges for a designated period of time.
- 7) *Confiscation of Prohibited Property*: Items whose presence is in violation of University policy will be confiscated and will become the property of the University. Prohibited items may be returned to the owner at the discretion of the Director of Judicial Affairs and/or University Police.

- 8) *Behavioral Contract*: This includes required activities including, but not limited to, seeking academic counseling or substance abuse screening, writing a letter of apology, etc.
- 9) *Educational Program*: Requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- 10) *Restriction of Visitation Privileges*: May be imposed on a resident or non-resident student. The parameters of the restriction will be specified.
- 11) *University Housing Probation*: Official notice that, should further violations of Residence Life and Housing or University policies occur during a specified probationary period, the student may immediately be removed from University housing. Regular probationary meetings may also be imposed.
- 12) *University Housing Reassignment*: Reassignment to another University housing facility. Residential Life and Housing personnel will decide on the reassignment details.
- 13) *University Housing Suspension*: Removal from University housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to University housing may be specified. Under this sanction, a student is required to vacate University housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life and Housing. Students may be responsible for any applicable fees and will be required to pay applicable damage and cleaning fees. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for University housing, the student must gain permission from the Director of Residence Life and Housing (or designee). This sanction may include restrictions on visitation to specified buildings or all University housing during the suspension.

- 14) *University Housing Expulsion*: The student's privilege to live in, or visit, any University housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary. Students may be responsible for any applicable fees and will be required to pay applicable damage and cleaning fees.
- 15) *University Probation*: The student is put on official notice that, should further violations of University policies occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.
- 16) *Eligibility Restriction*: The student is deemed "not in good standing" with the University for a specified period of time. Specific limitations or exceptions may be granted by the Director of Judicial Affairs and terms of this conduct sanction may include, but are not limited to, the following:
- a) Ineligibility to hold any office in any student organization recognized by the University or hold an elected or appointed office at the University; or
  - b) Ineligibility to represent the University to anyone outside the University community in any way including: participating in the study abroad program, attending conferences, or representing the University at an official function, event or intercollegiate competition as a player, manager or student coach, etc.
- 17) *University Suspension*: Separation from the University for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. The student is required to vacate the campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Judicial Affairs. During the suspension period, the student is banned from University property, functions, events and activities without prior written approval from the Director of Judicial Affairs. This sanction may be enforced with a trespass action as necessary. This sanction will be noted as a Conduct Suspension on the student's official academic transcript.



- 18) *University Expulsion*: Permanent separation from the University. The student is banned from University property and the student's presence at any University-sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary. This sanction will be noted as a Conduct Expulsion on the student's official academic transcript.
- 19) *Withholding Diploma*: The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- 20) *Revocation of Degree*: The University reserves the right to revoke a degree awarded from the University for fraud, misrepresentation or other violation of University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation. This sanction is issued with the approval of the Provost.
- 21) *Other Sanctions*: Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Director of Judicial Affairs or designee.

The following sanctions may be imposed upon groups or organizations found to have violated the *Student Code of Conduct*:

- 1) One or more of the sanctions listed above, specifically 1) through 9) and 15) through 17); and/or
- 2) Deactivation, de-recognition, loss of all privileges (including status as a University registered group/organization), for a specified period of time.

### **Parental Notification**

The University reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under the age of 21 of alcohol and/or other drug violations. Parental notification may also be

utilized discretionarily by administrators when permitted by the Family Educational Rights and Privacy Act (FERPA) or consent of the student.

### **Notification of Outcomes**

The outcome of a campus hearing is part of the education record of the responding student and is protected from release under FERPA , except in cases where the University determines through the student conduct process that a student violated a policy that would constitute a “crime of violence” or nonforcible sex offense. In such cases, the University may release the name of the student, the policies allegedly violated, that they were found in violation, and any sanctions that result for the following offenses:

- 1) Arson
- 2) Assault offenses (includes stalking)
- 3) Burglary
- 4) Criminal Homicide—manslaughter by negligence
- 5) Criminal Homicide—murder and nonnegligent manslaughter
- 6) Destruction/damage/vandalism of property
- 7) Kidnapping/abduction
- 8) Robbery
- 9) Forcible sex offenses
- 10) Non-forcible sex offenses
- 11) Stalking
- 12) Dating Violence and Domestic Violence

### **Failure to Complete Conduct Sanctions**

All students, as members of the University community, are expected to comply with conduct sanctions within the timeframe specified by the Director of Judicial Affairs (or designee). Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions and/or suspension from the University and may be noted on, or with, the student’s official transcript at the end of the semester. In such situations, resident students will

be required to vacate University housing within 24 hours of notification by the Director of Judicial Affairs, though this deadline may be extended upon application to, and at the discretion of the Director of Residence Life and Housing and/or the Director of Judicial Affairs. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. This determination will be made by the Director of Judicial Affairs.

## **Appeal Review Procedures**

Any party may request an appeal of the decision of the UCB/Educational Conference by filing a written request to the Director of Judicial Affairs or to the Title IX Coordinator, if appropriate, subject to the procedures outlined below. All sanctions imposed by the original hearing body remain in effect unless an exception is granted upon request to the Director of Judicial Affairs or Title IX Coordinator, if appropriate, and all parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision.

### **GROUNDINGS FOR APPEAL REQUESTS**

Appeals requests are limited to the following grounds:

- 1) A procedural error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.);
- 2) To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
- 3) The sanctions imposed are substantially outside the parameters or guidelines set by the University for this type of offense or the cumulative conduct record of the responding student.

Appeals must be filed in writing through an electronic form with the Director of Judicial Affairs (or designee) within three (3) business days of the notice of the outcome to the hearing, barring exigent circumstances. Any exceptions are made at the discretion of the Director of Judicial Affairs and, when appropriate, the Title IX

Coordinator. The online appeals form may be found at [www.clarion.edu/judicial](http://www.clarion.edu/judicial) under 'Student Conduct Resource Forms'.

The Director of Judicial Affairs (or designee) will share the appeal by one party with the other party (parties) when appropriate under procedure or law (e.g., if the responding student appeals, the appeal is shared with the reporting party, who may also wish to file a response, request an appeal on the same grounds or different grounds). The Director of Judicial Affairs will refer the request(s) to the University's designated Appeal Review Officer, appointed by the President. The Appeal Review Officer will draft a response memorandum to the appeal request(s), based on their determination that the request(s) will be granted or denied, and why. All request-related documents are shared with all parties prior to submission to the Appeal Review Officer, who serves a renewable three-year term.

The Appeal Review Officer will conduct an initial review to determine if the appeal request meets the limited grounds and is timely. They may consult with the Director of Judicial Affairs and/or Title IX Coordinator on any procedural or substantive questions that arise.

If the appeal is not timely or substantively eligible, the original finding and sanction will stand and the decision is final. If the appeal has standing, the Appeal Review Officer determines whether to reconsider the finding or sanction or to remand it to investigators or the original decision-maker(s), typically within 10 business days. The Appeal Review Officer will notify the student if the matter was remanded back to the UCB or Administrative Hearing Officer.

Efforts should be made to use remand whenever possible, with clear instructions for reconsideration only in light of the granted appeal grounds. Where the original decision-maker may be unduly biased by a procedural error, a new UCB or hearing officer will be constituted to reconsider the matter, which can in turn be appealed, once. A final decision if remanded back to the UCB or Administrative Hearing Officer will be made within 10 business days.

Full re-hearings by the Appeal Review Officer are not permitted. In review, the original finding and sanction are presumed to have been decided reasonably and

appropriately, thus the burden is on the appealing party(ies) to show clear error. The Appeal Review Officer must limit the review to the challenges presented.

On reconsideration, the Appeal Review Officer or original decision-maker may affirm or change the findings and/or sanctions of the original hearing body according to the permissible grounds. Procedural errors should be corrected, new evidence should be considered, and sanctions should be proportionate to the severity of the violation and the student's cumulative conduct record.

All decisions of the Appeal Review Officer are to be made within ten (10) days of submission and are final, as are any decisions made by the original hearing body, Director of Judicial Affairs or Title IX Coordinator as the result of reconsideration consistent with instructions from the Appeal Review Officer.

The parties may challenge the Appeal Review Officer on the basis of potential bias, and an Appeal Review Officer who cannot render an impartial decision must recuse themselves. The Appeals Review Officer will make the determination as to the validity of any challenge or need for recusal. In the event of a recusal from the panel, the Appeals Review Officer will solicit an alternate, trained officer.

The presumptive stance of the University is that all decisions made and sanctions imposed by the original decision-maker are to be implemented during the appellate process. At the discretion of the Director of Judicial Affairs, and in consultation with the Title IX Coordinator when necessary, implementation of sanctions may be stayed pending review only in extremely exigent circumstances. This does not include proximity to graduation, end of term, or exams. Instead, it refers to an overwhelming likelihood, as determined by the Appeals Review Officer and Director of Judicial Affairs, in consultation, that the appeal would result in a reversal of the finding and/or substantial modification of the sanctions.

#### **OTHER GUIDELINES FOR APPEALS**

- All parties will be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision.
- Every opportunity to return the appeal to the original decision-maker for reconsideration (remand) should be pursued.

- Appeals are not intended to be full re-hearings of the allegation (de novo). In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal; Witnesses may be called if necessary.
- Appeals are not an opportunity for the Appeal Review Officer to substitute their judgment for that of the original decision-maker merely because they disagree with the finding and/or sanctions. Appeals decisions are to be deferential to the original decision-maker, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.

### **Withdrawal While Charges Pending**

The University does not permit a student to withdraw if that student has an allegation pending for violation of the *Student Code of Conduct*. Should a student decide to leave and/or not participate, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to University unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

### **Disciplinary Records**

All conduct records are maintained by the University for seven (7) years from the time of their creation except those that result in separation (suspension or expulsion, including from housing) and those that fall under Title IX, which are maintained indefinitely.

### **Failure to Complete Sanctions/Comply with Interim and Long Term Remedies/Responsive Actions**

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Director of Judicial Affairs and/or Title IX Coordinator. Failure to abide by these conduct sanctions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions and/or suspension, expulsion from the University and will be noted on a

student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Director of Judicial Affairs and/or Title IX Coordinator.

## **Disabilities Accommodation**

Clarion University is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the student conduct process at the University. Anyone needing such accommodations or support should contact the Director of Disability Support Services (109 Becht Hall), who will review the request and, in consultation with the person requesting the accommodation, and Director of Judicial Affairs and/or the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation.

## **Revision**

These policies and procedures will be reviewed and updated annually by the Director of Judicial Affairs and the Title IX Coordinator. The University reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Director of Judicial Affairs and/or the Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Director of Judicial Affairs and/or Title IX Coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

This policy and procedure was implemented on July 1, 2017.



It is the policy of Clarion University of Pennsylvania that there shall be equal opportunity in all of its educational programs, services, and benefits, and there shall be no discrimination with regard to a student's or prospective student's gender, gender identity, race or color, ethnicity, national origin or ancestry, age, mental or physical disability, religion or creed, genetic information, affectional or sexual orientation, veteran status, or other classifications that are protected under Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and other pertinent state and federal laws and regulations. Direct inquiries to the Title IX Coordinator, Clarion University of Pennsylvania, 103 Carrier Administration Building, [sfenske@clarion.edu](mailto:sfenske@clarion.edu) or phone 814-393-2351, or the Director of Social Equity, 210 Carrier Administration Building 16214-1232; Email [asalsgiver@clarion.edu](mailto:asalsgiver@clarion.edu) or phone 814-393-2109. Inquiries may also be directed to the Director of the Office for Civil Rights, Department of Education, 330 Independence Avenue, SW, Washington, DC 20201.