

STUDENT CODE OF CONDUCT  
& JUDICIAL PROCESS  
2018-2019



OFFICE OF THE DEAN OF STUDENTS  
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# STUDENT CODE OF CONDUCT AND JUDICIAL PROCESS

As an institution of higher learning and a community of persons with a special purpose, Bloomsburg University accepts its obligation to provide its members with an atmosphere which protects and promotes its educational mission and that guarantees its orderly and effective operation. To accomplish these goals, the University must require certain standards of conduct, both on and off campus, which are then expressed through the Student Code of Conduct and Judicial Process. In addition, Bloomsburg University students aspire to, follow and promote integrity, community, social justice, respect, and responsibility.

- **Integrity**- Huskies exemplify honesty, honor, and respect for the truth in all of their actions.
- **Community**- Huskies build and enhance their community; understand and appreciate how decisions and actions affect others and are just and equitable in the treatment of all members of the community.
- **Social Justice**- Huskies respect the dignity of every person and act to discourage and challenge those whose actions may be harmful to or diminish the worth of others.
- **Respect**- Huskies show positive regard for each other and for the community.
- **Responsibility**- Huskies accept responsibility for learning, personal behavior, and future success, and appropriately challenge others to do the same. Huskies use good judgement, are trustworthy, and take personal responsibility for actions.

## I. Code of Conduct

In matters related to the Student Code of Conduct and Judicial Process, every effort will be made to contact students via the following means: University assigned e-mail address, campus mail, in-person (when possible), text messages, or the US postal service. E-mail messages sent from the Office of the Dean of Students to students through University-assigned e-mail addresses constitute the official means of communication. Correspondence involving incidents may also come from the Office of Residence Life, Office of Greek Affairs, Office of the Vice President for Student Affairs, or other offices on campus. It is the student's responsibility and obligation to access and respond to official University e-mail correspondence.

Violation of any of the regulations listed below by any student or student organization, whether the occurrence is on or off campus, may lead to University disciplinary action and criminal arrest, pursuant to local, state, and federal laws.

Students whose actions negatively affect the University community and are a risk to Bloomsburg University are subject to interim suspension or loss of on campus housing privileges (or both) pending a judicial hearing. Examples of such actions include, but are not limited to, harm to others, furnishing alcohol to minors, selling or providing drugs or controlled substances, and sexual misconduct, including rape. Students residing in on-campus housing, accused of policy violations may be required to participate in an interim move during an investigation by the University and until allegations can be resolved.

The following are violations of the Student Code of Conduct:

**A. Academic Integrity**- Incidents of plagiarism, cheating, and other forms of academic dishonesty as set forth in the Academic Integrity Policy ([PRP 3512](#)). Such incidents are adjudicated by the appropriate faculty member or through The Office of the Dean of Students.

**B. Alcohol** – A violation of the University Alcoholic Beverage Policy ([PRP 4810](#)) constitutes a violation of the Student Code of Conduct. Violations include but are not limited to:

1. Possession/transportation/consumption of alcohol on University property (excluding the use of ethanol/alcohol as a scientific reagent, solvent, or antimicrobial under the supervision of faculty or staff in an educational environment).
2. Underage students in possession of/transporting/consuming or who consumed alcohol.
3. Public intoxication.
4. Driving under the influence of alcohol.

5. Possession of a fake ID, use of a fake ID, providing false identification, or misrepresentation of identification.
6. Furnishing alcohol to minors or actively planning or organizing a party or event where alcohol is being served illegally or furnished to minors. Actively planning or organizing a party or event includes but is not limited to providing cups, collecting money, or transporting either alcohol or attendees to or from the event.
7. Illegally selling alcohol.
8. Hosting a social gathering, whether intentional or unintentional, where an alcohol policy violation occurs.
9. Other alcohol-related misconduct.

**C. Unauthorized Access-** Forcibly entering, trespassing, or unauthorized entry of any locked or secured facility, University or individually owned or rented property is a violation.

**D. Computer and Network Misuse-** A violation of the Acceptable Use of Technology Policy ([PRP 2550](#)). Violations include but are not limited to: misuse, abuse, or other illegal activity related to University computers or networks, using computers/the network to distribute, download or upload obscene or indecent images or language, harass individuals, or to hinder the universal functions of the university network.

**E. Controlled Substances/Drugs –** A violation of the University Drug Policy ([PRP 4805](#)). Violations include but are not limited to:

1. The use or possession of controlled substances/drugs.
2. The sale of controlled substances/drugs.
3. The manufacturing of controlled substances/drugs.
4. The distribution or transfer of controlled substances/drugs.
5. The distribution or transfer of prescribed medications/drugs.
6. The use or possession of drug paraphernalia.
7. The use of legal substances, in a manner other than the intended purpose, in ways that alter one’s mental or physical state.
8. Driving under the influence of controlled substances/drugs.

**F. Creating Safety Hazards –**To misuse safety equipment or to ignore safety procedures is a violation. Violations include but are not limited to:

1. Tampering with fire equipment, smoke detectors, exit lights, guardrails, elevators, or fire alarms.
2. Initiating false alarms.
3. Creating a safety hazard due to reckless or negligent conduct.

**G. Disorderly Conduct -** No person shall:

1. Engage in conduct that is disorderly.
2. Engage in conduct that unnecessarily disturbs others.
3. Engage in conduct that is disruptive to the normal practices, processes, and functions of the University or the local municipalities.

**H. Disruptive Classroom Conduct-** Conduct that disrupts the classroom environment is a violation. This includes but is not limited to creating an unsafe or hostile environment, continually undermining the authority of the faculty member, or other conduct that infringes on an orderly learning environment. Issues of classroom management such as cell phone and other electronic device usage during class, tardiness, and negative class participation are to be addressed in the syllabus or by the faculty member.

Questions regarding academic-related conduct such as alleged academic injustice or questions of academic integrity should be addressed through the appropriate academic venue, [PRP 3592 Academic Grievance Procedure](#), [PRP 3512 Academic Integrity](#), and other related policies.

**I. Failure to Comply –** Confronting or defying instructions or reasonable requests made by University Officials. This includes, but is not limited to refusal to present identification when asked, noncompliance with University sanctions or a no contact letter, and refusal to respond to a request to report to an administrative office.

**J. Firearms/Weapons**— A violation of the University Weapons, Firearms and Dangerous Devices Policy ([PRP 5240](#)). Violations include but are not limited to:

1. The unauthorized possession of firearms, weapons, or other dangerous objects or substances on University property.
2. The transfer of firearms, weapons, or other dangerous objects or substances on University property.
3. Use of firearms, weapons, or other dangerous objects or substances on University property.
4. The brandishing of any object or item used in a threatening or violent manner, such as a butane lighter, lit tobacco products, baseball bat or other blunt instrument, or razor blade that inflicts, or is intended to inflict bodily harm, or cause property damage.

This policy includes, but is not limited to: firearms, ammunition, explosives, billy clubs, martial arts weapons, bows and arrows, sabers, swords, daggers, switchblades, knives used primarily for hunting purposes, fireworks, pellet guns, air guns, BB guns, stun guns, tasers, paint ball guns, and dangerous/flammable chemicals/fuels.

This policy also prohibits the possession of firearms by individuals who are licensed to carry such items. This policy shall not prohibit persons from possessing, storing, or using weapons at approved locations for the purpose of meeting the requirements of a recognized educational program or student groups sponsored by the University. Personal firearms and hunting equipment must be registered and stored in the Bloomsburg University Police Department.

**K. Forgery** –Altering or misusing University or individually owned documents, records, identification cards, papers, or any and all forms of electronic media.

**L. Gambling** - Any act of gambling including solicitation on campus is prohibited except for those sanctioned by Bloomsburg University and the Commonwealth of Pennsylvania.

**M. Harm to Others**- To fulfill Bloomsburg University’s obligation to promote its educational mission and guarantee its orderly and effective operation, the University cannot accept/tolerate conduct that has a negative impact on the campus, community-at-large, or any individual(s), thus students are prohibited from the following:

1. Engaging in harassing or intimidating conduct.
2. Engaging in conduct that harms or threatens to harm another person.
3. Engaging in conduct that harms or threatens to harm another person’s property.
4. Physically harming or exhibiting threatening, intimidating, or harassing conduct toward a University employee.
5. Physically harming or exhibiting threatening, intimidating, or harassing conduct toward any party or witness involved in a judicial case or cause damage to his or her property with the intent of influencing outcomes or for retaliation.
6. Engaging in conduct that constitutes unlawful discrimination based on another person’s race, color, religion, sex, sexual orientation, gender identity, age, national origin, ancestry, disability, or veteran status.

**N. Hazing** - A violation of the University Hazing Policy ([PRP 4650](#)). Hazing is defined as any action or situation, whether on or off campus that:

1. Produces mental or physical discomfort, embarrassment, harassment, fright, or ridicule.
2. Has a physical requirement (e.g. calisthenics).
3. Is a request or obligation, which could cause pain, disgrace, or injury.
4. Is a request which is personally degrading.

Any action listed above that has a direct relation to the initiation, admission into, or affiliation with an organization/group, regardless of an individual’s willingness to participate, is considered a violation of the hazing policy.

**O. Laws-** Students who are cited or arrested by a law enforcement agency or convicted of a crime in civil or criminal court may be subject to separate charges and to University disciplinary proceedings.

**P. Pledging Greek Social Organizations-** It is a violation for a Greek Social Organization to accept an unauthorized pledge/new member (also referred to as an “illegal” pledge/new member). It is also a violation for a student to pledge, join, or attempt to join a Greek Social Organization if they do not meet the eligibility requirements.

**Q. Residence Hall/Apartment Policies** - Violations of Residence Hall/Apartment policies constitute a violation of the Student Code of Conduct. For more information, contact a [Residence Life staff member](#) or read the Residence Hall/Apartment Handbook, the “Guide to Campus Living”.

The Office of the Dean of Students may temporarily reassign or terminate a housing agreement during or upon conclusion of an investigation of a Student Code of Conduct violation.

**R. Sexual Misconduct-** A violation of the University’s Student Sexual Misconduct Policy ([PRP 4790](#)). Sexual misconduct at Bloomsburg University is strictly prohibited and will not be tolerated. Sexual misconduct includes sexual harassment, sexual assault (including rape), sexual exploitation, stalking, dating violence and domestic violence, as defined in Section VII. Violations include, but are not limited to:

1. Sexually harassing or attempting to sexually harass another individual.
2. Sexually assaulting or attempting to sexually assault another individual.
3. Sexually exploiting or attempting to sexually exploit another individual.
4. Stalking or attempting to stalk another individual.
5. Violence, including but not limited to sexual or physical abuse, against another individual who is or has been in a social relationship of a romantic or intimate nature with the complainant (Dating Violence).
6. Violence against another individual who is or was a spouse or cohabitant or who is otherwise protected under Pennsylvania domestic or family violence laws (Domestic Violence).

Complaints of sexual misconduct will proceed pursuant to Sexual Misconduct judicial procedures set forth in Section VII.

**S. Theft/Stolen Property –**

1. Theft, attempted theft, or unauthorized possession of University property.
2. Theft, attempted theft, or unauthorized possession of retail property.
3. Theft, attempted theft, or unauthorized possession of individually owned or rented property.
4. Other related theft/stolen property misconduct.

**T. Vandalism** - Any acts of abuse or destruction of University or private property by any means.

## II. REPORTS OF VIOLATIONS

Allegations of violations of the Student Code of Conduct ([PRP 4802](#)) are received by the Office of the Dean of Students via campus incident reports, police reports, or various other means of communication from students, faculty, staff, or community members. Once a report is received, the Office of the Dean of Students or designee investigates the allegations.

At the completion of an investigation or fact finding, the Office of the Dean of Students will: 1) determine that more information is needed; 2) dismiss the allegation for lack of evidence that a violation occurred; or 3) charge the individual(s) or organization.

### III. STATEMENT OF HEARING PROCEDURES

**Introduction:** As required by the Board of Governors of the State System of Higher Education regarding student discipline and due process, Bloomsburg University has established a hearing procedures system. Its primary intent is educational in nature, attempting to create behavioral changes in students while simultaneously protecting their rights and the rights of the community-at-large. The hearing procedures exist to review complaints against students/organizations for alleged violations of the Student Code of Conduct.

Student/organization hearings are intended to help students understand both their rights and responsibilities as members of the University community. When students/organizations are involved in a hearing, it is important that both the complainant and respondent be afforded every opportunity to understand the alleged violations and the principles of due process under which the hearing will be conducted.

When an individual or organization wishes to file charges against another student or student organization, the complainant may be required to submit in writing a detailed account of the incident which resulted in the charges being filed, along with the names of the individual(s) charged ("respondent"), witnesses who were present, and the relevant section of the Student Code of Conduct.

Student Affairs professional staff members may require a respondent to report for a discussion/investigation relative to an alleged violation. During this discussion/investigation, the allegation(s) and options within the University hearing process will be reviewed. Possible actions that may occur if civil/criminal ordinances have been violated will also be discussed.

**A. Hearing Process:** The respondent has the right to choose between a formal hearing before a board or an informal hearing before a designated hearing officer for all charges except sexual misconduct, which will follow the judicial process outlined in the Student Sexual Misconduct Policy, PRP 4790 and Section VII below. For violations that could result in a suspension or expulsion, the respondent may not have the option of an informal hearing and may be required to participate in a formal hearing process. Students participating in an informal hearing are required to sign a waiver, waiving their right to a formal hearing.

The University reserves the right to hold a hearing in absentia (without the respondent). If the hearing is held in absentia, the respondent will not have the opportunity to respond to the alleged violation(s) (see section B. number 5). The Assistant Vice President/Dean of Students, designee of the Vice President for Student Affairs, or Formal Hearing Chairperson reserves the right to reschedule a hearing whenever necessary and appropriate.

The Hearing Chairperson (non-voting member), selected by the Assistant Vice President/Dean of Students or other designee of the Vice President for Student Affairs, shall be responsible for maintaining order and room decorum during hearings. All hearings are closed and confidential proceedings. Any participant who displays disorderly or disruptive behavior or refuses to comply with the request of the Hearing Chairperson during a hearing will be asked to leave the hearing and may be subject to disciplinary action.

If it is determined that a student's continued presence constitutes an immediate threat of harm to themselves, other students, University personnel, or to University property the Assistant Vice President/Dean of Students or Vice President for Student Affairs or other designee may issue an interim suspension of a student from the University. The interim suspension may include temporary suspension of a student's privilege to enter any University property or facility. The interim suspension is pending the results of a hearing process. In the event a student is suspended under such conditions, a hearing shall be convened within ten business days, unless extenuating circumstances warrant an extension, in which case a hearing would be provided at the earliest possible date.

#### **B. Due Process and Procedures for a Formal Hearing**

The following procedural guidelines are established for the direction of all formal disciplinary hearings, except for sexual misconduct violations that are subject to the procedural guidelines in Section VII:

1. **Recordings:**
  - i. All formal hearings are recorded. Recordings are utilized in the event of an appeal or for the review of the board during their deliberation.
  - ii. Any individual or organization involved in a hearing is not permitted to use any type of recording device to record the formal hearing proceedings. Anyone found recording the proceedings will have the device automatically confiscated, may be removed from the proceedings, and may face additional charges/sanctions.
  - iii. For access to recordings, please see section V. Records.
  
2. **Notification:**
  - i. The respondent shall be notified in writing by an appropriate University official of the accusation and the specific violation of University policy(s).
  - ii. In keeping with the campus standards of due process, the respondent and complainant involved in the case are entitled to the following:
    - a. Written notification of the time and place of the hearing at least 72 business hours prior to the hearing.
    - b. Written statement of charges of sufficient particularity to enable the respondent to prepare for the hearing.
    - c. Written notification of the names of the individuals who are directly responsible for having reported the alleged violation to the Office of the Dean of Students. If there are no such individuals or if specific names are not available, written notification of how the alleged violation came to The Office of the Dean of Students' attention will be provided. Anonymous allegations are not permitted.
  - iii. Parent/guardian notification:
    - a. Letter notification is sent to a parent/guardian of a student in cases of high-risk behaviors as determined by the Dean. Examples include, but are not limited to being taken to the sober room or hospital, high-risk alcohol use, drug policy violations, harm to self or others, repeat violations, loss of housing, and decisions of suspension or expulsion.
    - b. Letters are sent to a student's home address as listed in *MyHusky*.
    - c. Students may contact the Office of the Dean of Students within 24 hours of receipt of their judicial results to notify the Dean of independent status; if a student is an independent based on financial aid and income tax records, only then will the parent/guardian letter not be sent.
  
3. **Witnesses:**
  - i. A respondent charged with a violation has the right to appear in person, to present information regarding the violations, and to call witnesses on the respondent's behalf.
  - ii. The respondent as well as the board shall have the opportunity to hear and question all witnesses.
  - iii. If witnesses are appearing, the respondent must present in writing the names of the witnesses at least 48 business hours prior to the hearing to the Office of the Dean of Students.
  - iv. If a case involves a student complainant and the complainant would like to bring witnesses, the complainant must also present to the Office of the Dean of Students the names of the witnesses, in writing, at least 48 business hours prior to the hearing and the same questioning procedures will apply.
  
4. **Advisor:**
  - i. A respondent charged with a violation (and complainant when applicable) has the right to be accompanied by one advisor who can be a member of the faculty, staff or student body of the University, legal counsel, parent/guardian, or advisor of record for the organization. If a respondent wishes to have an advisor, formal written notification must be received by the Office of the Dean of Students 48 business hours prior to the hearing. The University may consult with legal counsel, who may also be present.
  - ii. Students involved in the same incident cannot serve as advisors to each other.

- iii. During a hearing, the role of an advisor will be limited to suggesting questions and providing individual consultation to the respondent being represented. The advisor may not directly question a hearing participant, including the complainant, the respondent, witnesses, board members, or the Hearing Chairperson
- iv. In consideration of the limited role of an advisor and of the compelling interest of the University to expeditiously conclude the matter, the work of the hearing board will not, absent special circumstances, be delayed due to the unavailability of an advisor. The Assistant Vice President/Dean of Students, designee of the Vice President for Student Affairs, or Hearing Chairperson will determine whether or not it is in the best interest of all parties to move forward with a scheduled hearing.

**5. Decisions:** Formal hearing decisions are based on the preponderance of the evidence standard. That is, the formal hearing board must determine if the testimony and evidence presented suggests that it is more likely than not that a policy violation has occurred. The respondent will receive a written decision in which facts and reasons are set forth with reasonable specificity, which shall be issued within ten business days of the hearing, unless extenuating circumstances warrant an extension.

In cases involving harm to others (in sexual misconduct cases, see VII), the complainant also receives in writing the outcome of the respondent's level of responsibility and sanctions imposed on the respondent that directly relate to the complaint.

**6. Additional Rights of the Respondent:**

- i. At the beginning of the proceedings, the respondent may request the disqualification of the Hearing Chairperson or board member whom the respondent feels is biased or otherwise involved in the case.
- ii. The respondent may refuse to answer questions.
- iii. The respondent may also elect not to appear. Should the respondent elect not to appear, it shall not be taken as an indication that the respondent has violated a University policy and must be noted without prejudice. The decision in such cases will be made after considering the evidence available.
- iv. The respondent is entitled to one written appeal.
- v. Should there be an appeal, any sanction(s) shall be held in abeyance until the appeal is acted upon by the reviewing body or the appeals board.
- vi. Pending an appeal, the status of the respondent shall not be altered and the respondent shall maintain the right to be present on campus and to attend classes except for reasons relating to the respondent's physical or emotional safety or safety or well-being of students, faculty or staff. The Assistant Vice President/Dean of Students or designee of the Vice President for Student Affairs, upon appropriate evidence or professional advice, will decide if the continued presence of such a respondent would adversely affect the ability of others to pursue their educational goals.

**C. Due Process and Procedures for an Informal Hearing**

The following procedural guidelines are established for the direction of all informal disciplinary hearings:

**1. Notification:**

- i. The respondent shall be notified in writing, via email, or via phone by an appropriate University official of the allegation that the respondent has violated the Student Code of Conduct.
- ii. Parent/guardian notification:
  - a. Letter notification is sent to a parent/guardian of a student in cases of high-risk behaviors as determined by the Assistant Vice President/Dean of Students or designee. Examples include, but are not limited to being taken to the sober room or hospital, high-risk alcohol use, drug policy violations, harm to self or others, repeat violations, loss of housing, and decisions of suspension or expulsion.
  - b. Letters are sent to a student's home address as listed in *MyHusky*.



c. Students may contact the Office of the Dean of Students within 24 hours of receipt of their judicial results to notify the Dean of independent status; if a student is an independent based on financial aid and income tax records, only then will the parent/guardian letter not be sent.

2. **Review/Response to Charges:**

- i. The respondent shall have the opportunity to review and respond to the charges.
- ii. The respondent shall have the opportunity to respond to the charges and provide additional information relative to the incident/conduct in question.

3. **Decisions:** The respondent will receive a written decision in which facts and reasons are set forth with reasonable specificity, which will be issued within ten business days of the informal hearing unless extenuating circumstances warrant an extension.

**D. Appeals:** Appeals must be filed in writing to the Office of the Dean of Students three business days after receiving an official written notice of sanction, unless extenuating circumstances warrant an extension as determined by the Assistant Vice President for Student Affairs/Dean of Students or designee.

1. Reasons for appeals:

- a. New evidence
  - i. Not available at the time of the initial hearing
  - ii. The appeal must indicate in detail what new evidence exists
- b. Disciplinary action disproportionate to the violation
  - i. The appeal must specify and describe why the disciplinary action is disproportionate to the violation
- c. Denial of due process
  - i. The appeal must specify and describe how due process was denied

2. Appeals are heard by a professional staff member, who has no prior relation to the case, designated by the Assistant Vice President for Student Affairs/Dean or Vice President for Student Affairs.

3. After review of the written appeal, the designee has the following options:

- a. Deny the appeal
- b. Uphold the decision(s)/sanctions(s)
- c. Amend the decisions(s)/sanctions(s)
- d. Convene an appeal board (only applicable for cases that resulted in suspension or expulsion)

4. Decisions of the appeal will be issued to the respondent, in writing, within fifteen business days after receipt of the appeal, unless extenuating circumstances warrant an extension.

5. Appeal Board:

- a. If an appeal board is convened, the appeal board will review the case file and all related documentation. An additional hearing is not held.
- b. The appeal board may have access to the original recording of the related hearing if applicable.
- c. The appeal board has the option to:
  - i. Deny the appeal
  - ii. Uphold the decision(s)/sanctions(s)
  - iii. Amend the decisions(s)/sanctions(s)

6. Upon the denial of an appeal, any initial decisions(s)/sanction(s) shall be immediately implemented.

7. There are no additional appeals.

#### **IV. Judicial Boards**

The Hearing Chairperson, the University hearing board, and the appeals board have full-delegated authority from the President of the University to hear student disciplinary cases.

**A. Formal Hearing Board:** The formal hearing board is responsible for adjudicating all formal hearings regarding alleged violations of the Student Code of Conduct, which could result in suspension or expulsion.

1. The composition of the formal hearing board will include:

- i. A Hearing Chairperson (selected by the Assistant Vice President/Dean of Students or other designee of the Vice President for Student Affairs). The role of the Hearing Chairperson is to maintain control over the hearing by ensuring orderly and efficient administration of the hearing. Any procedural or process issues are the sole responsibility of the Hearing Chairperson. The Hearing Chairperson controls all questioning, informing the parties and board members when they may ask questions and determining what questions are allowed. In addition, the Hearing Chairperson facilitates discussion, guides board deliberations, and assists the board with rendering a decision and applying consistent sanctioning. The Hearing Chairperson does not vote.
- ii. A three-member combination of Bloomsburg University students, faculty, or staff, selected by the Assistant Vice President/Dean of Students or other designee(s) of the Vice President for Student Affairs.
- iii. In matters relating to Letter G. Disruptive Classroom Conduct, the board will include a minimum of one student and one faculty member.
- iv. Board members are responsible for objectively listening to information provided, evidence, and statements presented during the hearing process. Upon the conclusion of the hearing process, the board discusses first whether or not the respondent is responsible. If the respondent is found responsible, then the board recommends appropriate sanctions, which are then forwarded to the Assistant Vice President/Dean of Students.
- v. Faculty and staff will be selected from a general pool of individuals who have completed required training.
- vi. Students are selected to serve on the board from a pool of interested students who:
  - a. have completed at least 24 credits
  - b. maintain a 2.00 GPA
  - c. maintain good conduct standing
  - d. complete required training

**B. The Appeals Board:** The composition of the appeals board will include a three-member combination of Bloomsburg University students, faculty, or staff, selected by the Assistant Vice President for Student Affairs/Dean of Students or other designee of the Vice President for Student Affairs. Appeal board members must have completed required training. An appeal board will review a judicial case file and all related documentation. The appeal board does not convene an additional or new hearing.

## V. Records

- A. Records include all documents, reports, recordings, letters, or other forms of evidence relating to a student's disciplinary/judicial process.
- B. Access to records (not already provided)
  - a. Access to records shall be limited to the Hearing Chairperson, the complainant, the respondent, and those University personnel approved by the Assistant Vice President/Dean of Students.
  - b. To gain access, a complainant or respondent must submit, in writing, a request to the Assistant Vice President/Dean of Students.
  - c. If access is granted, the requestor may read or listen to the specific approved records under the supervision of the Office of the Dean of Students.
  - d. Any document that includes another student's name or information may be redacted.
  - e. No third party requests for access to recordings or records will be honored.
  - f. No written transcripts or audio copies of the recording will be provided.

## VI. Decisions

1. Student
  - a. After an informal hearing is held regarding violations of the Student Code of Conduct, excluding sexual misconduct (see section VII, f), or an organizational violation (see section C below), the Assistant Vice President/Dean of Students or the Dean's designee makes the decision regarding responsibility and any sanction, if imposed.

- b. In a formal hearing process, the Hearing Chairperson submits the hearing board's recommendation of responsibility and any sanctions to the Assistant Vice President/Dean of Students who will make the final determination of responsibility and sanctions.
- c. Students failing to complete the provisions of a given sanction may face additional sanctions or an administrative hold.
- d. Sanctions may be imposed for a period of time, remains in a student's disciplinary record, and further violations may result in progressive sanctioning.
- e. Decisions and sanctions may include:

**Not a Violation** - No violation of policy occurred.

**Restitution**- A written directive to replace, repair, or make specific compensation for property of the University or member of the University community that was destroyed, damaged, misused or lost.

**Educational Sanctions**- Educational sanctions typically include one or more of the following: program, workshop, personal development workshops, community service, behavioral contract, administrative referral, and other related educational assignments. These sanctions are designed to promote self-awareness of behavior, awareness of appropriate/inappropriate behavior, awareness of institutional expectations, and to educate the student in the specific area of their violation.

**Written Warning**- A written reprimand noting that a policy violation occurred, emphasizing that further violations would result in progressive sanctioning. A student may also be issued a written warning in unique circumstances when a policy violation has not been formally proven, but questionable conduct has occurred. A student receiving a written warning shall continue to exercise the rights and privileges of a student in good standing.

**Disciplinary Warning**- A written reprimand noting that a policy violation occurred emphasizing that further violations would result in progressive sanctioning. Additional stipulations may be imposed that are consistent with the nature of the offense. A student receiving a disciplinary warning shall continue to exercise the rights and privileges of a student in good standing.

**Disciplinary Probation**- An imposed probationary status rendering a student not in good disciplinary standing with Bloomsburg University. Further violations could result in progressive sanctioning. Additional stipulations may be imposed that are consistent with the nature of the offense.

**Alcohol and Other Drug Probation Level One**- An imposed probationary status, noting that a policy violation occurred specific to alcohol or other drugs, thus rendering a student not in good disciplinary standing with Bloomsburg University. Further violations could result in progressive sanctioning, suspension or expulsion. Additional stipulations may be imposed that are consistent with the nature of the offense.

**Alcohol and Other Drug Probation Level Two**- An imposed probationary status, noting that a policy violation occurred specific to a progressive or more serious violation relating to alcohol or other drugs. Thus, rendering a student not in good disciplinary standing with Bloomsburg University. Further violations could result in suspension or expulsion. Additional stipulations may be imposed that are consistent with the nature of the offense.

**Suspension in Abeyance**- The highest probationary status rendering a student not in good disciplinary standing with Bloomsburg University. Further violations will most likely result in suspension or expulsion. Additional stipulations may be imposed that are consistent with the nature of the offense. This is a student's last opportunity to make serious changes in behaviors in order to remain a student at Bloomsburg University.

**Suspension**- The termination of a student's right to register or attend classes for a period, after which the student may return following a re-enrollment process. Suspended students may not be present on University property, or at University sponsored events during the time of suspension. Additional stipulations may be imposed that are consistent with the nature of the offense in order for a student to be eligible for re-enrollment.

**Interim Suspension**- If it is determined that a student's continued presence constitutes an immediate threat of harm to themselves, other students, University personnel, or to University property, the Assistant Vice

President/Dean of Students or Vice President for Student Affairs or other designee may issue an interim suspension of a student from the University. The interim suspension may include temporary suspension of a student's privilege to enter any University property or facility, which could result in being prohibited from attending class. The interim suspension is pending the results of a hearing process. In the event a student is suspended under such conditions, a hearing shall be convened within ten business days, unless extenuating circumstances warrant an extension, in which case a hearing would be provided at the earliest possible date.

**Expulsion-** The permanent termination of a student's enrollment. The student may not be present on University property or attend a University sponsored event.

**Loss of on Campus Housing Privileges-** The student no longer has the privilege of residing in or entering an on campus housing facility. This can be specific to certain housing areas, options, or buildings. Students removed from housing may remain liable for all housing costs and may not be eligible for any refunds.

**Removal from Class-** The student is barred from attending a particular class or may be reassigned to a different section of the same class. Details will be coordinated between the Vice President/Dean of Students or designee and appropriate academic dean and faculty member.

**Loss of Privilege(s)-** Loss of privilege(s) could entail denial of specific rights or opportunities for a designated period of time.

**Counseling Referral-** The student is referred to counseling. A student will be required to sign a waiver to permit a counselor to verify attendance.

## 2. Organization Sanctions

- a. After an informal hearing is held regarding violations of the Student Code of Conduct for an organization, excluding Sexual Misconduct (see Section VII (f) below) The Assistant Vice President/Dean of Students or designee makes the decision regarding responsibility and any sanction, if imposed.
- b. In a Formal Hearing process, the Hearing Chairperson submits a recommendation of responsibility and any sanctions, if imposed to the Assistant Vice President/Dean of Students who will make the determination of responsibility and sanctions.
  - Activities of the organization for past years will be taken into account when applying any sanctions.
  - Organizations failing to complete the provisions of a given sanction may face additional sanctions.
  - When members of an organization are found in violation of the drug policy at the organization's house, meetings, social functions or other activities, the violation may reflect upon the entire organization. The organization as well as the individuals involved may be sanctioned at Alcohol & Drug Disciplinary Probation Level Two. The organization may have its University recognition suspended. The individuals may also be suspended from the university.
- c. Decisions and sanctions may include:

**Not a Violation** - No violation of policy occurred.

**Restitution-** A written directive to replace, repair, or make specific compensation for property of the University or member of the University community that was destroyed, damaged, misused or lost.

**Educational Sanctions-** Educational sanctions typically include one or more of the following: program, workshop, personal development workshops, community service, behavioral contract, administrative referral, and other related educational assignments. These sanctions are designed to promote self-awareness of behavior, awareness of appropriate/inappropriate behavior, awareness of institutional expectations, and to educate the student in the specific area of their violation.

**Written Warning-** A written reprimand noting that a policy violation occurred emphasizing that further violations would result in progressive sanctioning. An organization may also be issued a written warning in unique circumstances when a policy violation has not been formally proven, but questionable conduct has occurred. An organization receiving a written warning shall continue to exercise the rights and privileges of an organization in good standing.

**Organizational Probation Level One-** An imposed probationary status, noting that a policy violation occurred, thus rendering an organization not in good disciplinary standing with Bloomsburg University. Further violations could result in progressive sanctioning, suspension or expulsion. Additional stipulations may be imposed that are consistent with the nature of the offense.

**Organizational Probation Level Two-** An imposed probationary status, noting that a policy violation occurred specific to a progressive or more serious violation. Thus, rendering an organization not in good disciplinary standing with Bloomsburg University. Further violations could result in suspension or expulsion. Additional stipulations may be imposed that are consistent with the nature of the offense.

**Suspension in Abeyance-** The highest probationary status rendering an organization not in good disciplinary standing with Bloomsburg University. Further violations will most likely result in suspension or expulsion. Additional stipulations may be imposed that are consistent with the nature of the offense. This is an organization's last opportunity to make serious changes in behaviors in order to remain a recognized organization at Bloomsburg University.

**Suspension of University Recognition -** Suspension of recognition includes an organization's immediate loss of all rights and privileges associated with University recognition, complete suspension of all organizational activities, and may include conditions for reinstatement of recognition. The organization will be notified that the University no longer recognizes them for a specified period. An organization that violates the terms of the suspension may be subject to permanent revocation of recognition.

**Revocation of University Recognition-** Revocation of recognition includes an organization's permanent loss of University recognition. Organizations that violate policies and regulations or the terms of any previous disciplinary action are subject to permanent loss of recognition.

**Interim Suspension-** If it is determined that an organization's presence constitutes an immediate threat of harm to themselves, other students, University personnel, or to University property the Assistant Vice President/Dean of Students or Vice President for Student Affairs or other designee may issue an interim suspension of an organization from the University. The interim suspension may include temporary suspension of an organization's privilege to use any University property or facility. The interim suspension is pending the results of a hearing process. In the event an organization is suspended under such conditions, a hearing shall be convened within ten business days, unless extenuating circumstances warrant an extension, in which case a hearing would be provided at the earliest possible date.

**Loss of Privileges-** Loss of privileges entails denial of specifies privileges for a designated period of time.

## **VII. Sexual Misconduct Judicial Procedures (refer to The Student Sexual Misconduct [PRP 4790](#))**

The following definitions apply to complaints of sexual misconduct:

### **People Involved:**

1. **Respondent:** The person whose actions are alleged to have violated the Student Code of Conduct and Judicial Process.
2. **Complainant:** The person who is alleging in good faith, the occurrence of a violation of the Student Code of Conduct and Judicial Process.

3. **Advisor:** A person who may advise the complainant or the respondent throughout the judicial/investigation process.

4. **Confidential Resources:** University employees who are not required to report *any* information regarding an incident of alleged sexual violence to the Title IX Coordinator.

5. **Limited Confidential Resources:** University employees who are not required to report *personally identifying* information regarding an incident of alleged sexual violence to the Title IX Coordinator. Only general information such as the nature, date, time and general location of the incident is reported by these individuals.

6. **Mandatory Reporters/Responsible Employees:** All other University employees not identified as confidential or limited confidential resources.

#### **General Terms:**

1. **CONSENT:** "Consent" means words or actions that demonstrate an affirmative, knowing and voluntary agreement to engage in a mutually agreed-upon sexual act. Consent must be informed and freely given. Consent is invalidated when it is forced, coerced, or when a person is physically or mentally incapable of giving consent. For example, a person who is substantially impaired by drugs or alcohol may not be able to consent. Some signs of substantial impairment may include, but are not limited to, loss of balance/inability to walk without stumbling, slurred speech, inability to focus one's vision, vomiting, erratic or extreme behavior, knowledge of person's significant use of drugs or alcohol, or passing out.

Consent is an active, on-going process. It can be withdrawn at any time, and consent for one sexual act does not imply consent for another subsequent sexual act. Consent, a lack of consent or a withdrawal of consent can be expressed by words or actions or both. For example, verbal silence or the absence of physical resistance does not automatically mean someone has consented to a sexual act; nor is physical resistance required for a person to verbally communicate a lack of consent or to withdraw consent.

In reviewing an allegation of sexual misconduct, consent is a critical factor in determining whether there is a violation of this policy. Although all parties must give their consent to any sexual act and it is the best practice for both partners to be responsible for confirming that they have obtained the other's consent, it is the responsibility of the person initiating the sexual act to obtain consent from the other.

During a formal hearing process, the Hearing Chairperson or hearing board may examine the issue of consent from a variety of perspectives, including whether the respondent believed they had obtained consent and whether a reasonable person would have believed that the respondent had obtained consent. Although neither perspective is outcome-determinative for every case, students are strongly advised to be mindful of and conduct themselves according to the reasonable person standard and to avoid any ambiguity in obtaining and giving consent.

The following are clarifying points:

- Consent is required each and every time there is sexual activity;
- Consent to some levels of sexual activity does not imply consent to all levels of sexual activity. Each new level of sexual activity requires consent;
- At any and all times when consent is withdrawn or not verbally agreed upon, the sexual activity must stop immediately;
- The person(s) who initiate(s) a new level of sexual activity is responsible for asking for consent;
- Use of agreed upon forms of communication such as gestures or safe words is acceptable, but must be discussed and verbally agreed upon by all parties before sexual activity occurs;
- A current or previous dating or sexual relationship with the initiator (or anyone else) does not constitute consent;
- Being intoxicated does not diminish one's responsibility to obtain consent;
- Silence, passivity, or lack of active resistance is not consent;

- Intentional use of alcohol/drugs does not imply consent to sexual activity;
- Seductive dancing or sexy/revealing clothing does not imply consent to sexual activity;
- Anyone under the age of 16 cannot give consent;

2. INCAPACITATION: An incapacitated individual cannot give consent. Incapacitation can result from a psychological health condition, voluntary or involuntary intoxication, use of any drug, intoxicant or controlled substance.

An individual must not engage in sexual activity with another person if the individual knows or should have reasonably known that the other person is incapacitated. An individual is considered incapable of giving effective consent when an individual lacks the ability to appreciate the fact that the situation is sexual, or cannot rationally and reasonably appreciate the nature and extent of that situation. One who is unconscious, unaware, asleep, or otherwise helpless, is incapable of giving consent.

3. SEXUAL HARASSMENT: Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other harassing conduct of a sexual nature whether intentional or not.

Sexual harassment occurs when:

- The unwelcome conduct of a sexual nature is sufficiently severe, persistent, or pervasive as to substantially limit or interfere with an individual's work, educational performance, participation in extra-curricular activities, or equal access to the University's resources and opportunities; or
- Submission to the unwelcome conduct of a sexual nature is made either explicitly or implicitly a term or condition of an individual's employment or status in a course, program, or activity; or
- Submission to or rejection of the unwelcome conduct of a sexual nature by an individual is used as the basis for an academic or employment-related decision affecting such an individual; or
- Sexual violence is a form of sexual harassment. Sexual violence refers to physical acts perpetrated without a person's consent or where a person is incapable of giving consent due to the person's use of drugs, alcohol, or disability. Physical sexual acts include rape, sexual assault, and sexual exploitation. Such contact creates an intimidating, hostile, or abusive living, working, or educational environment.

4. SEXUAL ASSAULT/RAPE: Sexual assault, including rape, is any type of sexual act directed against another person that occurs without the consent of the complainant, including where the complainant is incapable of giving consent.

Rape is any penetration, no matter how slight, of the vagina or anus with any object or body part, or oral penetration by a sex organ by a person of any gender or sexual orientation that is without consent.

5. SEXUAL EXPLOITATION: Sexual exploitation occurs when a person takes non-consensual or unfair sexual advantage of another for their own advantage or benefit, or to benefit someone other than the one being exploited.

Examples of sexual exploitation include, but are not limited to:

- non-consensual video, photographing, or audio-taping of sexual activity;
- non-consensual distribution of a video, photograph, or sound recording of sexual activity;
- non-consensual photographing of nudity;
- non-consensual distribution of a nude photograph;
- going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- engaging in peeping or indecent exposure;
- inducing incapacitation through alcohol or drugs in order to sexually assault another person (whether or not sexual contact actually takes place); an example could include "spiking" someone's drink.

6. STALKING: Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to – (A) fear for the person's safety or the safety of others, or (B) suffer substantial emotional distress. For the purpose of this definition:

- “course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.
- “substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.
- “reasonable person” means a reasonable person under similar circumstances and with similar identity to the complainant.

Cyberstalking is another form of stalking where a person engages in a course of conduct using the Internet, e-mail, or other electronic communications devices to pursue or track another person that would cause a reasonable person to – (A) fear for the person’s safety or the safety of others; or (B) suffer substantial emotional distress.

Stalking can include, but is not limited to:

- unwanted telephone calls
- unwanted letters, e-mails, or other forms of communication/messaging
- unwanted or threatening gifts
- pursuing or following a person without his or her consent
- unwanted appearances at a person’s place of residence, school, or work
- surveillance or other types of observation
- use of electronic devices or software to track or obtain private information

7. **DATING VIOLENCE:** Dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the following factors: the length of the relationship, the type of relationship, or the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. It does not include acts covered under the definition of domestic violence.

8. **DOMESTIC VIOLENCE:** Domestic violence is defined as violence committed by a current or former spouse of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabited with the complainant as a spouse or someone similarly situated to a spouse, or by any other person from whom the complainant is protected under the domestic or family violence laws in the jurisdiction in which the act occurred.

### **Interim Status**

If it is determined that a student’s continued presence constitutes an immediate threat of harm to themselves, other students, University personnel, or to University property the Assistant Vice President/Dean of Students or Vice President for Student Affairs or other designee may issue an interim suspension of a student from the University. The interim suspension may include temporary suspension of a student’s privilege to enter any University property or facility. The interim suspension is pending the results of a hearing process. In the event a student is suspended under such conditions, a hearing shall be convened within ten business days, unless extenuating circumstances warrant an extension, in which case a hearing would be provided at the earliest possible date.

### **Informal Complaint Process**

The respondent and the complainant involved in the case are entitled to a prompt, fair, and impartial investigation and resolution within sixty days of a report being filed with The Office of Social Equity or The Office of the Dean of Students, unless extenuating circumstances warrant an extension.

The purpose of the informal complaint process is to encourage the reporting of complaints concerning non-violent sexual misconduct and to facilitate satisfactory resolution of the complaint as quickly as possible. An informal resolution may not be available for complaints of sexual assault, dating violence, domestic violence, and stalking, and may not be appropriate depending on the factual circumstances. A complainant may directly file an informal



complaint with the Office of the Dean of Students, who will screen the complaint and make an initial determination of whether the allegations are appropriate for informal resolution.

If the allegations are not appropriate for informal resolution, the Office of the Dean of Students will inform the complainant that a formal complaint must be filed. If the allegations are appropriate for informal resolution, the Deputy Title IX Coordinator for students or designee, assigned by the Assistant Vice President/Dean of Students, will meet with the complainant and the respondent, along with their advisors (optional), to resolve the complaint. This meeting may be held separately or with all parties. Informal resolution is voluntary and either party has the opportunity to withdraw at any time and the complainant may proceed with a formal complaint.

If an agreement is reached, the Deputy Title IX Coordinator for students or designee will provide a written statement of the resolution to the Assistant Vice President/Dean of Students, Title IX Coordinator, and to both parties involved in the case. If an agreement is not reached, the Deputy Title IX Coordinator or designee will inform the complainant of their right to file a formal complaint and will inform the Assistant Vice President/Dean of Students and Title IX Coordinator of the outcome.

### **Formal Complaint Process**

The respondent and the complainant involved in the case are entitled to a prompt, fair, and impartial investigation and resolution within sixty days of a report being filed with The Office of Social Equity or The Office of the Dean of Students, unless extenuating circumstances warrant an extension.

Once a complainant files a formal sexual misconduct report, an initial fact-finding investigation will be conducted by a trained investigator designated by the Office of Social Equity or the Office of the Dean of Students. The investigator will speak with the complainant, the respondent, and additional individuals with knowledge related to the alleged misconduct. The investigator will also review related evidence such as text messages, phone records, emails, photographs, or videos.

The investigator will draft a factual summary of each person's statement and a list of evidence, noting the source of that evidence. To the extent possible, a copy of all evidence to be included in the report will be attached to the report. The investigator's report will then be provided to both the complainant and the respondent. Within five business days of receiving the report, either party may submit a written response to the report noting any discrepancies or additional information.

In some instances, after the respondent is presented with a formal charge, the respondent may wish to accept responsibility without a hearing. The Office of the Dean of Students or designee will then determine an appropriate sanction and will inform the complainant and the respondent of the proposed sanction. Where the complainant and respondent agree with the sanction, both will be required to sign a statement of agreement and waiver of any right to appeal. Where either the complainant or the respondent do not agree with the proposed sanction, either may insist on a formal hearing and both parties will then retain the right to appeal the outcome of the hearing.

For all other complaints, a formal hearing will be held before the formal hearing board. All hearings are closed and information will be shared only with the necessary decision makers. The purpose of a hearing is to hear the facts and circumstances of the alleged incident and to accept all evidence offered by the complainant and the respondent. In determining whether a sexual misconduct violation has occurred, the formal hearing board applies a preponderance of the evidence standard. That is, the formal hearing board must determine if the testimony and evidence presented suggests that it is more likely than not that sexual misconduct has occurred.

The University reserves the right to hold a hearing even where the respondent or the complainant do not attend ("in absentia") whenever necessary and appropriate. If the hearing is held in absentia, the respondent may not have the opportunity to respond to the alleged violation(s) or the complainant may not have the opportunity to present their case. Should the respondent elect not to appear, it shall not be taken as an indication that the respondent has violated a University policy and must be noted without prejudice. The decision in such cases will be made after considering the evidence available. If the initial complainant is unable or unwilling to participate, the

University may proceed as the complainant where necessary to provide a safe and nondiscriminatory environment for all students.

The Hearing Chairperson is a non-voting member selected by the Assistant Vice President/Dean of Students or other designee of the Vice President for Student Affairs. The role of the Chairperson is to maintain control over the hearing by ensuring orderly and efficient administration of the hearing. Any procedural or process issues are the sole responsibility of the Chairperson. The Chairperson controls all questioning, informing the parties and board members when they may ask questions and determining what questions are allowed. In addition, the Chairperson facilitates discussion, guides board deliberations, and assists the board with rendering a decision and applying consistent sanctioning. Anyone who displays disorderly or disruptive behavior and refuses to comply with the request of the Hearing Chairperson during a hearing will be asked to leave the hearing and could be subject to disciplinary action.

Hearing Chairpersons, the University formal hearing board, and the appeals board have full delegated authority from the President of the University to hear student disciplinary cases.

### **Formal Hearing Procedural Guidelines**

The following procedural guidelines are established for the direction of all sexual misconduct formal disciplinary hearings:

1. Recordings:
  - i. All formal hearings are recorded. Recordings are utilized in the event of an appeal or for the review of the board during their deliberation.
  - ii. Any individual or organization involved in a hearing is not permitted to use any type of recording device to record the formal hearing proceedings. Anyone found recording the proceedings will have the device automatically confiscated, may be removed from the proceedings, and may face additional charges/sanctions.
  - iii. For access to recordings, please see section V. Records.
2. Notification:
  - i. The respondent and the complainant shall be notified, in writing, by an appropriate University official of the alleged violation(s) of a University policy(s) and of how the alleged violation(s) came to the Office of the Dean of Students' attention.
  - ii. The complainant and respondent shall receive written notification of the time and place of the hearing at least three business days prior to the hearing.
  - iii. The complainant and respondent shall receive written statement of charges, with sufficient particularity to enable the respondent to prepare for the hearing, a minimum of three business days prior to a hearing.
  - iv. The complainant and respondent shall receive written notification of all hearing rights, procedures, and responsibilities regarding the judicial process.
  - v. The complainant and respondent shall receive written notification of the hearing results within 10 business days of the conclusion of the hearing, unless extenuating circumstances warrant an extension.
  - vi. The complainant and respondent shall receive written notification of an appeal decision within 20 business days after filing the appeal, unless extenuating circumstances warrant an extension.

For all necessary notifications, the Office of the Dean of Students will make every effort to notify both the complainant and respondent at the same time.

3. Witnesses:
  - i. The complainant and respondent have the right to appear in person and to present information regarding the allegations in the complaint and to call witnesses on their behalf.
  - ii. If witnesses are appearing, the complainant and respondent must present, in writing, the names of the witnesses at least two business days prior to the hearing to the Office of the Dean of Students.

- iii. No hearing participant, including the complainant, respondent, and any witnesses, will be required to answer any question posed.
4. Advisor:
- i. The complainant and respondent have the right to be accompanied by **one** advisor of their choice during any part of the disciplinary proceedings. The University may consult with legal counsel, who may also be present.
  - ii. An advisor may be a faculty, staff or student of the university, legal counsel, parent/guardian, or advisor of record for an organization. The University discourages using an advisor who will also be serving as a witness.
  - iii. If the complainant or respondent wishes to have an advisor, formal written notification must be received by the Office of the Dean of Students at least two business days prior to the hearing.
  - iv. The advisor may provide individual consultation to the respondent or complainant being represented and may suggest questions to that individual. However, the advisor may not directly question any participant, including the complainant, the respondent, witnesses, board members, or the Hearing Chairperson.
  - v. In consideration of the limited role of an advisor and of the compelling interest of the University to expeditiously conclude the matter, the work of the hearing board will not - as a general practice - be delayed due to the unavailability of an advisor.
5. Formal Hearing Board:
- i. The formal hearing board is responsible for adjudicating all formal hearings regarding alleged violations of the Student Code of Conduct, which could result in suspension or expulsion.
  - ii. The composition of the formal hearing board will include:
    - a. A Hearing Chairperson (selected by the Assistant Vice President/Dean of Students or other designee of the Vice President for Student Affairs). The role of the Hearing Chairperson is to maintain control over the hearing by ensuring orderly and efficient administration of the hearing. Any procedural or process issues are the sole responsibility of the Chairperson. The Chairperson controls all questioning, informing the parties and board members when they may ask questions and determining what questions are allowed. In addition, the Hearing Chairperson facilitates discussion, guides board deliberations, and assists the board with rendering a decision and applying consistent sanctioning. The Hearing Chairperson does not vote.
    - b. A three-member combination of Bloomsburg University students, faculty, or staff, selected by the Assistant Vice President/Dean of Students or other designee of the Vice President for Student Affairs.
      - 1. Students are selected to serve on the board from a pool of interested students who:
        - a. have completed at least 24 credits
        - b. maintain a 2.00 GPA
        - c. maintain good conduct standing
        - d. complete required training
      - 2. Faculty and staff will be selected from volunteers, and will have completed required training.
    - c. Board members are responsible for objectively listening to information provided, evidence, and statements presented during the hearing process. Upon the conclusion of the hearing process, the board discusses first whether or not the respondent is responsible. If the respondent is found responsible, then the board recommends appropriate sanctions, which are then forwarded to the Assistant Vice President/Dean of Students.
  - iii. The complainant and respondent will be notified of the members of the respective board a minimum of three business days in advance of the scheduled hearing. A request to disqualify a board member whom the complainant or respondent feels is biased or otherwise involved in the case must be submitted in writing to the Hearing Chairperson and must state the reason for

seeking disqualification. A challenge to the Hearing Chairperson should be submitted to the Assistant Vice President for Student Affairs/Dean or other designee. The Chairperson or the Assistant Vice President for Student Affairs/Dean or other designee will determine the final composition of the board.

6. Formal Hearing Process: Outlined below is an example of the standard formal hearing process.
  - A. Introduction
    - i. The Hearing Chairperson informs all that the proceedings will be recorded.
    - ii. The Hearing Chairperson states date/time/location/purpose of the hearing for the record.
    - iii. The Hearing Chairperson asks members of the board to introduce themselves for the record. The complainant and the respondent are asked if they object to any members of the board.
    - iv. The Hearing Chairperson has complainant and respondent introduce themselves for the record. Advisors, if any, introduce themselves at this time.
  - B. Charges and Statement of the Case
    - i. The Hearing Chairperson reads the charges of policy violations brought against the respondent.
    - ii. The Hearing Chairperson asks the respondent to respond to each charge by saying that the respondent is “responsible” or “not responsible”.
    - iii. The Hearing Chairperson asks the investigator to present a summary of the findings report.
  - C. Complainant Process
    - i. Present Information: The Hearing Chairperson asks the complainant or individual presenting charges to state their case. The complainant may speak from memory or read a written statement, whichever they prefer.
      - i. Questioning: The Hearing Chairperson will then instruct the board that they may ask questions regarding the information presented by the complainant.
      - ii. Once the board is finished with their questions, the Hearing Chairperson will ask the respondent if they have any questions regarding the information presented. All questions from the respondent must be presented to the Hearing Chairperson and will be asked by the Hearing Chairperson at the Chair’s discretion. Questions regarding the complainant’s sexual history with anyone other than the respondent will not be permitted.
      - iii. The board then has a final opportunity to ask questions of the complainant.
    - ii. Witnesses: The complainant then has an opportunity to call witnesses.
      - i. The witness may make a statement and the complainant then has an opportunity to ask questions of their witness.
      - ii. Once the complainant’s questions are complete, the board may ask questions, and the respondent may submit questions to the Hearing Chairperson who will ask the questions at the Chair’s discretion.
      - iii. This process is repeated until all witnesses for the complainant are called and have presented their information.
  - D. Respondent Process
    - i. Present Information: The Hearing Chairperson asks the respondent to state their case. The respondent may speak from memory or read a written statement, whichever they prefer.
      - i. Questioning: The Hearing Chairperson will then instruct the board that they may ask questions regarding the information presented by the respondent.
      - ii. Once the board is finished with their questions, the Hearing Chairperson will ask the complainant if they have any questions regarding the information presented. All questions from the complainant must be presented to the Hearing Chairperson and will be asked by the Hearing Chairperson at the Chair’s discretion. Questions regarding the respondent’s sexual history with anyone other than the complainant will not be permitted.
      - iii. The board then has a final opportunity to ask questions of the respondent.
    - ii. Witnesses: The respondent then has an opportunity to call witnesses.
      - i. The witness may make a statement and the respondent then has an opportunity to ask questions of their witness.

- ii. Once the respondent's questions are complete, the board may ask questions, and the complainant may submit questions to the Hearing Chairperson who will ask the questions at the Chair's discretion.
  - iii. This process is repeated until all witnesses for the respondent are called and have presented their information.
- E. Final Statement
  - i. The complainant and the respondent are each permitted, if they wish, to make a final statement.
  - ii. Once final statements are finished, the Hearing Chairperson dismisses the parties involved and ends the recording.
- F. Decisions:
  - i. The board immediately convenes following a formal hearing to discuss and reach a decision by majority vote.
  - ii. The board applies a preponderance of the evidence standard. That is, the board must determine if the testimony and evidence presented is sufficient to make a reasonable person believe that it is more likely true than not that sexual misconduct has occurred.
  - iii. After a hearing the board may render one of the decisions listed below:
    - i. Not a Violation - No violation of policy occurred.
    - ii. Violation - A violation of policy occurred and was proven by a preponderance of the evidence. In this case, the board may select from the sanctions noted below which can be imposed upon a respondent for a stated specific period of time.
  - iv. The decision is then forwarded to the Assistant Vice President/Dean of Students in the form of a recommendation. The recommendation will be checked for appropriateness and consistency.
  - v. Generally, within 10 business days (unless extenuating circumstances warrant an extension), the Assistant Vice President/Dean of Students will write a formal letter to the complainant and the respondent regarding the decision, setting forth the facts and reasoning with reasonable specificity. The Assistant Vice President/Dean of Students or designee then arranges to separately meet with the complainant and the respondent to deliver and discuss the decision.
- G. Sanctions:
  - i. Students failing to complete the provisions of a given sanction may face additional sanctions or an administrative hold.
  - ii. Sanctions may be imposed for a period of time, remains in a student's disciplinary record, and further violations may result in progressive sanctioning.
  - iii. Where a violation is found by a preponderance of the evidence, the board may impose any one or more of the following:

**Not a Violation** - No violation of policy occurred.

**Educational Sanctions**- Educational sanctions typically include one or more of the following: program, workshop, personal development workshops, community service, behavioral contract, administrative referral, and other related educational assignments. These sanctions are designed to promote self-awareness of behavior, awareness of appropriate/inappropriate behavior, awareness of institutional expectations, and to educate the student in the specific area of their violation.

**Disciplinary Probation**- An imposed probationary status rendering a student not in good disciplinary standing with Bloomsburg University. Further violations could result in progressive sanctioning. Additional stipulations may be imposed that are consistent with the nature of the offense.

**Suspension in Abeyance**- The highest probationary status rendering a student not in good disciplinary standing with Bloomsburg University. Further violations will most likely result in suspension or expulsion. Additional stipulations may be imposed that are consistent with the nature of the offense. This is a student's last opportunity to make serious changes in behaviors in order to remain a student at Bloomsburg University.

**Suspension**- The termination of a student's right to register or attend classes for a period, after which the student may return following a re-enrollment process. Suspended students may not be present on University property, or at University sponsored events during the time of suspension. Additional stipulations may be imposed that are consistent with the nature of the offense in order for a student to be eligible for re-enrollment.

**Interim Suspension-** If it is determined that a student's continued presence constitutes an immediate threat of harm to themselves, other students, University personnel, or to University property the Assistant Vice President/Dean of Students or Vice President for Student Affairs or other designee may issue an interim suspension of a student from the University. The interim suspension may include temporary suspension of a student's privilege to enter any University property or facility. The interim suspension is pending the results of a hearing process. In the event a student is suspended under such conditions, a hearing shall be convened within ten business days, unless extenuating circumstances warrant an extension, in which case a hearing would be provided at the earliest possible date.

**Expulsion-** The permanent termination of a student's enrollment. The student may not be present on University property or attend a University sponsored event.

**Loss of on Campus Housing Privileges-** The student no longer has the privilege of residing in or entering an on campus housing facility. This can be specific to certain housing areas, options, or buildings.

**Removal from Class-** The student is bared from attending a particular class or may be reassigned to a different section of the same class. Details will be coordinated between the Vice President/Dean of Students or designee and appropriate academic dean and faculty member.

**Loss of Privileges-** Loss of privileges entails denial of specifies privileges for a designated period of time.

**Counseling Referral-** The student is referred to counseling. As student will be required to sign a waiver to permit a counselor to verify attendance.

## Appeals

Appeals must be filed in writing to the Office of the Dean of Students within three business days after receiving an official written notice of sanction, unless extenuating circumstances warrant an extension as determined by the Assistant Vice President for Student Affairs/Dean of Students or designee.

1. Reasons for appeals:
  - A. New evidence
    - i. Cannot have been available at the time of the initial hearing
    - ii. The appeal must indicate in detail what new evidence exists
  - B. Disciplinary action disproportionate to the violation
    - i. The appeal must specify and describe why the disciplinary action is disproportionate to the violation
  - C. Denial of due process
    - i. The appeal must specify and describe how due process was denied
2. Appeals are heard by a professional staff member, who has no prior relation to the case, designated by the Assistant Vice President for Student Affairs/Dean of Students or Vice President for Student Affairs.
3. After review of the written appeal, the designee has the following options:
  - A. Deny the appeal
  - B. Uphold the decision(s)/sanctions(s)
  - C. Amend the decisions(s)/sanctions(s)
  - D. Convene an appeal board (only applicable for cases that resulted in suspension or expulsion)
4. Decisions of the appeal status will be issued to the respondent and complainant in writing fifteen business days after receipt of the appeal, unless extenuating circumstances warrant an extension.
5. Appeal Board:
  - A. If an appeal board is convened, the appeal board will review the case file and all related documentation. An additional hearing is not held.
  - B. The appeal board can have access to the original recording of the related hearing if applicable.
  - C. The appeal board has the option to:
    - i. Deny the appeal
    - ii. Uphold the decision(s)/sanctions(s)

- iii. Amend the decisions(s)/sanctions(s)
6. Upon the denial of an appeal any initial decisions(s)/sanction(s) shall be immediately implemented.
7. There are no additional appeals.

## **Records**

- A. Records include all documents, reports, recordings, letters, or other forms of evidence relating to a student's disciplinary/judicial process.
- B. Access to records (not already provided)
  - a. Access to records shall be limited to the Hearing Chairperson, the complainant, the respondent, and those University personnel approved by the Assistant Vice President/Dean of Students.
  - b. To gain access, a complainant or respondent must submit, in writing, a request to the Assistant Vice President/Dean of Students.
  - c. If access is granted the requestor, may read or listen to the specific approved records under the supervision of the Office of the Dean of Students.
  - d. Any document that includes another student's name or information may be redacted.
  - e. No third party requests for access to recordings or records will be honored.
  - f. No written transcripts or audio copies of the recording will be provided.

Bloomsburg University does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity, age, national origin, ancestry, disability, or veteran status in its programs and activities as required by Title IX of the Educational Amendments of 1972, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Title VII of the Civil Rights Act of 1964, and other applicable statutes and University policies.

For information regarding civil rights or grievance procedures and for inquiries concerning the application of Title IX and its implementing regulation, contact: Title IX Coordinator, Bloomsburg University of Pennsylvania, Warren Student Services Center, 400 East Second Street, Bloomsburg, PA 17815; Phone: (570) 389-4529; Email: [titleixcoord@bloomu.edu](mailto:titleixcoord@bloomu.edu).

Additionally, inquiries concerning Title IX and its implementing regulation can be made to the U.S. Department of Education, Office of Civil Rights, Region III, The Wanamaker Building, 100 Penn Square East - Suite 505, Philadelphia, PA 19107; Phone: (215) 656-6010; Fax: (215) 656-6020.