UNIVERSITY DISCIPLINARY PROCESS FOR ALLEGED VIOLATIONS OF STUDENT CODE OF CONDUCT

PREAMBLE: This section outlines UI's student disciplinary system to inform students of the University process for resolving alleged violations of the Student Code of Conduct. In July 1993 membership and quorum was changed on the University Judicial Council and July 2008 the committee composition was moved into FSH 1640 Committee Directory. This section dates from the 1979 Handbook with relatively minor revisions as noted until 2014. In 2014 the Dean of Students Office, General Counsel, and a sub-committee of University Judicial Council and Faculty Senate, conducted a thorough review of all policies related to the Student Code of Conduct. All disciplinary language from FSH 2200 Statement of Student Rights and FSH 2300 Student Code of Conduct was consolidated into this policy and updated removing redundancies in policy. In July 2016, the taskforce was reconvened to review the new process and address some cumbersome processes that arose which were affecting the ability to resolve cases quickly. It was also noted that a complete review was necessary and the task force reconvened. In 2017, the task force provided this complete rewrite that found middle ground between the early 1970's court trial format and the strong investigative model which had unintentionally created many delays to this less confrontational investigative model. The objective is to provide a process that allows for fact-finding and decision-making that balances the rights of the individual with the legitimate interests of the University. For further information, contact the Dean of Students (208-885-6757). [rev. 7-08, 7-14, rev. 10-17]

Note: While the disciplinary process contained in FSH 2400 is uniquely crafted to meet the University of Idaho’s individual needs, portions of the process and Code are adapted from the NCHERM Group Model Developmental Code of Student Conduct and is used here with permission. Other portions are adapted from Edward N. Stoner II and John Wesley Lowery, Navigating Past the “Spirit of Insubordination”: A Twenty-First Century Model Student Conduct Code With a Model Hearing Script, 31 Journal of College and University Law 1 (2004).

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A. INTRODUCTION. The purpose of the Student Code of Conduct (Code) is to help protect the safety of the University community and educate students about appropriate and responsible behaviors, and to do so in a manner designed to educate students about their civic and social responsibilities as members of the University community, while complying with applicable state and federal laws and institutional policy. The primary focus of the disciplinary process is on educational and corrective outcomes; however, sanctions including such as suspension or expulsion from the University may be necessary to uphold community standards and to protect the campus community. University discipline is not in the nature of punishment for a crime, and the University’s discipline process is not equivalent to state or federal criminal prosecutions. University disciplinary proceedings for any and all matters encompassed within the Student Code of Conduct (“Code”) [FSH 2300] and the Statement of Student Rights [FSH 2200] are addressed handled by the system under the following rules and regulations.

B. DEFINITIONS:

B-1. Advisor: the person of the student’s choosing who has agreed to advise the student during the University disciplinary process and attend scheduled meetings with the student. Students should choose an advisor who is available to attend any scheduled meetings, because advisor availability is not considered in scheduling meetings. The Advisor’s role is simply to advise the student, and the Advisor is not permitted to speak during hearings, conferences, or interviews unless allowed by the University official conducting the interview.
B-2. **Chief Student Affairs Officer (CSA Officer):** the Dean of Students, unless the President appoints a different official to serve as the CSA Officer.

B-3. **Code:** the Student Code of Conduct, which is currently found in FSH 2300 and FSH 2400.

B-4. **Complainant:** the person(s) reportedly harmed by the Respondent’s alleged violation of the Code.

B-5. **Days:** days when the university is open for business, not including Saturdays, Sundays, Fall Recess, Winter Recess, Spring Recess, or University holidays. Time deadlines may be extended during breaks, University holidays, and for extenuating circumstances (e.g., non-Moscow locations) at the Dean of Students’ discretion.

B-6. **Investigator:** the person assigned by the University to conduct an investigation into a report of a violation of the Code. In all Title IX cases, the Title IX Coordinator shall assign the investigator. In all other cases, the investigator may be any qualified person assigned by DOS.

B-7. **Student Conduct Administrator (Administrator):** the official at the University of Idaho who has been designated by the CSA Officer to serve in this role. It shall also include the Administrator’s designee.

B-8c. **DOS:** the Office of the Dean of Students at the University of Idaho, which is responsible for the administration of the Student Code of Conduct, and includes the Dean of Students and his/her designees.

B-9. **Hearing Officer:** a person appointed by the Administrator to serve as the person presiding over a hearing in accordance with Section G.

B-10. **Parties:** the Respondent and, in Title IX cases only, the Complainant.

B-11. **Respondent:** the student who is alleged to have violated the Code.

d. **“Educational Setting”** refers to all the academic, educational, extracurricular, athletic and other programs of the University of Idaho, whether those programs take place in a University facility, at a University class or training program, or elsewhere.

e. **The Family Educational Rights and Privacy Act of 1974 (“FERPA”):** is a federal law that governs the confidentiality of student education records.

f. **Group:** a number of students who are associated with each other, but who have not complied with University requirements for registration as an organization.

g. **Interviews/meetings/hearings:** Students at the Moscow campus will meet in person with DOS or hearing boards. Students at other locations will have the option to connect with DOS or hearing boards via visual medium (i.e., Lync or Skype). Exceptions may be made for extenuating circumstances.

h. **Notice:**
   (1) Any notice required by the Student Code of Conduct shall be provided in writing via email to the student’s official email account (i.e., *@vandals.uidaho.edu*).
   (2) Students who do not have an official email account will receive notice via any email account the student provided the university.
   (3) Notice is deemed received the day after it is sent by email.

i. **Organization:** any number of persons who have complied with the formal requirements for University recognition.

B-12. **Student:** includes, but is not limited to, all persons admitted to the University, either full-time or part-time, to pursue undergraduate, graduate, or professional studies, and includes non-degree seeking students.
following persons are also considered “students”:

a. Persons who withdraw after allegedly violating the Student Code of Conduct;

b. Persons who are eligible to enroll for classes without submitting an application for re-admission;

c. Not officially enrolled for a particular term but who have a continuing relationship with the University;

d. Individuals participating in Independent Study of Idaho sponsored by the University of Idaho, the University of Idaho International Student Success Program (UI-ISSP), or any other similar educational program of the University.

B-13. Student Code of Conduct Board (SCB): the body which reviews student disciplinary matters, as set forth in sections D, E, and F. and FSH 1640.83 herein referred to as “Code” (see FSH 2300).

B-14. Title IX case: any disciplinary case, investigation, charge, or allegation involving alleged dating violence, domestic violence, sexual assault, sexual harassment, or stalking. The Title IX Coordinator may also designate any other case as a Title IX case. UI’s Office of General Counsel: herein referred to as “General Counsel” and includes any staff members.

B-15. University: the University of Idaho, which includes in all of its campus locations, education, outreach and research programs, including extension programs, and distance education programs, and at all locations where any of these programs are offered or administered.

B. REVIEWING BODIES. The disciplinary system consists of the following: SDRB, Student Appeals Committee, President, and Regents. [rev. 7-16]

B-1. SDRB. (see FSH 1640.93)

a. Scope of Responsibility.

(1) A review panel of the SDRB adjudicates the following: [rev. 7-16]

(a) Any alleged violation of the Code that may not be appropriately handled within the living-group disciplinary body or that is not otherwise resolved by DOS.

(b) Any alleged violation of ASUI rules and regulations not specifically designated to be adjudicated elsewhere.

(c) Any matter that a living-group disciplinary body declines to adjudicate.

(2) A review panel of the SDRB adjudicates requests for review of decisions of living-group disciplinary bodies and requests for review of decisions of any ASUI disciplinary bodies. [rev. 7-16]

b. Range of Sanctions. The SDRB panel has the full range of sanctions set forth in D below. [ed. 7-16]

B-2. Student Appeal Committee. (see FSH 1640.83) Three members of the Student Appeals Committee review SDRB decisions that include a sanction of suspension, expulsion, or withholding or revoking a degree. [rev. 7-16]

B-3. President. The President’s office adjudicates requests for review of Student Appeals Committee decisions. [rev. 7-16]

B-4. Board of Regents. The Board of Regents adjudicates final decisions made at the institutional level in accordance with Board of Regents policy.

C. PROCEDURES/INVESTIGATION:

All deadlines provided below are default provisions and are subject to change by written agreement of both parties. Failure to abide by any deadline will not be grounds for dismissal of the allegations.
C-1. Reporting of Alleged Violations and Initial Investigation by DOS. a. Reporting Alleged Violations. Any person member of the University community who has knowledge of a potential violation of the Code may report the violation to either DOS or, in Title IX cases, to the Title IX Coordinator. A report should be in writing, but may be reported orally to the appropriate University official. A report should be submitted as soon as possible after the event takes place.

C-2b. Initial Investigation. The University may conduct an investigation into any report of a violation of the Code. The purpose of the investigation is to determine whether a violation may have occurred and to gather relevant information concerning each allegation of a Code violation.

(1) Students who are suspected of violations may be interviewed by DOS, but they must be informed by DOS at the beginning of such interview of the right to not speak to DOS and the reason for the interview. No form of coercion or harassment shall be used in the interview.

(2) When a student is being interviewed by a third party and DOS is observing such interview, the student must be informed of the fact that DOS is observing and informed of the right to not speak to DOS.

(3) DOS may speak with witnesses of the alleged incident, as well as the persons injured by the alleged violation. Any witness or other person having knowledge of the alleged violation may provide DOS with any relevant information or materials.

(4) When the allegations in a student’s complaint include Sexual Harassment or Gender-Based Harassment, DOS must investigate the incident and take immediate steps to protect the persons who were injured by the alleged violation in the Educational Setting.

(5) DOS may delay fact-finding while law enforcement authorities are gathering evidence; once notified that law enforcement has completed gathering evidence, DOS must promptly resume fact finding. DOS may not await the ultimate outcome of a law enforcement investigation or the filing of charges before resuming or beginning fact finding.

C-3c. Notice of Alleged Violation. The investigator may conduct a preliminary review to determine whether there is sufficient information to engage in a formal investigation. The preliminary review may include interviewing the Complainant, Respondent, and other witnesses. If, after the conclusion of the preliminary review, the investigator decides to engage in a formal investigation, the investigator must notify the Respondent of the allegation. If DOS determines that the allegation is credible, DOS shall provide the student accused of violating the Code with written notice of the allegation. Such notice shall include:

a. the notice must be in writing and may be delivered either in person to the Respondent, or by email to the student’s official University email account. If the notice cannot be delivered either in person or to the student’s official University email account, the notice shall be delivered by any means reasonably likely to reach the student,

b. the notice shall inform the Respondent of the specific provision(s) of the Code the Respondent is alleged to have violated and include a short description of the basis of the alleged violation,

c. The notice will include a copy of the University Disciplinary Process for Alleged Violations of the Student Code of Conduct.

(3) a time and date that does not conflict with the student’s class schedule to meet with DOS to discuss the allegations,

(4) a statement that the student may have an advisor present with him/her at the meeting,

(5) a statement that the student does not have to speak with DOS about the allegation(s),

(6) a statement that failure to show up for the meeting or to contact DOS to reschedule the meeting will be presumed to be the student’s exercise of his/her right to not speak to DOS, and

(7) a statement that the investigation and determination regarding the allegation will proceed regardless of whether the student speaks with DOS.

C-4d. Meeting with DOS Investigator. The investigator must give the Respondent an opportunity to meet with the investigator in person within a reasonable time after the notice of allegation is delivered to the Respondent in order to give the Respondent an opportunity to respond to the notice, present information in his or her defense, present any information the Respondent would like the investigator to consider, and provide the names of
any witnesses the Respondent would like the investigator to contact DOS regarding the allegations, unless DOS has already interviewed the student (see C-1. b above). Except where the student agrees otherwise, the meeting with DOS may be scheduled no sooner than 2 days after receiving notice by email.

At this meeting, the student is given the opportunity to give his/her account of the incident leading to the allegation(s), and to provide DOS with the names and contact information of individuals who have personal knowledge of the incident or circumstances pertaining to the allegation(s). The student may have an advisor present at this meeting. If the student does not appear for his/her meeting and fails to contact DOS to reschedule before the meeting time, it will be presumed that the student has exercised his/her right to not speak to DOS.

C-5e. Investigation & Determination. At any time during the investigation, either the Complainant or the Respondent may, but is not required to, provide information to the investigator for the investigator to consider. Such information may include documentary information, the names of witnesses, witness statements, suggested questions to ask the other Party or other witnesses, etc. Only information that is presented to the investigator may be used in a hearing under section D. After the meeting time has passed, DOS shall continue its investigation of the allegations. DOS may speak with witnesses of the alleged incident, as well as the persons injured by the alleged violation. Any witness or other person having knowledge of the alleged violation may provide DOS with any relevant information or materials. When allegations include sexual harassment or gender-based harassment, both parties should receive periodic updates from DOS. Many factors influence the time spent on investigating allegations with most being concluded within 60 days following receipt of the allegation(s).


a. At the conclusion of the investigation, the investigator shall draft a Preliminary Report of Investigation (Preliminary Report) setting forth the steps taken during the investigation; a list of witnesses contacted; a detailed summary of any witness interviews; a detailed summary of any interviews of the Respondent and/or Complainant; a detailed summary of any other information considered as part of the investigation; and complete copies of any relevant documentary evidence gathered during the investigation, including copies of documentary information provided by the Respondent and/or the Complainant.

b. The Preliminary Report shall not include any conclusions, findings, or credibility analysis.

c. The parties shall be provided an opportunity to review the Preliminary Report and may provide a written response to the Preliminary Report within five days of the review of the report. A party shall be deemed to have waived the right to review the report if the party does not make arrangements with the investigator to review the report within five days of being notified that the report is available to be reviewed. The written response may include requests for additional investigation, additional witnesses to interview, or additional questions to ask any witness.

d. After the time for submitting a written response to the Preliminary Report has passed, the investigator shall review any responses received and determine whether additional investigation is needed. If additional investigation is deemed appropriate, the investigator shall draft a revised Preliminary Report and shall give the parties an opportunity to review the report, as set forth in section C-6. c., above.

e. After reviewing any written responses received within the time period allowed for submitting written responses, the investigator shall either continue the investigation or draft a Final Report of Investigation. The investigator has sole discretion of determining whether sufficient information has been obtained in order to end the investigation process.

If the student accepts the determination made by DOS and the sanctions imposed, the student will sign an agreement to that effect within 5 days of receiving notice of the determination and sanctions. This agreement will contain language that informs the student of the following:

(i) that the determination and sanctions are final;
(ii) that the sanctions go into effect immediately; and
(iii) that the student waives his/her right to request a review of the determination and sanctions.
(2) If the student does not accept the determination made by DOS and the sanctions imposed, and does not sign an agreement to that effect within 5 days of receiving notice of the determination and sanctions, then:

(i) If the sanctions determined appropriate by DOS does not include suspension, expulsion, or withholding or revoking a degree, then the process continues in accordance with C-2.

(ii) If the sanctions determined appropriate by DOS include suspension, expulsion, or withholding or revoking a degree, then the process continues in accordance with C-3.

(3) At the conclusion of each semester, DOS shall provide a descriptive written report to the SDRB summarizing the accepted determinations entered into during the course of the semester. This report will also be forwarded by DOS to the Faculty Secretary.

(4) When allegations include sexual harassment or gender based harassment both parties receive a response regarding the outcome of the complaint within 10 business days following the decision.

C-7. Final Report of Investigation. The Final Report of Investigation (Final Report) shall contain everything included in the Preliminary Report plus complete copies of any written responses received within the time period allowed for submitting written responses, a credibility analysis, recommended findings, and recommended conclusion (see below) as to whether the Respondent violated the Code. If the Final Report includes a recommended finding that the Respondent violated the Code, the Final Report shall not include recommended sanctions. The Final Report shall be provided to the Administrator. The Administrator shall provide the Final Report simultaneously to the parties.

a. Credibility Analysis. The Final Report should include an analysis of the statements provided by each party and interviewee, as necessary, to determine whether the statements provided by that person are credible. The analysis may include a description of the person’s demeanor during the interview(s), a comparison of statements made to known facts or statements from other witnesses, the person’s ability to observe the event described, the person’s bias, whether the person was under the influence of a controlled substance or alcohol, and any other information that a reasonable person would use in his or her everyday affairs to determine a person’s credibility. Not every case will require a detailed credibility analysis of each interviewee, and the credibility analysis may be part of the particular finding. However, in cases where the credibility of the interviewee is material to the conclusion, there should generally be a separate credibility analysis.

b. Recommended Findings. The investigator’s recommended findings regarding factual issues shall include a description of the basis for each finding. Each finding shall be based on a more likely than not standard and should include information from the interviews, documentary information obtained during the investigation, and, if relevant to that finding, information regarding the credibility of the Respondent, Complainant and/or witnesses.

c. Recommended Conclusion. In making a recommended conclusion, the investigator must apply the Code to the findings to reach a determination of whether the findings as found by a more likely than not standard constitute a violation of the Code.

D-2. HEARING PROCESS Requests for a SDRB review for sanctions other than suspension, expulsion, or withholding or revoking a degree.

D-1. Student Conduct Administrator’s Review:

a. After the Final Report is submitted to the Administrator, the parties may each submit a written response to the Final Report. This response must be provided to the Administrator no later than five days after the Final Report is provided to the parties. The Administrator may meet with the parties, separately, to discuss the Final Report.

b. A party may request that the matter be referred to the SCB for a hearing. The request must be submitted within five days after the Final Report is provided to the parties. If a party timely submits a written request for the matter to be referred to the SCB, the Administrator shall inform the party of the decision and sanctions via email. If a party fails to submit a written request for the matter to be referred to the SCB, the Administrator shall notify the party of the decision and sanctions via email.
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in a Failure to Seek Review Letter:

(i) In non-Title IX cases, the Administrator shall refer matters to the SCB for a hearing if:
   (1) The Administrator determines that there is sufficient information in the Final Report such that a finding could be made that the Respondent violated the Code; and
   (2) The Administrator determines that the appropriate sanction could include suspension, expulsion, or the withholding or revoking of a degree.

(ii) In Title IX cases, the Administrator shall refer matters to the SCB for a hearing in matters in which the Administrator determines that there is sufficient information in the Final Report such that a finding could be made that the Respondent violated the Code.

(iii) In all other cases, the Administrator shall decide whether the Respondent violated the Code.

c. If a matter is not referred to the SCB for a hearing:

(i) The Administrator shall decide whether the Respondent violated the Code. The Administrator shall make the decision based on the information contained in the Final Report, the written responses to the report, if any, submitted to the Administrator by the parties, and, if the Administrator chooses to meet with the parties, the information provided at the meeting to the Administrator by the parties.

(ii) The Administrator should adopt the findings and credibility analysis contained in the Final Report, unless the Administrator finds that the findings or credibility analysis are not more likely than not to be true. Any additional or different findings issued by the Administrator must be based on a more likely than not standard.

(iii) The Administrator is not required to defer to the recommendation contained in the Final Report as to whether the Respondent violated the Code, but is entitled to freely apply the Code to the findings in order to determine whether the Respondent violated the Code.

(iv) If the Administrator determines that the Respondent violated the Code, the Administrator shall determine the appropriate sanction.

(v) The Administrator’s decision shall be in writing and include the basis for the decision. The written decision shall be simultaneously provided to the parties.

(vi) The Administrator’s decision may be appealed in accordance with section E.

d. At any time before the matter is submitted to the SCB, DOS may refer a charge of a violation of the Code to mediation or other forms of appropriate conflict resolution. All parties must agree to participate with DOS in the conflict resolution process. Complaints of physical sexual misconduct or violence shall not be referred for alternative resolution under this paragraph, except in unique circumstances approved by the Title IX Coordinator after consultation with the Office of General Counsel and the CSA Officer.

(1) that the determination and sanction imposed by DOS is the final institutional decision,

(2) that the sanctions go into effect immediately, and

(3) that the student may request a review by the Board of Regents pursuant to C-9.b. The written request for a SDRB review must cite at least one of the following reasons for the review and must provide supporting arguments and documentation as to why a SDRB review should be granted on those grounds:

(1) DOS failed to properly investigate the allegation and such failure was both substantial and to the student’s detriment,

(2) DOS’ finding of a violation of the Code is not supported by a preponderance of the evidence; [rev. 7-16]

(3) The sanctions are excessive for the violation given the circumstances. Simple dissatisfaction with a
in Title IX cases, the Administrator shall decide whether the Respondent violated the Code. The Administrator shall make the decision based on the information contained in the Final Report, the written responses to the report, if any, submitted to the Administrator by the parties, and, if the Administrator chooses to meet with the parties, the information provided at the meeting to the Administrator by the parties.

(2) The Administrator determines that the appropriate sanction could include suspension, expulsion, or the withholding or revoking of a degree.

(2) The Administrator does not determine that the appropriate sanction could include suspension, expulsion, or the withholding or revoking of a degree;

(3) In all other cases, the Administrator shall decide whether the Respondent violated the Code.

c. If a matter is not referred to the SCB for a hearing:

(i) The Administrator shall decide whether the Respondent violated the Code. The Administrator shall make the decision based on the information contained in the Final Report, the written responses to the report, if any, submitted to the Administrator by the parties, and, if the Administrator chooses to meet with the parties, the information provided at the meeting to the Administrator by the parties.

(ii) The Administrator should adopt the findings and credibility analysis contained in the Final Report, unless the Administrator finds that the findings or credibility analysis are not more likely than not to be true. Any additional or different findings issued by the Administrator must be based on a more likely than not standard.

(iii) The Administrator is not required to defer to the recommendation contained in the Final Report as to whether the Respondent violated the Code, but is entitled to freely apply the Code to the findings in order to determine whether the Respondent violated the Code.

(iv) If the Administrator determines that the Respondent violated the Code, the Administrator shall determine the appropriate sanction.

(v) The Administrator’s decision shall be in writing and include the basis for the decision. The written decision shall be simultaneously provided to the parties.

(vi) The Administrator’s decision may be appealed in accordance with section E.

d. At any time before the matter is submitted to the SCB, DOS may refer a charge of a violation of the Code to mediation or other forms of appropriate conflict resolution. All parties must agree to participate with DOS in the conflict resolution process. Complaints of physical sexual misconduct or violence shall not be referred for alternative resolution under this paragraph, except in unique circumstances approved by the Title IX Coordinator after consultation with the Office of General Counsel and the CSA Officer.

(1) that the determination and sanction imposed by DOS is the final institutional decision,

(2) that the sanctions go into effect immediately, and

(3) that the student may request a review by the Board of Regents pursuant to C-9.b. The written request for a SDRB review must cite at least one of the following reasons for the review and must provide supporting arguments and documentation as to why a SDRB review should be granted on those grounds:

(1) DOS failed to properly investigate the allegation and such failure was both substantial and to the student’s detriment,

(2) DOS’ finding of a violation of the Code is not supported by a preponderance of the evidence; [rev. 7-16]

(3) The sanctions are excessive for the violation given the circumstances. Simple dissatisfaction with a
sanctions imposed will become final, this is deemed a final institutional decision, and the student may request a review by the Board of Regents pursuant to C-9, within 5 days of receiving notice of the SDRB denial.

(2) decide to adjudicate the request based on written submissions only, the SDRB panel shall inform both the student and DOS of its determination. SDRB may request additional information or documentation from the student or DOS. For reviews involving written submissions only, SDRB will provide DOS with a reasonable amount of time to present any information or materials (generally no more than 5 days).

(3) decide to hold a hearing. The SDRB panel chair will schedule the hearing to occur no later than 10 days after the panel’s decision to adjudicate the request through a hearing, at a time that does not conflict with the student’s class schedule. The SDRB panel chair shall not consider the availability of any advisor in setting the hearing date and time. Both the student and DOS must submit any materials intended to be introduced and considered at the hearing to both SDRB panel chair and the other party by noon pacific time of the day before the hearing. Only materials submitted to both the SDRB panel chair and the other party by the deadline may be introduced and considered at the hearing. The hearing will be conducted in accordance with C-4.

C-3. Scheduling a SDRB hearing for a student sanctioned with suspension, expulsion, or withholding or revoking a degree.

a. DOS will notify the Chair of SDRB that a hearing is necessary because the student did not agree to the determination made by DOS and the sanctions included suspension, expulsion, or withholding or revoking a degree.

b. Upon receiving notice from DOS, the Chair of SDRB will appoint an SDRB panel of three members and a panel chair. The Chair of SDRB shall promptly notify DOS and the other parties of the members of the panel and the chair.

c. DOS shall be responsible for maintaining a record of all the panels, their assignment, and shall monitor whether the required notifications under the disciplinary process have taken place.

d. The panel chair will schedule the hearing to occur no later than 10 days after being notified by DOS of the need for a hearing, at a time that does not conflict with the student’s class schedule. The 10 days can be extended under compelling circumstances. Both DOS and the student may have an advisor present at the hearing. However, the SDRB panel chair shall not consider the availability of any advisor in setting the hearing date and time.

e. Both the student and DOS must submit any materials intended to be introduced and considered at the hearing to both the SDRB panel chair and the other party by noon pacific time of the day before the hearing. Only materials submitted to both the SDRB panel chair and the other party by the deadline may be introduced and considered at the hearing. The hearing will be conducted in accordance with C-4.

D-2. C-4. SDRB Disciplinary Student Conduct Board Hearing Process:

a. In matters referred to the SCB, the Administrator (or designee) must send written notice to the SCB and the parties.

   (i) The notice shall be in writing and may be delivered either in person to the parties, or by email to the student’s official University email account. If the notice cannot be delivered either in person or to the student’s official University account, the notice may be delivered by any means reasonably likely to reach the student.

   (ii) The notice must inform the Respondent of the specific provision(s) of the Code the Respondent is accused of violating, and include a short description of the basis of the alleged violation, the date and time for the hearing, and the deadline for submitting written materials to the Administrator.

   (iii) The written notice shall also include the Final Report and any responses to the Final Report which were timely submitted to the Administrator.

b. Except in cases referred to a Hearing Officer under Section G, the chair of the SCB shall appoint three to five members of the SCB to serve as a Hearing Panel to review each matter.

   (i) The chair of the SCB shall appoint one of the Hearing Panel members to serve as chair of the panel. A student may not serve as chair of a Hearing Panel.
(ii) The Administrator (or designee) shall serve as a non-voting, ex-officio member of every Hearing Panel and may be present and available as a resource during all deliberations. The Administrator is responsible for informing the panel of any previous conduct violations or other relevant disciplinary actions involving the Respondent.

c. In every case submitted to a Hearing Panel, the parties may submit written materials for the panel to review as part of its decision. To be considered by the Hearing Panel, all written materials must be submitted to the Administrator prior to the deadline set forth in the notice. The Administrator shall ensure that any materials timely submitted are distributed to the parties and the Hearing Panel prior to the hearing. The written materials may only consist of the following:

(i) Suggested questions for the panel to ask the Respondent or the Complainant;
(ii) Written discussion or argument addressing the information contained in the Final Report;
(iii) Information (as opposed to a discussion of the information contained in the report) that was not considered by the investigators in the Final Report only if the information was not available prior to the completion of the Final Report or if the information was provided to the investigator prior to the completion of the investigation but the information was not included in the Final Report.

D-3. Hearing Procedures. The purpose of a SDRB hearing is to determine whether, by a preponderance of the evidence (the “standard”), the student violated the Code. [rev. 7-16]

a. In hearings involving more than one student, the Chair of the SDRB has the discretion to permit the hearings concerning each student to be conducted before two separate SDRB panels. [rev. 7-16]

b. The SDRB panel chair may issue a notification to any UI student requiring such individual to appear at a SDRB hearing as a witness. Such notification will be delivered in accordance with A-1.f. The notification shall inform the student that it is a violation of the Code to

(1) fail to appear or to refuse to speak as a witness, unless such act would force the student to speak against himself/herself, in which case the student must promptly notify the SDRB panel chair that the student will not appear or speak for this reason; [rev. 7-16]
(2) disrupt, impede, threaten, or disregard the procedures of the SDRB; and
(3) provide information to the SDRB that the student knows or should know to be false.

When a student notifies the SDRB panel chair pursuant to (1) above, the chair shall promptly notify both parties. [rev. 7-16]

c. A student’s failure to appear at the SDRB hearing or to speak as a witness will have no bearing on the question of whether the student violated the Code and may not be used to conclude that a violation occurred, except as to allegations of failure to appear (see FSH 2300 Article I.A.5.h).

d. DOS shall record the audio of the SDRB hearing. The audio record will be the property of the UI, will be maintained by DOS, and will be used in accordance with applicable privacy laws. [rev. 7-16]

e. Relevancy is the only criteria by which information submitted is evaluated. Relevancy is determined by the SDRB panel chair. All oral or written information statements, records, etc., as well as copies of the same, shall be considered by members of the SDRB panel as long as the SDRB panel chair determines that such items are relevant. [rev. 7-16]

(1) Second-hand information is relevant if it is of the type commonly relied upon by prudent persons in the conduct of their affairs.
(2) Character witnesses who lack knowledge of the incident being heard or circumstances pertaining to the allegations lack relevant information and therefore may not be witnesses at the hearing.
(3) Any person present at the SDRB hearing may ask the SDRB panel chair to determine whether any oral or written information, statement, record, etc. or question or answer is relevant. [rev. 7-16]
(4) All questions regarding SDRB hearing procedures and determinations of relevancy are subject to the final decision of the SDRB panel chair. [rev. 7-16]

f. The Chair of SDRB or any SDRB panel chair may request assistance by General Counsel regarding any
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questions of SDRB hearing procedures and determinations of relevancy. [rev. 7-16]

a. The hearing shall be held at the time and place listed in the notice. The hearing shall be held no less than five days after the notice is provided to the parties.

b. All hearings are closed to the public. The only people allowed to be present during the hearing are the parties, each individual party’s Advisor, the investigator(s), the Administrator, the Title IX Coordinator (or designee) in Title IX cases, one or more attorneys from the Office of General Counsel, and the members of the Hearing Panel. The panel chair may give permission for others to attend the hearing in the panel chair’s discretion, after consultation with the Administrator.

c. The only witnesses at the hearing shall be the investigator(s), the Complainant, and the Respondent. In non-Title IX cases, the Complainant may only be present during the portion of the hearing where the Hearing Panel questions the Complainant, unless the chair determines in appropriate cases that the Complainant may remain for the entire hearing. In extraordinary circumstances, if the investigator is unable to be present at the hearing, the DOS may designate a representative to be there in the place of the investigator. Neither the Complainant nor the Respondent are required to say anything at the hearing.

The panel chair, in consultation with the Administrator, may call additional witnesses if the panel chair determines that the additional witnesses are necessary for the Hearing Panel to properly resolve the case. This discretion should be used sparingly. The intention of the Code is that the Final Report, in the vast majority of cases, should provide a sufficient basis for the Hearing Panel’s decision, recognizing that the parties may speak in person to the Hearing Panel and to respond to the Final Report.

d. It is each party’s responsibility to inform the panel chair and the Administrator of scheduling conflicts no less than three days prior to the scheduled hearing. The Administrator shall have the sole discretion as to whether to reschedule the hearing. Except in cases of grave or unforeseen circumstances, if either party fails to appear, the hearing will proceed as scheduled.

e. If a report of a violation of the Code involves more than one Respondent, the Hearing Panel shall conduct a joint hearing with all Respondents. However, the panel chair may permit the hearing pertinent to each Respondent to be conducted separately. In joint hearings, separate determinations of responsibility shall be made for each Respondent.

f. Only the chair of the Hearing Panel may ask questions during the hearing, and doing so is at the sole discretion of the chair. However, the chair may seek input from panel members on areas for questioning. The parties may submit suggested questions in writing as long as the questions are received prior to the deadline for submitting written materials contained in the notice. Questions based on information that arises during the hearing may be submitted in writing during the hearing at the discretion of the panel chair.

g. For complaints involving sexual misconduct, discrimination, or other complaints of a sensitive nature, the panel chair, in consultation with the Title IX Coordinator and the Administrator, may allow the Complainant to attend the hearing, answer questions, and make a statement from behind a partition or from another room or location through audio/video technology.

h. The panel chair has discretion as to how to conduct the hearing. Generally, however, the hearing should be conducted as follows:
   (i) Opening statement by the Respondent addressing the Final Report and the allegations that the Respondent violated the Code;
   (ii) In Title IX cases, opening statement by the Complainant addressing the Final Report and the allegations that the Respondent violated the Code;
   (iii) Questions, if any, by the panel chair of the investigator(s), Respondent, and/or Complainant;
   (iv) Final statements by the Respondent and, in Title IX cases, the Complainant.

i. In making its decision, the Hearing Panel shall consider all relevant information from the following sources:
   (i) the Final Report, including the findings and conclusions contained in the report;
(ii) any written information provided by the parties as provided above; and

(iii) the information received at the hearing.

j. In Title IX cases involving allegations of sexual misconduct, the past sexual history or sexual character of either party shall not be considered by the Hearing Panel except in extremely unusual cases where the panel chair determines that the information is critical to a proper understanding of the specific facts of the case at hand. Demonstration of pattern, repeated, and/or predatory behavior, in the form of previous findings in any legal or campus proceeding, or in the form of good faith allegations, may be considered in making the findings and, if a violation of the Code is found, the sanction.

k. There shall be a single record, such as an audio recording, for all hearings. Deliberations shall not be recorded. Failure to record the hearing for any reason is not to be considered a procedural error that substantially impacts the decision and will not be grounds for appeal or reversal of the Hearing Panel’s decision.

The following individuals are permitted at a SDRB hearing:

1. the student,
2. the student’s advisor,
3. members of the SDRB panel,
4. DOS,
5. DOS’s advisor,
6. General Counsel,
7. persons who reported or were injured by the alleged violation, and their advisor,
8. except for the student and the persons who were injured by the alleged violation, witnesses are allowed only during their testimony,
9. any person approved by the chair.

h. If the student fails to appear at the SDRB hearing despite proper notice, DOS shall present any information, materials, and witnesses to support its determination of a violation of the Code. Based on the DOS presentation, the SDRB panel shall make its determination.

i. The SDRB panel chair shall ensure the smooth operations of the SDRB hearing, and may remove any individual who disrupts the SDRB hearing.

j. DOS has the responsibility of providing sufficient information, materials, and witnesses to support its assertion that the student violated the Code. The student has no obligation to provide any information, materials, or witnesses, and is presumed to not have violated the Code.

k. Generally, the SDRB hearing shall be conducted in the following order:

1. The SDRB panel chair will ask each individual present at the SDRB hearing to identify him/herself by providing his/her name and role at the SDRB hearing.
2. The SDRB panel chair will remind the student of:
   (i) the right to have an advisor,
   (ii) the right to refuse to speak as a witness; and
   (iii) that the refusal to speak as a witness will have no bearing on the question of whether the student violated the Code and may not be used to conclude that a violation occurred.
3. DOS will have the opportunity to make any opening remarks.
4. The student will have the opportunity to make any opening remarks.
5. DOS will have the opportunity to present any information, materials, and witnesses.
6. The student and SDRB panel members will have the opportunity to ask questions, except as described in (ii) below.
7. When the allegations involve sexual harassment or gender-based harassment, neither the student nor his/her advisor will be permitted to directly question the persons injured by the alleged violation. Instead, questions from the student or his/her advisor may be submitted in writing to the SDRB panel chair who will ask any questions determined to be relevant.
8. The student will have the opportunity to present any information, materials, and witnesses. DOS and SDRB panel members will have the opportunity to ask questions.
(7) DOS will have the opportunity to make any closing remarks.
(8) The student will have the opportunity to make any closing remarks.
(9) DOS will have the opportunity to respond to the student’s closing remarks.
(10) The SDRB panel shall meet in a closed session to discuss and make its decision. [rev. 7-16]

D-4. Results of SDRB Hearing Panel Decision. [rev. 7-16]

a. The Hearing Panel shall issue a decision within 3 days of completing its adjudication, whether through written submission, which should be issued within ten days after completing deliberations. The panel chair shall provide the only or through a hearing, the SDRB panel will issue a written decision to the Administrator, who shall then simultaneously provide the decision to the parties determination of its findings to the student and DOS. [rev. 7-16]

b. The Hearing Panel should adopt the findings and credibility analysis contained in the Final Report, unless the Hearing Panel finds that the information presented at the hearing warrants a different finding or the Hearing Panel finds that the findings or credibility analysis are not more likely than not to be true. Any findings issued by the Hearing Panel must be based on a more likely than not standard.

c. The Hearing Panel is not required to defer to the recommendation contained in the Final Report as to whether the Respondent violated the Code, but is entitled to freely apply the Code to the findings in order to determine whether the Respondent violated the Code.

d. Unless the panel chair is a Hearing Officer appointed to serve as chair without a vote, the panel chair shall participate in all votes, and all Hearing Panel decisions shall be made by a majority vote.

e. If the Hearing Panel determines that the Respondent violated the Code, the Hearing Panel shall determine the appropriate sanction(s). The Administrator shall serve as a resource to the Hearing Panel to help ensure that sanctions are reasonably consistent among similar cases.

f. The Hearing Panel may return the matter for additional investigation if the Hearing Panel determines that:
   (i) The investigator failed to properly investigate the allegation and the failure was both substantial and to the student’s detriment; or
   (ii) There is new information that could substantially affect the outcome and the new information could not have been discovered before the issuance of the Final Report.

D-5. Either party may appeal a Hearing Panel’s decision.

D-6. Sanctions imposed by the Hearing Panel shall generally not go into effect until either the time period for an appeal has expired and no appeal has been filed or until the decision is upheld on appeal. However, the CSA Officer may impose any sanction imposed by the Hearing Panel as an interim action pending the appeal.

(1) The SDRB panel’s decision must be based on a majority vote. [rev. 7-16]
(2) For SDRB review of matters involving sanctions other than suspension, expulsion, withholding or revoking a degree, the SDRB panel’s decision must [rev. 7-16]
   (i) Identify the stated basis for SDRB review,
   (ii) State the SDRB panel’s conclusion as to that basis, and [rev. 7-16]
   (iii) Identify the facts, conduct, or circumstances it found to support its conclusion.
(3) For SDRB panel review of matters involving sanctions of suspension, expulsion, or withholding or revoking a degree, the SDRB panel decision must [rev. 7-16]
   (i) State whether the DOS conclusion that by a preponderance of the evidence (the “standard”) the student violated the Code is supported by the information, materials, and witnesses presented at the SDRB hearing, and [rev. 7-16]
   (ii) Identify the facts, conduct, or circumstances it has found to support its conclusion.
(4) SDRB panel can [rev. 7-16]
   (i) Uphold the decision and sanction(s),
   (ii) Uphold the decision but revise the sanction(s).
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(iii) refer the matter to DOS for reinvestigation and reconsideration, or
(iv) dismiss the decision and the sanction(s). [rev. 7-16]

b. As to students whose sanctions do not include suspension, expulsion, or withholding or revoking a degree, the SDRB panel decision is the final institutional decision and any sanctions go into effect immediately. Such SDRB panel decision may be appealed to the Board of Regents pursuant to C-9. [rev. 7-16]

c. As to students whose sanctions include suspension, expulsion, or withholding or revoking of a degree, the student may request, in writing, a review of the SDRB decision by the Student Appeals Committee (see FSH 1640.83) pursuant to C-6. [rev. 7-16]

E. C-6. Requests for Student Appeals Committee Review (see FSH 1640.83).

E-1. Any party may submit requests for an appeal the Administrator’s or Hearing Panel’s final decision. Appeals must be submitted in writing to the Administrator and must set forth the grounds for the appeal. The appeal must be filed delivered to DOS no later than after 5 days after the decision is delivered to the parties. The Administrator shall ensure that the parties receive a copy of the appeal and is provided notice of the SDRB panel determination via email. Any student who fails to submit the written request for a review by the deadline will be informed by DOS of the following in a Failure to Seek Review Letter: [rev. 7-16]

(1) that the determination and sanction imposed by SDRB panel is the final institutional decision, [rev. 7-16]
(2) that the sanctions go into effect immediately, and
(3) that student may request a review by the Board of Regents pursuant to C-9. [rev. 7-16]

E-2. The written request for an appeal must cite at least one of the below reasons and must provide supporting arguments and documentation as to why an Appeals are limited to should be granted on these following grounds: [rev. 7-16]

a. A procedural error occurred in the investigation process that significantly impacted the outcome of the hearing;

b. There was a substantial and detrimental failure to properly investigate by DOS and, as a result, the SDRB panel could not reasonably determine that a violation of the Code occurred. [rev. 7-16]

c. There was a clear factual error and, as a result, the SDRB panel could not reasonably determine a violation of the Code occurred. [rev. 7-16]

(3) Sanctions imposed by the SDRB panel are excessive for the violation given the circumstances. Simple dissatisfaction with a sanction is not grounds for appealing a sanction under this provision. [rev. 7-16]

(4) New information, unavailable during that could substantially affect the outcome of DOS’s investigation or hearing, that could substantially impact the original finding or sanction has been presented in the appeal documents; and determination has been discovered since the SDRB panel’s determination was made. The information must have been unavailable at the time of DOS’s investigation. Failure to inform DOS of information that was available is not grounds for requesting additional review under this provision. [rev. 7-16]

(5) There was substantial procedural error that materially impacted the SDRB panel decision to the student’s detriment. [rev. 7-16]

c. The sanctions imposed are substantially disproportionate to the severity of the violation (the imposition of an administrative fee is not a sanction, and therefore cannot be appealed); or

d. The decision is not based on substantial information. A decision is based on substantial information if there are facts in the case that, if believed by the fact finder, are sufficient to establish that a violation of the Code occurred.

E-3. An appeal shall be limited to a review of the decision, the Final Report, any written material considered in the decision, the recording of the hearing held before the Hearing Panel, and any written materials submitted with the appeal. Where an appeal is based on the discovery of new information, the new information may be considered only to determine whether the information was unavailable at the time of the decision and whether the new information could substantially impact the original finding or sanction.
**UI FACULTY-STAFF HANDBOOK**  
**Chapter II: STUDENT AFFAIRS POLICIES**  
**Section 2400: University Disciplinary Process for Alleged Violations of the Student Code of Conduct**

### E-4. Appeal Panel Procedures:

a. The chair of the SCB Student Appeals Committee shall, within 5 days from receipt of the request, appoint a three to five members of the SCB to serve on the subcommittee of the Student Appeals Panel, and shall designate one member to serve as chair of the Appeal Panel. Any member who served on a Hearing Panel shall not serve on the Appeal Panel on the same case. Committee to consider an appeal (see FSH 1640.83 B-1). The Chair of the Student Appeals Committee shall designate the subcommittee chair from the three members and inform DOS and the parties of the chair and members of the subcommittee. A student may not serve as chair of an Appeal Panel. The chair may not be a student. Persons appointed must have no interest in or involvement with the parties to or the subject matter of the situation under review.

b. In Title IX cases, the non-appealing party may file a response to the appeal within five days of the filing of the appeal.

c. The Appeal Panel shall issue a written decision. The decision should be issued within fifteen days of receiving the appeal. The chair of the Appeal Panel shall provide the written decision to the Administrator, who will then simultaneously provide the decision to the parties.

d. DOS will provide the subcommittee with the audio recording of the SDRB hearing, all submitted material, and the DOS response to the student’s submission within a reasonable amount of time (generally no more than 5 days).

### E-5. C-7. Results of the Appeal Panel. Student Appeals Committee Review.

The Appeal Panel may:

- Consider the materials submitted only. A subcommittee will determine whether the request meets the requirements above in C-6 b. Except in extraordinary circumstances, the subcommittee will review all materials submitted, and provide a written decision to both parties within 10 days of receiving all the materials from DOS.
- For requests that fail to meet the requirements above, the subcommittee will deny the request and inform the student, the SDRB chair, the SDRB panel chair, and DOS of its decision. The determination made by the SDRB panel will become final and the sanctions imposed will become effective immediately as of the original date of the SDRB panel determination, this is deemed a final institutional decision, and the student may request a review by the Board of Regents in accordance with C-9.
- For requests that meet the requirements above in C-6 b.:
  1. The subcommittee's decision must
  2. be based on a majority vote,
  3. state the conclusion as to that basis, and
  4. identify the facts, conduct, or circumstances it found to support its conclusion.
- The subcommittee can:
  1. uphold the Administrator's or Hearing Panel's SDRB panel decision;
  2. uphold the finding that the Respondent violated the code SDRB panel decision, but revise the sanction(s);
  3. return the matter to DOS for reinvestigation and reconsideration, or to SDRB for reconsideration, or
  4. return the matter for additional investigation, dismiss the decision and the sanctions.

### E-6c. Unless the case is returned for reconsideration or to the investigator for additional investigation, if the decision of the Appeal Panel is the final institutional subcommittee is to uphold the SDRB panel decision. If the decision upholds the findings that the Respondent violated the Code, the sanctions imposed shall go into effect immediately as of the original date of the SDRB panel determination.

### F. Student Conduct Board.

**F-1.** The description and make-up of the SCB can be found in FSH 1640.83.
F-2. A member of the SCB shall not serve on any Hearing Panel or Appeal Panel in any case where the member has a conflict of interest or bias for or against either party.

F-3. If procedures call for the appointment of three or more members to serve on a Hearing Panel or Appeal Panel, the chair of the SCB should endeavor to appoint at least one student to the Hearing Panel or Appeal Panel. A student may not serve as chair of the Hearing Panel or Appeal Panel. In disciplinary cases involving allegations of academic misconduct, a majority of the Hearing Panel or Appeal Panel should ordinarily be faculty members.

F-4. All members of the SCB must receive annual training as determined by DOS, the Title IX Coordinator, and/or the Office of General Counsel. A member cannot serve on either a Hearing Panel or Appeal Panel until the member has completed this training.

F-5. Proceedings before the SCB, whether before a Hearing Panel or Appeal Panel, are confidential and protected by the Family Educational Rights and Privacy Act (FERPA). In specific disciplinary cases, members of the SCB must protect the confidentiality of the information they receive in fulfilling their duties as members of the SCB. Panel members must not discuss specific cases or share any information regarding specific disciplinary cases or their deliberations with anyone other than the SCB Chair, the Office of General Counsel, the Administrator, or fellow panel members appointed to the same panel in that specific case, and in all such instances, the discussion or sharing of information must be reasonably necessary for the panel’s consideration of the specific case.

G. USE OF A HEARING OFFICER.

G-1. In any case requiring a hearing before a panel of the SCB, the University may use a Hearing Officer to conduct that hearing.

G-2. The decision as to whether to appoint a Hearing Officer shall be made by the Administrator. The decision as to whether to appoint a Hearing Officer may not be appealed and may not be challenged on appeal as a procedural error.

G-3. The Hearing Officer may be appointed to serve as follows:

a. As a non-voting chair of the Hearing Panel whose duties are to run the hearing and ensure all proper procedures are followed;

b. As a voting chair of the Hearing Panel whose duties are to run the hearing, ensure that all proper procedures are followed, and to have a vote on the decision; or

c. As the chair and only member of the Hearing Panel whose duties are to run the hearing, ensure that all proper procedures are followed, and to issue the decision. When the Hearing Officer serves as the sole decision-maker, the Hearing Officer’s decision shall be treated for all purposes the same as the decision of a Hearing Panel under the Code.

d. In cases involving allegations of academic dishonesty, a Hearing Officer may only be appointed as a non-voting chair of the Hearing Panel, but may not be appointed as a voting member of the Hearing Panel or as the chair and only member of the Hearing Panel.

G-4. The Administrator shall appoint the Hearing Officer from a list of Hearing Officers approved by the Office of General Counsel. The Hearing Officer must not have a conflict of interest or bias for or against either party.

G-5. The Office of General Counsel shall determine the appropriate qualifications for a person to serve as a Hearing Officer and shall make a list of approved Hearing Officers available to the Administrator.

H. INTERIM ACTION.

H-1. At any time before a final institutional decision, the CSA Officer, or designee, may impose restrictions on a student and/or separate the student from the University community pending the final institutional decision. If
H-2. Other than issuance of no contact orders, an interim action issued prior to a hearing before the Hearing Panel may only be imposed when the CSA Officer determines that the student represents a threat of serious harm to any person, the student is facing allegations of serious criminal activity, the action is necessary to preserve the integrity of the investigation, the action is necessary to preserve University property, and/or the action is necessary to prevent disruption of, or interference with, the normal operations of the University. After the Hearing Panel’s decision, pending an appeal of the decision, the CSA Officer may impose a sanction issued by a Hearing Panel as an interim action at the discretion of the CSA Officer.

H-3. In any Title IX case, the investigator, in consultation with DOS, may issue a no contact order prohibiting the Respondent and/or the Complainant from contacting the other. A no contact order should be routinely issued in Title IX cases and there need not be a specific determination made as provided above.

H-4. Interim actions may include, but are not limited to, the following:
   a. Suspension from the University pending a final institutional decision;
   b. Issuance of a no contact order;
   c. Exclusion from University property;
   d. Removal from the residence halls;
   f. Removal from extracurricular activities, including participation on athletics teams;
   g. Withholding the award of a degree pending the conclusion of the investigation and hearing process; or
   h. Any other action deemed necessary and appropriate by the CSA Officer to maintain orderly and appropriate University operations.

H-5. Where a student is suspended from the University, or directed to not attend certain classes, alternative coursework options may be pursued, with the approval of the CSA Officer and the appropriate college dean, to ensure as minimal an impact as possible on the responding student.

H-6. An interim action must be made in writing and is effective when the CSA Officer delivers the Notice of Interim Action to the responding student either in person or by email sent to the student’s official University of Idaho email account.

H-7. The Respondent may appeal the imposition of any interim action by filing an appeal with the CSA Officer. There are no formal procedures for this appeal, and the interim sanctions remain in effect unless overturned by the CSA Officer.

H-8. A violation of the provisions of an interim action shall be considered a violation of the Code.

C-8. Request for Review by the President.
   a. Students whose sanctions include suspension, expulsion, or withholding or revoking of a degree may request a review of the subcommittee’s decision by the president. [rev. 7-16]
   b. Written requests for review by the president are accepted and must be delivered to both DOS and the President’s Office no later than 3 days after the student is provided notice of the subcommittee’s determination via email. [rev. 7-16]
c. The president has complete discretion whether to engage in any review of the subcommittee’s decision, including what materials to consider and from whom. [rev. 7-16]

d. The president’s decision after a review, or the president’s decision to decline to engage in any review, is the final institutional decision.

e. The president will provide a written decision to both parties.

C-9. Requests for Review by the Board of Regents. Any student may appeal a final institutional decision to the Board of Regents in accordance with Idaho State Board of Education Governing Policies and Procedures Section III.P.18.

C-10. Requests for Review by DOS. DOS may request a review of any decision of a SDRB panel, Student Appeals Committee subcommittee(s), and President in the same fashion as that provided to a student in C-6, C-8, and C-9 asserting any of the following: [rev. 7-16]

a. The decision contained clear factual error;

b. Sanctions imposed by the decision are insufficient for the violation given the circumstances. Simple dissatisfaction with a sanction is not grounds for appealing a sanction under this provision;

c. New information that could substantially affect the outcome of the decision has been discovered since the determination was made;

d. The decision contained substantial procedural error.

C-11. Disclosure of Outcome Involving Sexual Harassment and Gender Based Harassment.

a. Both parties will be notified, in writing, of the outcome of an alleged violation and any review. “Outcome” for these purposes means whether the harassment was found to have occurred. The University will only disclose information to the harassed student about the sanctions imposed when they directly relate to the harassed student, such as a sanction of no contact with the complainant.

b. When the allegations include a crime of violence or a non-forcible sex offense (as defined by FERPA), the University will disclose to the alleged victim of such crime or offense the final results of any disciplinary proceeding conducted by the University against a student who is an alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph. The University may disclose to anyone, upon written request, the final results of a disciplinary proceeding if the University determines that the student is an alleged perpetrator of a crime of violence or non-forcible sex offense, and, with respect to the allegation made, the student has committed a violation of the institution’s rules or policies. “Final results” for these purposes means the name of the accused student, any violation found to have been committed, and any sanction imposed against the accused student by the University.

c. When the allegations include a sex offense (as defined by FERPA), both parties must be informed of the outcome of any institutional disciplinary proceeding (APM 95.20). “Outcome” for these purposes means the University’s final determination with respect to the alleged sex offense and any sanctions imposed.

ID. SANCTIONS.

DI-1. The following sanctions may be imposed upon any student determined to have violated the Code:

a. Warning: a written notice to the student.

b. Probation: a written reprimand accompanied by a probationary period during which the student must not violate the Code in order to avoid more severe disciplinary sanctions.
c. Loss of Privileges: denial of specified privileges for a designated period of time.

d. Restitution: compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

e. Educational Sanctions: completion of work assignments, essays, service to the University, community service, workshops, or other related educational assignments.

f. Administrative Fees: minimum of $150.

g. Housing Suspension: separation of the student from University Housing for a definite period of time, after which the student is eligible to return. Conditions for return may be specified.

g. Housing Expulsion: permanent separation of the student from University Housing.

h. University Suspension: separation of the student from the University for a definite period of time, after which the student is eligible to return. Conditions for return may be specified.

i. University Expulsion: permanent separation of the student from the University.

j. Revocation of Admission and/or Degree: admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.

k. Withholding Degree: the University may withhold awarding a degree otherwise earned until the completion of all sanctions imposed.

DI-2. More than one of the sanctions listed above may be imposed for any single violation.

DI-3. A student who fails to comply with the sanction(s) imposed shall have a disciplinary hold placed on his/her record until the student complies with all sanctions imposed.

DI-4. Disciplinary sanctions other than suspension, expulsion or revocation or withholding of a degree shall not be made part of the student’s permanent academic record, but shall become part of the student’s disciplinary record. Such sanctions shall be expunged from the student’s disciplinary record seven (7) years after final disposition of the case.

DI-5. The Regents of UI adopted guidelines for enforcing alcohol restrictions which include sanctions for violation of these restrictions. The sanctions below are the minimum sanctions imposed on students who have violated alcohol restrictions as described in the Code.

D-6. The University may notify parents of students under the age of 21 when a student has been found to have committed a drug or alcohol-related violation. The student shall be responsible for administrative and educational costs of any and all sanctions imposed for alcohol related violations.

D-7. Sanctions imposed for alcohol related violations:

First Infraction — Open container or minor in possession violations.
Sanction — Completion of educational program.

First Infraction — Illegal distribution of alcohol.
Sanction — Completion of community service, period of probation, and educational programs.

Second Infraction — With injury, or conduct likely to lead to injury.
Sanction — Notification to the criminal justice system, strict probation, and, a treatment or educational program.

Commented [AT4]: Moved to “J. Miscellaneous.” below.
Third Infraction: Without injury; or without conduct likely to lead to injury.
Sanction: Referral to the appropriate administrative body of the institution for appropriate action, which must include, at least, suspension from school for one semester.

Third Infraction: With injury; or conduct likely to lead to injury.
Sanction: Referral to the appropriate administrative body of the institution for appropriate action, which must include, at least, referral to the criminal justice system and expulsion from the institution for one year.

E. INTERIM SUSPENSION. If certain circumstances, the Dean of Students may impose an interim suspension on a student prior to completing the investigation described in C-1.e. The interim suspension is effective immediately. During the interim suspension, the student shall be denied access to the residence halls and/or to the campus (including classes) and/or all other University activities or privileges for which the student might otherwise be eligible, as the Dean of Students may determine to be appropriate and as provided in the written notice.

E-1. Interim suspension may be imposed only:
   a. To ensure the safety and well-being of members of the University community or preservation of University property;
   b. To ensure the student’s own physical or emotional safety and well-being;
   c. If the student poses an ongoing threat of disruption of, or interference with, the normal operations of the University.

E-2. A student placed on interim suspension shall be given written notice of this action, which shall include:
   a. the reasons for the interim suspension, and
   b. information concerning the right to appeal the decision for interim suspension.

E-3. Interim Suspension Review Process:
   a. The student must submit a written document to DOS outlining the basis for the review and supporting documentation and/or other information.
   b. The DOS will submit all documents received, as well as DOS response, to the Chair of SDRB within 1 day of receiving the student’s documents.
   c. The Chair of SDRB and at least two other SDRB members will review all submitted materials and render a decision within 3 days. This decision is a final institutional decision subject to review by the Board of Regents in accordance with C-9.

J. MISCELLANEOUS.

J-1. Agreement: At any point during the disciplinary process prior to a final institutional decision, the Administrator and the parties may agree to an appropriate resolution without further investigation, hearing, or appeal. The agreed upon resolution may include the use of appropriate alternative dispute resolution methods.

J-2. Role of an Advisor: In accordance with the educational purpose of the Code, all students, including Respondents and Complainants, are expected to speak for themselves at all stages of proceedings under the Code, including, but not limited to, during the investigation, hearing, and any appeal. Any student may have an Advisor present at any time during any interview, meeting, or proceeding under the Code, but the Advisor’s role is to advise the student, not to speak for the student or make any presentation on behalf of the student. The student may, at any time and for a reasonable period of time, confer with the Advisor. If the University official conducting the proceeding determines at any time that the Advisor is acting outside of these parameters, the Advisor may be required to leave the proceeding at the official’s discretion. In appropriate circumstances, at the sole discretion of the University official conducting the proceeding, the University official may allow the Advisor to speak on behalf of the student and/or make a presentation on behalf of the student.

J-3. Fee: Any time a student is found to have violated the Code, DOS may charge the student an administrative fee of $150. This is not considered a sanction and may not be appealed.
J-4. Parent Notification: The University may notify parents of students under the age of 21 when a student has been found to have committed a drug or alcohol-related violation. This is not considered a sanction, and the decision as to whether to notify the parents or not rests entirely within the discretion of DOS.

J-5. Training: All members of the SCB, the Administrator, the Title IX Coordinator, and the investigators shall receive annual training in accordance with the requirements of the policies of the Board of Regents of the University of Idaho and the Idaho State Board of Education (said policy is currently found at Section I, Subsection T), the Clery Act and implementing regulations (see, e.g., 34 C.F.R. § 668.46(k)(2)(ii)), and Title IX.

J-6. Timeframe: With the exception of the deadlines for filing an appeal (see section E) or for requesting a hearing before the SCB (see section D-1.b.), all other timeframes contained in the Code are suggested timeframes. While the timeframes should be followed absent exceptional circumstances, the failure to conduct any action within a designated time frame is not grounds for appeal or reversal of any decision.

J-7. Interpretation: Any question of interpretation regarding the Code or these procedures will be referred to the CSA Officer or his/her designee for final determination.

J-8. Disclosure: The University will, upon written request, disclose to the alleged victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the University against a student who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

J-9. Review by President: Any decision or action taken under the Code may be reviewed by the President at the President’s discretion.

J-10. Review by Board of Regents: Appeals of a final institutional decision to the Board of Regents must be made in accordance with Idaho State Board of Education Governing Policies and Procedures Section III.P.18.