

**Indiana University East**  
**Procedures for the Code of Student Rights, Responsibilities, and Conduct**

**Preamble**

Indiana University East is neither required nor inclined to prescribe a code of conduct to cover each specific situation; however, the University expects all students, as well as faculty and staff, to observe national, state, and local laws and to respect the rights and privileges of other individuals. The basic expectations for such behavior are outlined in the Code of Student Rights, Responsibilities, and Conduct.

The University expects each individual within the academic community to refrain from behavior that would disrupt the University's function of education, cause injury to persons, cause damage or loss of property on the campus, or interfere with the freedom of movement of students, school officials, employees, or guests at the facilities of the University. Interference in any manner with the public or private rights of other individuals or conduct which threatens or endangers the health and safety of any person will not be tolerated by the University. The Chancellor or designee may summarily suspend any students in violation of these standards, pending a hearing of the case before the Review Board for Misconduct and Grievances. Students should also be aware that such misconduct may subject them to any penalties which may be prescribed by municipal, state, or federal laws. The imposition of such additional penalties does not constitute double jeopardy, inasmuch as University punishment is not based on criminal laws.

Attendance at an educational institution of higher learning is not compulsory. The federal constitution protects the equality of opportunity for all qualified persons to attend. Whether this protected opportunity is called a qualified "right" or a "privilege" is unimportant. It is optional and voluntary.

The voluntary attendance of a student at such institutions is a voluntary entrance into the academic community. By such voluntary entrance, the student voluntarily assumes obligations of performance and behavior reasonably imposed by the institution of choice relevant to its lawful missions, processes, and functions. These obligations are generally much higher than those imposed on all citizens by the civil and criminal law. So long as there is no invidious discrimination, no deprivation of due process, no abridgment of a right protected in the circumstances, and no capricious, clearly unreasonable or unlawful action employed, the institution may discipline students to secure compliance with these higher obligations as a teaching method or may sever the student from the academic community.

The University has a duty and the corollary disciplinary powers to protect its educational purposes through the regulations of the use of facilities and through the establishment of standards of scholarship and conduct for the students who attend the institution. Disciplinary proceedings should play a role substantially secondary to example, counseling, guidance, and admonition. When the preferred means fail to resolve problems regarding student conduct, proper procedural safeguards should be observed to protect the student from the unfair imposition of serious penalties for violation of the University policies. Students violating rules of conduct, as set forth by the University in the Code of Student Rights, Responsibilities, and Conduct will be subject to disciplinary action. The discipline of students in the educational community is, in all but the case of expulsion for misconduct, a part of the teaching process. In the case of expulsion for misconduct, the process is not punitive or deterrent in the criminal law sense, but the process is rather the determination that the student is unqualified to continue as a member of the educational community. Even then, the disciplinary process is not equivalent to the criminal law processes of federal and state criminal law. For, while the expelled student may suffer damaging effects, sometimes irreparable, to the student's educational, social, and economic future, he or she may not be imprisoned, fined, disenfranchised, or subjected to probation supervision. The attempted analogy of student discipline to criminal proceedings against adults and juveniles is not sound. [Revised 10/4/11]

Likewise, the University grants certain rights to the student in order to establish a positive learning environment. Students who feel that these rights have been violated by university officials can seek recourse through the procedures outlined in this document.

The procedural aspects of disciplinary that the University may take against a student are also explained in this document.

## **I. Summary**

This summary is only an overview of the general process of grievance and disciplinary proceedings. Sections III and IV of this code provide the necessary detail. As such, the summary shall not be construed to contradict the procedures outlined in Sections III and IV.

### **A. Grievance**

Indiana University has established procedures for students to follow when they believe that any of their rights, as defined in the Code, have been violated by a member of the University community. Section III of this code describes specific procedures that must be followed when a student feels that his/her rights have been violated by a faculty or staff member of the University.

The student should first attempt to resolve this conflict informally with the person involved. In certain cases (e.g., sexual harassment), the student may skip the informal conference.

If the conflict cannot be resolved, the student should contact the Grievance Counselor. The Grievance Counselor is the Dean of Students, unless the complaint is directed against the Dean of Students. In this case, the Executive Vice Chancellor for Academic Affairs will be the Grievance Counselor. The Grievance Counselor shall inform the student of the proper grievance process. He/she shall discuss with the student the details of the complaint procedure, shall receive the student's written complaint and forward it to the proper person, as detailed in Section III.

If the conflict involves sexual harassment, the student may also seek the assistance of the Affirmative Action Officer.

All formal complaints, all appeals, and many additional petitions must be in writing. Students who file a formal complaint against a university official should read and understand the applicable procedures and seek assistance from the Grievance Counselor.

Because of the imbalance of power between students and faculty/administrators, the code provides a very detailed grievance process for students who file a formal complaint against a faculty member or an administrator.

The formal complaint against a faculty member or administrator is first directed to the immediate supervisor of the person against whom the complaint is directed. This office will attempt to resolve the complaint informally.

If the dispute cannot be resolved at this level, it will be referred to the Executive Vice Chancellor for Academic Affairs (EVCAA). The EVCAA will first attempt to resolve the complaint informally. If the complaint cannot be resolved in this way, the EVCAA will refer the complaint to the Review Board for Misconduct and Grievances.

The Review Board for Misconduct and Grievances will hold a formal hearing and will make a recommendation regarding the validity of the complaint. It will also recommend possible disciplinary sanctions. These recommendations are then referred to the EVCAA who will make a determination regarding both the validity and the possible sanctions.

Both the student and the subject of the complaint may appeal the decision of the EVCAA to the Chancellor. The Chancellor's decision is final.

Complaints procedures against other university employees, other students, or student organizations are also described in the Section III.

## B. Academic or Personal Misconduct by a Student

Part IV of the procedures covers proceedings against students who are accused of academic or personal misconduct.

### 1. Academic Misconduct

If academic misconduct is related to a course in which the student is enrolled, the faculty member conducting the course will initiate the proceedings. The faculty member will first hold an informal conference with the student. He/she may then impose certain sanctions against the student. The faculty member will report these sanctions to the Dean of Students.

The Dean of Students will inform the student of the sanctions imposed by the faculty member. The Dean of Students will consider the student's previous academic record and determine whether additional sanctions are warranted.

If the Dean of Students considers additional sanctions, he/she will invite the student for an informal conference to discuss the matter. After the meeting, the Dean of Students may impose additional sanctions.

Students have the right to appeal both the faculty member's decisions and the additional sanctions imposed by the Dean of Students.

A faculty member's decision must first be appealed to the School Dean or Chair of the unit in which the alleged act of misconduct happened. The School Dean will meet with the student and the faculty member to discuss the matter. The School Dean may uphold the faculty member's decision, may uphold the student's appeal, or may lessen the faculty member's sanction. If the School Dean dismisses all charges against the student, any additional sanctions imposed by the Dean of Students are also reversed.

Both the faculty member and the student may appeal the School Dean's decision to the EVCAA. In addition, the student may appeal any additional sanctions imposed by the School Dean to the EVCAA. The appeals process is structured so that all appeals at this level will be handled simultaneously. The EVCAA will call the Review Board for Misconduct and Grievances. This Board will review all decisions under appeal and make a final determination regarding the validity of the accusation and the appropriate sanctions.

### 2. Personal Misconduct and academic misconduct unrelated to a particular course

Complaints against a student for such misconduct must be reported to the Dean of Students. The Dean of Students will investigate the matter and may call the accused student to an informal conference. At the conclusion of the informal conference, the Dean of Students may impose sanctions.

The accused student may then request a hearing before the Review Board for Misconduct and Grievances. The decision of the Board is final.

The Chancellor (or designee) may summarily suspend a student if the student's continued presence on campus constitutes a serious threat of harm to the student or to any other person on campus or to the property of the university or property of other persons on campus. This action takes effect immediately without the need for a prior Board Hearing. In case of summary suspensions, the Dean of Students will call the Review Board for Misconduct and Grievances. The Board will make recommendations to the Chancellor, but the ultimate decision in this case rests with the Chancellor.

## II. Review Board for Misconduct and Grievances

- A. The Review Board for Misconduct and Grievances shall consider all cases of students' grievances against faculty members and administrators, appeals of academic misconduct and accusations of personal misconduct.
- B. **Membership and Presiding Officer**  
The Review Board for Misconduct and Grievances consists of five members: Three faculty members and two students.
1. The faculty members are selected by the Chancellor from a list of candidates submitted by the Faculty Senate. At least one selected member must be tenured. The composition of the Board shall consist of faculty members across disciplines. The Chancellor, Executive Vice Chancellor for Academic Affairs, Vice Chancellors, Associate Vice Chancellors, Dean of Students, Assistant Vice Chancellors, and School Deans are ineligible to serve on the Board.
  2. The student members are selected by the Chancellor from a list of candidates submitted by the student governance association.
  3. The Review Board for Misconduct and Grievances shall select its Presiding Officer, who must be a tenured faculty member.
  4. The Presiding Officer, in consultation with the other members of the Board, is responsible for scheduling hearings, corresponding with interested parties, conducting hearings, maintaining the necessary order, and making all rulings that are necessary for the fair, orderly, and expeditious consideration of the case.
- C. **Terms**
1. Each member shall be appointed at the beginning of the academic year and for the duration of one academic year.
  2. Members may be reappointed from term to term.
  3. Vacancies on the Board may arise from mid-term resignations, or from a member of the Board recusing himself/herself from a particular case. Members of the Board must recuse themselves if they are the subject of the complaint or are unduly biased in the particular case. Members who wish to recuse themselves must notify both the Presiding Officer and the Chancellor of their intent, at least 7 days before any scheduled hearing. The Chancellor may fill vacancies on the Board by selecting new persons from the appropriate lists. When a list has been exhausted, the Chancellor may appoint faculty members in consultation with the Faculty Senate President, and student members in consultation with the student governance association.
  4. The term of Review Board members may be extended beyond the end of the academic year until the Board has resolved all of the cases that it considered during its original term.
- D. **Hearings, Quorum and Decisions of the Board.**  
The purpose of all hearings of the Board is to give all interested parties a forum in which to present their case. It is the primary responsibility of the Presiding Officer to prepare and conduct all hearings with the diligence required to ensure a fair, orderly and expeditious handling of each case.
1. No hearing may be held unless all of the members of the Board are present.
  2. The Presiding Officer is required to make a transcript of the hearing before the Board, which may be made by an electronic tape recorder or other appropriate means.
  3. The Board will discuss the merits of each case in a private executive session. The Board may not consider a case unless all members are present.
  4. Decisions of the Board must be based on clear and convincing evidence that was presented during the hearing. Decisions of the Board are made by a majority vote. The majority must provide a written rationale for their decision. A minority may provide a written rationale for their dissent. The Presiding Officer will report the outcome of any vote and the recommendation of the majority. This report will also include the majority's written rationale and the minority's dissent, if any.

### III. Student Complaint Procedures

This section establishes the procedures to be followed when a student complaint is filed against a member of the university faculty or administration. This section also specifies the procedures to be followed when student complaints are filed against other university employees, other university students, or student organizations. Finally, this section describes the supplementary procedures that may be followed when a student has a complaint against any member of the university community that involves discrimination or sexual or racial harassment. (Complaints against students in their role as course instructors are considered in accordance with part III.B.)

#### A. Grievance Counseling

1. When a student believes that any of his or her rights, as defined in the Code of Student Rights, Responsibilities, and Conduct have been violated by a member of the university faculty, administration, or another student, the student should ordinarily attempt to resolve the matter by making an informal complaint to the person involved.
2. If the problem is not resolved to the complainant's satisfaction by contacting the person involved, the Grievance Counselor should be contacted. Ordinarily, the Dean of Students (or designee) will take the role of the Grievance Counselor. If the complaint is against the Dean of Students specifically, the student is directed to the Executive Vice Chancellor for Academic Affairs (hereafter referred to as EVCAA), who will then serve as Grievance Counselor.

#### B. Complaints against Members of the University Faculty and Administration

1. Formal Complaints.
  - a. A student who believes that his or her rights have been violated by a member of the university faculty or administration may make a formal complaint to an appropriate administrative officer under the following circumstances:
    - (1) A student may make a formal complaint after making an informal complaint and receiving a response from the person involved that is not satisfactory to the student.
    - (2) A student may make a formal complaint without having made an informal complaint if the student has a justifiable basis for not going directly to the person involved.
  - b. The Grievance Counselor will forward the complainant to the appropriate Dean of School, or immediate supervisor.
  - c. A formal complaint must be made in writing, signed by the complainant, and submitted to the appropriate official. A copy of the signed, formal complaint will be given to the individual charged. This formal complaint must be filed within the following time limitations:
    - (1) After making an informal complaint and receiving an unsatisfactory response, a student must file a formal complaint within 21 calendar days after the termination of discussions with the person involved in the complaint.
    - (2) If a formal complaint is made without the making of a prior informal complaint, the formal complaint must be filed within six months after the student should reasonably have learned about the event that is the basis of the complaint.
  - d. A formal complaint must be considered within 21 calendar days by the appropriate administrative officer.
    - (1) The officer shall inquire into the facts of the complaint and discuss the matter individually with the student and the person involved in the complaint.
    - (2) If the officer considers it to be appropriate, the officer may ask the student and the person involved in the complaint to meet together with the officer in an effort to resolve the complaint.
    - (3) The officer shall have the opportunity to remove himself or herself from considering a complaint for reasons of bias or personal involvement.

- (4) If the complaint is not resolved within 21 calendar days from the day it was filed, the officer must refer the complaint along with a written response concerning the incident to the EVCAA. The response shall include all documents pertaining to the complaint.
- e. The EVCAA shall inquire into the facts of the complaint and then discuss the matter individually with the student and the person who is the subject of the complaint.
  - (1) If the EVCAA considers it to be appropriate, the EVCAA may ask the student and the person who is the subject of the complaint to meet together with the EVCAA in an effort to resolve the complaint.
  - (2) If the complaint is not resolved within 21 calendar days of the date the complaint is received, the EVCAA must submit the complaint to the campus Review Board for Misconduct and Grievances for consideration.
2. Formal Hearing.
  - a. The Review Board for Misconduct and Grievances is required to conduct a formal hearing to consider the complaint.
    - (1) The Presiding Officer, in consultation with the other members of the Board, must determine an appropriate time and place for the hearing.
    - (2) The Presiding Officer is required to make arrangements for a public hearing if requested to do so by the person who is the subject of the complaint by no later than seven calendar days before the date of the hearing. The Presiding Officer is required to conduct the hearing in a place that will accommodate a reasonable number of observers, but the officer is authorized to make a final decision concerning the place where the hearing is to be held and the number of observers to be accommodated. Exceptions to this are in cases of complaints involving discrimination or sexual or racial harassment.
    - (3) The Presiding Officer has a duty, to the greatest extent practical under the circumstances, to summon witnesses, compel the production of documents, and structure the hearing to afford all participating parties procedural due process.
  - b. When a hearing is to take place, the Presiding Officer is required to notify the person who is the subject of the complaint concerning the following:
    - (1) The date, time, and place of the hearing, which shall not be earlier than seven calendar days after the date of the notice;
    - (2) The date, time, and place of the alleged act of misconduct and a summary of the information upon which the allegation is based;
    - (3) The names of the witnesses whom the complaining student may present at the hearing or whose statements may be offered as evidence;
    - (4) That the subject of the complaint is required to provide to the Presiding Officer, no later than two business days before the hearing, all documents in his or her possession, pertinent to the complaint.
    - (5) That the subject of the complaint may submit to the Presiding Officer, no later than two calendar days before the hearing, a request for any documents related to the complaint that the subject wishes the complaining student to produce;
    - (6) That the subject of the complaint must submit to the Presiding Officer, no later than two calendar days before the hearing, a list of witnesses whom the subject may present at the hearing or whose statements may be offered as evidence;
    - (7) That the subject of the complaint is required to be present at the hearing and is entitled to present witnesses and to cross-examine witnesses who appear unless the Board decides to proceed in the subject's absence because of extraordinary circumstances;

- (8) That the subject of the complaint may have an advisor or other counsel present during the hearing; that an advisor or counsel is limited to the role of advising; and that an adviser or counsel may not participate in the hearing or make any statements during the hearing;
  - (9) That the complaining student is entitled to be present at the hearing and may have an advisor or other counsel present during the hearing; that an advisor or counsel is limited to the role of advising; and that an adviser or counsel may not participate in the hearing or make any statements during the hearing;
  - (10) That the subject of the complaint may testify but will not be required to testify at the hearing, and that a decision not to testify will not be considered as an admission of guilt;
  - (11) That the hearing will be closed to the public unless the subject of the complaint notifies the Presiding Officer in writing by no later than seven calendar days before the hearing that he or she desires the hearing to be open to the public;
  - (12) The disciplinary sanctions that may be imposed for the alleged act of misconduct enumerated are in III.B.3 (below).
  - (13) That a failure by the subject to appear at the hearing would be sufficient to justify the imposition of any disciplinary sanction without a right of further appeal if the Board determines that the failure to attend was without good cause.
- c. When a hearing is to take place, the Presiding Officer is also required to notify the student who filed the complaint concerning the following:
- (1) The date, time and place of the hearing, which shall not be earlier than seven calendar days after the date of the notice.
  - (2) That the complaining student must submit to the Presiding Officer, no later than two business days before the hearing, a list of witnesses whom the complaining student may present at the hearing or whose statements may be offered as evidence;
  - (3) That the complaining student's failure to attend the hearing would be sufficient to justify the dismissal of the complaint without any further action if the Board should thereafter find that the failure to attend was without good cause.
- d. The formal hearing is to be conducted by the Presiding Officer of the Review Board for Misconduct and Grievances.
- (1) The Presiding Officer shall call the complaining student as a witness to testify concerning the act of misconduct alleged in the student's complaint.
    - (a) The Presiding Officer may question the student concerning the complaint. The other members of the Board may then be given the opportunity to question the student.
    - (b) The subject of the complaint shall be given the opportunity to question the student concerning the complaint.
  - (2) The Presiding Officer shall also call any other persons to testify as witnesses as requested by the student or otherwise considered appropriate by the officer. The student shall be given the opportunity to question these witnesses. The person who is the subject of the complaint shall also be given the opportunity to question these witnesses. The Presiding Officer and the other members of the Board may question any of these witnesses as they consider appropriate.
  - (3) The Presiding Officer shall permit the student to present any other information that is appropriate and relevant to the student's complaint.
  - (4) After all of the testimony and information concerning the complaint has been submitted, the Presiding Officer must offer the subject of the complaint the opportunity to testify concerning the matter.

- (a) The complaining student shall be entitled to question the subject of the complaint.
  - (b) The Presiding Officer and the other members of the Board may question the subject of the complaint as they consider appropriate.
  - (c) If the subject of the complaint chooses not to testify, the Board may not consider the decision not to testify as an admission of guilt.
- (5) The Presiding Officer must also offer the subject of the complaint the opportunity to call other witnesses and to submit any information that is appropriate and relevant to the student's complaint.
- (a) If any witnesses are called to testify, they may be questioned by the subject of the complaint.
  - (b) The complaining student may also question the witnesses.
  - (c) The Presiding Officer and the other members of the Board may question the witnesses as they consider appropriate.
- (6) After the Board has heard all of the witnesses and any other information submitted by the parties, the Presiding Officer must offer the complaining student the opportunity to make an argument concerning the validity of the allegations in the complaint. The Presiding Officer must then offer the subject of the complaint a similar opportunity to make an argument to the Board.
- (7) After hearing any concluding arguments, the Board is required to reach a conclusion concerning the validity of the allegations in the complaint.
- (8) If a majority of the members of the Board conclude that the evidence is insufficient to sustain the allegations of the complaint, the Board is required to recommend that the complaint be dismissed.
- (a) The Presiding Officer shall reconvene the hearing and advise the complaining student and the subject of the complaint concerning the conclusion and recommendation of the Board and issue a written report within seven calendar days.
  - (b) The Presiding Officer shall also advise the parties that the EVCAA will be notified of the Board's conclusion and recommendation and that the EVCAA is required to dismiss the complaint unless the complaining student submits an appeal to the Chancellor under the provisions of this code.
- (9) If a majority of the members of the Board concludes that the evidence is sufficient to sustain the allegations of the complaint, the Board is required to conduct a hearing concerning an appropriate sanction.
- (a) The Presiding Officer shall reconvene the hearing and advise the complaining student and the subject of the complaint concerning the conclusion of the Board.
  - (b) The Presiding Officer must then offer the person who is the subject of the complaint the opportunity to submit information and present an argument concerning an appropriate disciplinary sanction.
  - (c) The Presiding Officer shall also offer the complaining student a similar opportunity with reference to the appropriate sanction.
- (10) After hearing from the parties concerning an appropriate sanction, the Board is required to make a recommendation concerning an appropriate sanction.
- (11) After the Board has concluded its deliberations concerning an appropriate sanction, the Presiding Officer shall reconvene the hearing and advise the complaining student and the subject of the complaint

concerning the recommended sanction and issue a written report within seven calendar days following the close of the hearing.

- (a) The parties must also be advised that the Board's conclusions concerning the validity of the complaint and the Board's recommendation concerning an appropriate sanction will be submitted to the EVCAA for final action.
  - (b) In addition, the parties must be advised as follows:
    - (i) If the EVCAA decides to reject the recommendations of the Board and to dismiss the complaint, the complaint will be dismissed unless the complaining student submits an appeal to the Chancellor under the provisions of this code.
    - (ii) If the EVCAA decides to accept the Board's conclusions and decides to impose the recommended sanction or any other appropriate sanction, the subject of the complaint may submit an appeal to the Chancellor under the provisions of this code.
- (12) Within seven calendar days after the hearing, the Presiding Officer must prepare a written report concerning the Board's conclusions and recommendations with a brief explanation of the findings of fact upon which the Board's conclusions are based. The report must be submitted to the EVCAA, the subject of the complaint, and the complaining student.

3. Disciplinary Sanctions.

Disciplinary sanctions that may be imposed for acts of misconduct by members of the university faculty and administration include, but are not limited to, any one or a combination of the following:

- a. A written reprimand with a warning that additional sanctions will be imposed if there is a repetition of the misconduct.
- b. A probationary period during which the person involved in the complaint must abide by certain specified conditions or be subject to the imposition of further sanctions.
- c. A temporary suspension without pay.
- d. Consideration of the misconduct in establishing the person's annual salary.
- e. Consideration of the misconduct in any promotion decision concerning the person.
- f. Consideration of the misconduct in any tenure decision concerning the person.
- g. Termination of employment at a specified time in the future.
- h. Immediate dismissal.

4. Action by the EVCAA.

- a. If the EVCAA receives a report that a student's complaint has not been sustained by the Review Board for Misconduct and Grievances, the EVCAA is required to notify the complaining student and the subject of the complaint that the complaint will be dismissed unless the student submits an appeal to the Chancellor within seven calendar days following the receipt of the decision.
- b. If the EVCAA receives a report that a Review Board for Grievances and Misconduct has concluded that a student's complaint should be sustained, the EVCAA is required to make a final decision concerning the validity of the complaint within seven calendar days following the receipt of the decision.
  - (1) The EVCAA shall review the written report and the transcript of the hearing and may consult with the Presiding Officer of the Review Board for Misconduct and Grievances only to clarify an ambiguity in the record. The EVCAA may not consult with other members of the Board, the complaining student, or any other person who has direct or indirect knowledge of the complaint.
  - (2) The EVCAA may take the following action concerning the complaint:

- (a) Reject the Board's conclusion concerning the validity of the complaint and dismiss the complaint upon a finding that there is not clear and convincing evidence in the transcript to support the findings of the Board or that procedural error has been committed that deprives the subject of the complaint of due process.
    - (b) Accept the Board's conclusion concerning the validity of the complaint and impose the sanction recommended by the Board.
    - (c) Accept the Board's conclusion concerning the validity of the complaint and impose an appropriate sanction that was not recommended by the Board.
  - (3) After the EVCAA has made a final decision, the EVCAA is required to notify the subject of the complaint and the complaining student within seven calendar days following the final decision.
  - (4) If the EVCAA decides to dismiss the complaint, the complaining student may take an appeal to the Chancellor under the provisions of this code.
  - (5) If the EVCAA decides that the complaint should be sustained and decides to impose the sanction recommended by the Board or any other appropriate sanction, the subject of the complaint may take an appeal to the Chancellor under the provisions of this code.
  - (6) The EVCAA is required to effectuate the decision in accordance with university procedures unless the subject of the complaint appeals the decision as authorized by university procedures.
- 5. Appeals to the Chancellor.
  - a. If the EVCAA notifies a student that the student's complaint is to be dismissed, the student may submit an appeal to the Chancellor.
    - (1) The appeal must be submitted in writing.
    - (2) The appeal must be submitted within seven calendar days after the student receives notice from the EVCAA concerning dismissal of the complaint.
    - (3) A copy of the appeal must be sent to the EVCAA and to the subject of the complaint.
  - b. If the EVCAA notifies the subject of a complaint that the complaint has been sustained and that a sanction is to be imposed, the person may submit an appeal to the Chancellor.
    - (1) The appeal must be submitted in writing.
    - (2) The appeal must be submitted within seven calendar days after the subject receives notice from the EVCAA concerning the decision.
    - (3) A copy of the appeal must be sent to the EVCAA and to the complaining student.
  - c. When the EVCAA receives a notice of an appeal to the Chancellor, the EVCAA is required to send the Chancellor a copy of the Board's written report, the transcript of the Board's hearing and any other written information pertinent to the student's complaint.
  - d. The Chancellor should review the written report and the transcript of the Review Board's hearing and may consult with the EVCAA but not other members of the Review Board for Misconduct and Grievances, the complaining student, or any other person who has direct or indirect knowledge of the complaint.
  - e. The Chancellor may take the following action concerning an appeal:
    - (1) Sustain the dismissal of the complaint.
    - (2) Reject the decision of the EVCAA concerning the validity of a complaint and dismiss the complaint.
    - (3) Accept the decision of the EVCAA concerning the validity of a complaint and the sanction to be imposed.

- (4) Accept the decision of the EVCAA concerning the validity of the complaint and impose an appropriate sanction that differs from the sanction recommended by the EVCAA.
    - f. After the Chancellor has made a final decision, the Chancellor is required to notify the subject of the complaint and the complaining student.
    - g. The Chancellor may dismiss the case or sustain the complaint and impose a sanction against the subject of the complaint. The Chancellor will inform the subject of the complaint of the decision.
- C. Complaints against Other University Employees
- 1. A student who believes that his or her rights have been violated by a university employee other than a member of the faculty or administration should ordinarily attempt to resolve the matter by making an informal complaint to the person involved.
    - a. An informal complaint should be made as soon as possible after the alleged violation.
    - b. A complaint must be initiated within seven calendar days after the student should reasonably have learned about the event that is the basis of the complaint.
  - 2. If the student is unable to resolve the matter on an informal basis, the student must consult with the Grievance Counselor and file a formal complaint against the person involved in accordance with the grievance procedures established by the university. The Grievance Counselor will direct the student to the Director of Human Resource Services concerning these procedures.
- D. Complaints against Other Students
- 1. A student who believes that his or her rights have been violated by another student should ordinarily attempt to resolve the matter by making an informal complaint to the student involved.
  - 2. If the student is unable to resolve the matter on an informal basis, the student must consult with the Grievance Counselor regarding procedures and file a formal complaint with the Dean of Students under the procedures of this code concerned with personal misconduct of students.
- E. Complaints against Student Organizations
- 1. A student who believes that his or her rights have been violated by a student organization should ordinarily attempt to resolve the matter informally by discussing the matter with the person involved and the organization's advisor.
  - 2. If the student is unable to resolve the matter on an informal basis, the student must consult with the Grievance Counselor regarding procedures and may file a formal complaint with the Dean of Students in accordance with the grievance procedures established by the university for such organizations.
- F. Complaint by a Student Organization
- 1. A student organization that believes its rights have been violated by a student, the university, a person working for the university, or another university-affiliated organization may file a formal complaint for mediation by the Dean of Students.
  - 2. Before filing a formal complaint with the Dean of Students, the organization must pass a resolution authorizing its highest elected officer to file a formal complaint. The resolution should state the efforts that the organization has taken to resolve their grievance informally.
- G. Complaints Involving Discrimination or Sexual or Racial Harassment
- 1. Because of the sensitivity of allegations concerning discrimination and sexual or racial harassment, a student may consult with the office of the campus Affirmation Action Officer or the Grievance Counselor concerning the advisability of making an informal complaint to the person involved in the complaint. An informal complaint may be made to the Affirmative Action Officer under the Comprehensive Plan and Procedures for Addressing Sexual Harassment, Gender Discrimination or A Hostile Work Environment.
  - 2. If the student decides to file a formal complaint, the student may follow the regular procedures that the university has established for handling allegations of misconduct (I.B, above). If the student decides to follow these procedures, the student may obtain assistance from the Grievance Counselor in preparing and filing the complaint.

3. If the student decides to file a formal complaint, the student may also follow the procedures that the university has established for handling allegations involving discrimination and sexual or racial harassment.
  - a. The student may consult with the campus Affirmative Action Officer or the Grievance Counselor concerning these procedures.
  - b. Under these procedures, the student may choose to file an informal or a formal complaint. The Comprehensive Plan and Procedures established by the University will be followed to address such complaints. The Plan and Procedures is available from the Affirmative Action Office.
4. When a formal complaint involving discrimination or sexual or racial harassment is filed with the Grievance Counselor, the Grievance Counselor is required to send a copy of the complaint to the office of the campus Affirmative Action Officer. The Affirmative Action Officer is required to maintain a list of all complaints in accordance with applicable federal regulations.
5. When a student decides to follow these procedures and files a written complaint with the office of the campus Affirmative Action Officer, the affirmative action officer is required to notify the Grievance Counselor concerning the complaint.

## IV. Student Disciplinary Procedures

### Preamble

The Indiana University East procedures for imposing academic and disciplinary sanctions are designed to provide students with due process and procedural fairness, to ensure equal protection for all students, and to provide for the imposition of similar sanctions for similar acts of misconduct. At the same time, the procedures reflect the need to be concerned about the individual student involved in a particular case. The procedures therefore provide that the imposition of disciplinary sanctions must also be based upon a consideration of all circumstances in a particular case, including a student's prior record of misconduct, if any.

#### A. Jurisdiction

1. Academic Misconduct.
  - a. Allegations of academic misconduct may consist of two basic types:
    - (1) Academic misconduct by a student who is enrolled in a particular course and commits an act of misconduct related to that course.
    - (2) Academic misconduct by a student that is not related to a particular course in which the student is enrolled.
  - b. When a student in a course commits an act of academic misconduct related to that particular course, the faculty member who is teaching the course has the authority to initiate academic misconduct proceedings against the student.
  - c. When a student commits an act of academic misconduct that is not related to a course in which the student is enrolled, the Dean of Students has the authority to initiate academic misconduct proceedings against the student after consulting with the School Dean of the unit in which the student is enrolled.
2. Personal Misconduct.
  - a. The Dean of Students has the authority to initiate disciplinary proceedings against individual students in all cases involving allegations of personal misconduct.
  - b. The Dean of Students also has the authority to initiate disciplinary proceedings against groups of students or student organizations in any case involving allegations of misconduct.
3. Simultaneous Acts of Academic and Personal Misconduct.

When a student commits an act of academic misconduct related to a course in which the student is enrolled, the faculty member conducting the course has the authority to initiate academic misconduct proceedings against the student. If such an act represents a simultaneous, but separate act of academic or personal misconduct, both the faculty member and Dean of Students have the discretion to handle the matter jointly or to decide that the matter should be handled by one or both. Joint or separate proceedings of academic and/or personal misconduct cases may be initiated.

#### B. Academic Misconduct Procedures for Academic Misconduct Related to a Course

1. Action by a Faculty Member.
  - a. A faculty member who has information that a student enrolled in a course being conducted by the faculty member has committed an act of academic misconduct related to that course is required to hold an informal conference with the student concerning the matter.
    - (1) The faculty member must advise the student of the alleged act of misconduct and the information upon which the allegation is based.
    - (2) The student must be given an opportunity to respond to the allegation of misconduct.
  - b. If the faculty member concludes that the student did commit the act of misconduct as alleged, the faculty member is authorized to impose an appropriate academic sanction related to the particular course involved.
    - (1) An appropriate academic sanction for such misconduct may include, but is not limited to any one or a combination of the following:

- (a) The student may be given a lower grade than the student would otherwise have received for any assignment, course work, examination, or paper involved in the act of misconduct.
  - (b) The student may be given a failing grade for any assignment, course work, examination, or paper involved in the act of misconduct.
  - (c) The student may be required to repeat or resubmit any assignment, course work, examination, or paper involved in the act of misconduct.
  - (d) The student may be required to complete some additional assignment, course work, examination, or paper as substitute for any assignment, course work, examination, or paper involved in the act of misconduct.
  - (e) The student may be required to withdraw from the course with an appropriate grade of W or F, at the faculty member's discretion.
  - (f) The student may be given a lower grade than the student would otherwise have received for the course, including a failing grade.
- (2) The penalty for a serious act of academic misconduct should ordinarily involve the recording of a failing grade for the course.
  - (3) An incomplete may be given in the course in the event that the matter cannot be resolved before final grades are due in the Office of the Registrar.
  - (4) If the penalty includes a failing grade for the course, the registrar will be notified that the grade was given because of academic misconduct. The registrar will record the grade of F on the student's permanent academic transcript without any notation concerning the reason for the grade. The registrar must, however, follow procedures to ensure that the grade of F will not thereafter be removed from the transcript in accordance with other academic policies or procedures such as the FX policy. A grade of F given because of academic misconduct must be calculated in a determination of the student's grade point average, but the grade will not prevent the student from repeating the same course for credit.
- c. At the conclusion of the informal conference, if the student is found responsible for the academic misconduct, the faculty member is required to report the matter within seven calendar days in writing to the Dean of Students, who will send the report to the student, the School Dean of the unit in which the offense occurred, and the student's School Dean (if the student is not a major in the unit in which the offense occurred).
  - d. The written report to the student must include the following:
    - (1) A statement concerning the nature of the offense;
    - (2) The terms of the sanction being imposed;
    - (3) A statement that the student may submit an appeal in writing to the School Dean of the unit within which the offense occurred within seven calendar days after receiving the faculty member's written report;
    - (4) A statement that the matter is being reported to the Dean of Students who has the authority to impose an additional sanction if the Dean of Students believes that such a sanction is justified because of the nature of the student's misconduct or because of any prior acts of misconduct that the student may have committed;
    - (5) A statement that the additional sanction may be any of the following:
      - (a) Disciplinary probation for a specified period of time;
      - (b) Suspension from the university for a specified period of time;
      - (c) Expulsion from the university.

- (6) A statement that the Dean of Students will notify the student within 14 calendar days of receipt of the faculty member's report if the dean has decided not to impose an additional sanction or is still considering the propriety of imposing an additional sanction.
2. Action by the Dean of Students.
  - a. A student may not be placed on disciplinary probation or suspended or expelled from the university or a school or unit within the university because of an act of academic misconduct unless the Dean of Students concludes, in consultation with the School Dean of the unit in which the student is enrolled, that such a sanction is justified by the nature of the act or because the student has committed previous acts of misconduct.
  - b. The Dean of Students is required to review a faculty member's report concerning a student's act of academic misconduct to determine if probation, suspension, or expulsion should be imposed upon the student because of the nature of the act of academic misconduct.
  - c. In addition, the Dean of Students is required to determine if the student has a record of any previous acts of academic or personal misconduct and to decide whether probation, suspension, or expulsion should be imposed on the student because of any previous acts of misconduct. In this regard, the Dean of Students is required to maintain a confidential record of all academic sanctions imposed by faculty members and all sanctions imposed by the Dean of Students in order to determine if a particular student is developing a record of repeated acts of misconduct.
  - d. If the Dean of Students considers that no additional sanctions are warranted, the dean shall, within 14 calendar days following the receipt of the faculty member's report, notify the student of the decision not to impose additional sanctions.
  - e. If the Dean of Students considers that additional sanctions may be warranted, the dean shall, within 14 calendar days following the receipt of the faculty member's report, set a date for an informal hearing conference and inform the student personally or by certified mail and by email of the purpose and date of the conference.
  - f. The notice shall inform the student of the following:
    - (1) That the Dean of Students is considering the propriety of imposing an additional sanction upon the student.
    - (2) That the additional sanction may consist of probation, suspension, or expulsion from the university;
    - (3) That the student is required to appear in the Office of the Dean of Students at a specified date and time for an informal conference to discuss the propriety of the additional sanction;
    - (4) That the student may have an advisor or other counsel present during the conference; that an advisor or counsel is limited to the role of advising the student; and that an advisor or counsel may not participate in the informal conference or make any statements during the conference;
    - (5) That the informal conference will be limited to a consideration of the seriousness of the academic misconduct involved, the validity of any record of the student's previous acts of misconduct as maintained by the Dean of Students, and the propriety of any additional sanction to be imposed;
    - (6) That the Dean of Students has no authority to reconsider the validity or propriety of the decision of the faculty member concerning the act of academic misconduct;
    - (7) That the Dean of Students will impose any of the authorized additional sanctions if the student fails to appear for the informal conference and

the Dean reasonably concludes that the failure to appear is without good cause; and

- (8) That the student has the right to appeal a decision of the Dean of Students to impose an additional sanction.
  - g. When the student appears for the informal conference as required, the Dean of Students shall inform the student concerning the purposes of the conference and the student's record of previous acts of misconduct, if any. The student shall be given an opportunity to discuss the nature of the act of academic misconduct, the accuracy of the record of the student's previous acts of misconduct, and the propriety of any additional sanction that the Dean proposes to impose on the student. In discussing the student's record of previous acts of misconduct, the student may not discuss the propriety of the decisions concerning such misconduct. After the informal conference, the Dean of Students has the authority to decide that an additional sanction should be imposed, including any of the following:
    - (1) Disciplinary probation for a specified period of time;
    - (2) Suspension from the university for a specified period of time; or
    - (3) Expulsion from the university.
  - h. Upon conclusion of the informal conference, the Dean of Students must inform the School Dean of the academic unit(s) involved of the Dean of Students' disposition of the case.
  - i. If a sanction of suspension or expulsion from the university is imposed, the Dean of Students is required to notify the Office of the Registrar to indicate the suspension or expulsion on all copies of the student's academic transcript. In cases of suspension, the notation will be removed from the transcript by the registrar when the term of suspension has ended.
3. Right to Appeal.
- A student has the right to appeal any of the following decisions concerning an alleged act of academic misconduct:
- a. The faculty member's decision that the student committed the act of misconduct and/or decision to impose a particular academic sanction may be appealed to the School Dean of the unit within which the alleged offense occurred. This appeal must be initiated within seven calendar days after receiving the faculty member's written report concerning the decision.
  - b. The decision of the Dean of Students to impose an additional sanction may be appealed to the EVCAA.
    - (1) If the student is only appealing the additional sanctions imposed by the Dean of Students, but not the faculty member's decision, this appeal must be initiated within seven calendar days of receiving the Dean of Students' written report.
    - (2) If the student is also appealing the decision of the faculty member to the School Dean (as in (a) above), the student must wait for a decision at this level. After receiving the School Dean's decision (4.c.(3) below), the student may appeal either the School Dean's decision, the Dean of Student's sanctions or both. This appeal must be initiated within seven calendar days after receiving the School Dean's written notification.
4. Appeals to the School Dean.
- a. A student must initiate an appeal concerning a faculty member's decision by submitting a written notice to the School Dean of the unit within which the alleged offense occurred, within seven calendar days after receiving the faculty member's written report (see B.1.c above) concerning the decision. The School Dean is required to notify the Dean of Students that an appeal has been filed upon receipt of the appeal.
  - b. After receiving a written appeal from a student concerning a faculty member's decision or sanction, the School Dean of that unit should discuss the matter

individually with the student and the faculty member in an effort to resolve the matter.

- c. If the matter is not resolved, the School Dean is required to hold a formal conference.
  - (1) The student and the faculty member must be given the opportunity to be present at the conference and to make whatever presentation and argument that they consider appropriate.
  - (2) The School Dean of the unit has the authority to sustain or reverse any decision of the faculty member concerning the student's alleged act of academic misconduct.
    - (a) If the School Dean concludes that the student did not commit the alleged act of misconduct, the School Dean is required to set aside the sanction or sanctions imposed. This decision will also reverse any additional sanctions imposed by the Dean of Students for this offense. The decision of the School Dean to take this action may be appealed by the faculty member.
    - (b) The School Dean may conclude that the student did commit the alleged act of misconduct but may decide to impose a lesser sanction than the sanction or sanctions imposed by the faculty member.
  - (3) The School Dean is required to act within seven calendar days in making a decision concerning an appeal. The decision must be in writing. The School Dean must notify the student, the faculty member and the Dean of Students concurrently in writing of his/her decision.
- d. The student and the faculty member shall have the right to appeal the decision of the School Dean to the EVCAA. This appeal must be initiated within seven calendar days of the School Dean's written notice. The appellant has the burden of proving that the decision is not supported by clear and convincing evidence contained in the record or that a procedural irregularity deprived the appellant of due process.

5. Appeals to the EVCAA.

Appeals of decisions of the School Dean of the unit may be made to the EVCAA by both the student and the faculty member. In addition, the student may appeal additional sanctions imposed by the Dean of Students to the EVCAA. Each alleged act of academic misconduct and related sanction(s) may be appealed to the EVCAA only once.

a. Notification of Appeal.

- (1) A faculty member may initiate an appeal of a decision of the School Dean of the unit by submitting a written notice to the EVCAA within seven calendar days after receiving notice of the decision of the School Dean of the unit.  
A student may appeal the decision of the School Dean of the unit, and/or any additional sanctions made by the Dean of Students. (See B.3.b above).
- (2) When an appeal concerning such a decision/sanctions has been submitted to the EVCAA, the EVCAA must notify within seven calendar days the unit in which the offense occurred, the Dean of Students, the faculty member and the student that a written appeal has been received. The EVCAA shall inquire into the facts of the appeal and shall discuss the matter individually with the student, the faculty member, the School Dean, of the academic unit in which the offense occurred, and the Dean of Students.
  - (a) If the EVCAA considers it to be appropriate, the EVCAA may ask the student, the faculty member, and/or the Dean of Students to meet together with the EVCAA in an effort to resolve the appeal.

- (b) If the appeal is not resolved within 14 calendar days, the EVCAA must submit the appeal to the Review Board for Misconduct and Grievances for consideration.
- b. Formal Hearing.
- (1) The Review Board for Misconduct and Grievances is required to conduct a formal hearing to consider the appeal.
    - (a) The Presiding Officer, in consultation with the other members of the Review Board, must determine within seven calendar days from the date the appeal is received, an appropriate time and place for the hearing.
    - (b) The Presiding Officer is required to make arrangements for a closed hearing, unless the student requests an open hearing. If the student requests an open hearing, the Presiding Officer is required to conduct the hearing in a place that will accommodate a reasonable number of observers, but the officer is authorized to make a final decision concerning the place where the hearing is to be held and the number of observers to be accommodated.
  - (2) When a hearing is to take place, the Presiding Officer is required to notify the student concerning the following:
    - (a) The date, time, and place of the hearing, which shall not be earlier than seven calendar days after the date of the notice.
    - (b) The date, time, and place of the alleged act of misconduct and a summary of the information upon which the allegation is based;
    - (c) The names of any witnesses who may appear at the hearing and/or whose statements may be offered as evidence;
    - (d) That the student must prepare a list of the witnesses that he or she may present at the hearing and/or whose statements may be offered as evidence at the hearing; that the list must be submitted to the Presiding Officer and the faculty member involved by no later than two business days before the hearing, and that the student may be precluded from calling a person as a witness at the hearing if the person's name is not submitted on a list as required by this code and the Presiding Officer finds that the failure to submit the name is without good cause.
    - (e) The student is required to be present at the hearing; the student may have an advisor or other counsel present during the hearing; such advisor or counsel is limited to the role of advising the student; and that advisor or counsel may not participate in the hearing or make any statements during the hearing. That the faculty member involved will be present and that the Dean of Students will also be present if the appeal is concerned with any additional sanctions imposed by the Dean of Students.
    - (f) That the student may testify but will not be required to testify at the hearing, and that a decision not to testify will not be considered as an admission of guilt;
    - (g) That the hearing will be closed to the public unless the student notifies the Presiding Officer in writing by no later than five calendar days before the hearing that he or she desires the hearing to be open to the public;
    - (h) That a failure to appear at the hearing shall be sufficient to justify dismissing the student's appeal, or upholding the

- faculty member's appeal, if the Review Board determines that the failure to attend was without good cause.
- (3) When a hearing is to take place, the Presiding Officer is required to notify the faculty member involved concerning the following:
    - (a) The date, time, and place of the hearing;
    - (b) That the student's appeal relates to the faculty member's decision that the student committed the alleged act of misconduct and/or the faculty member's decision to impose a particular academic sanction;
    - (c) That the faculty member is required to be present at the hearing to testify concerning the matter;
    - (d) That the faculty member must prepare a list of any witnesses that he or she may present at the hearing and/or whose statements may be offered as evidence at the hearing; that the list must be submitted to the Presiding Officer and the student involved by no later than seven calendar days before the hearing, and that the faculty member may be precluded from presenting a person as a witness at the hearing if the person's name is not submitted on a list as required by this code and the Presiding Officer finds that the failure to submit the name is without good cause.
    - (e) That a failure to appear at the hearing shall be sufficient to justify dismissing the faculty member's appeal, or upholding the student's appeal, if the Board determines that the failure to attend was without good cause.
  - (4) When a hearing is to take place, the Presiding Officer is required to notify the Dean of Students concerning the date, time, and place of the hearing if the appeal relates to a decision of the Dean of Students to impose an additional sanction against the student.
  - (5) If the appeal concerns the validity of the alleged act of academic misconduct, the Review Board is required to follow the following procedures:
    - (a) The Presiding Officer shall call the faculty member as a witness to testify concerning the act of misconduct that the student is alleged to have committed.
      - (i) The Presiding Officer and other members of the Review Board may question the faculty member concerning the alleged act of misconduct.
      - (ii) The student shall be given the opportunity to question the faculty member concerning the allegations.
    - (b) The Presiding Officer shall also call any other persons to testify as witnesses as requested by the faculty member or otherwise considered appropriate by the officer. The faculty member shall be given the opportunity to question these witnesses. The student shall also be given the opportunity to question witnesses. The Presiding Officer may question any of these witnesses as the officer considers appropriate.
    - (c) The Presiding Officer shall permit the faculty member to present any other information that is appropriate and relevant to the allegations against the student.
    - (d) After all of the testimony and information concerning the alleged act of misconduct have been submitted, the Presiding Officer must offer the student the opportunity to testify concerning the matter.
      - (i) If the student chooses to testify on his or her behalf, he or she may be questioned by the faculty member

- involved, and by the Presiding Officer and members of the Review Board.
- (ii) If the student chooses not to testify, the Review Board may not consider the decision not to testify as an admission of guilt.
- (e) The Presiding Officer may allow the student or the faculty member the opportunity to call other witnesses and to submit any information that is appropriate and relevant to the student's appeal upon satisfactory explanation as to why it was not included in the pre-hearing documentation.
  - (i) If any witnesses are called to testify, they may be questioned by the student.
  - (ii) The witnesses may also be questioned by the faculty member involved and by the Presiding Officer and members of the Review Board.
- (f) The Presiding Officer must permit the student to make a concluding statement or argument in support of the appeal. The Presiding Officer must likewise offer the faculty member involved the opportunity to make a statement or argument in reply to the statement or argument of the student.
- (g) The Review Board must then make a decision concerning the merits of the appeal in a private executive session.
- (h) The Board may make any of the following decisions concerning the appeal:
  - (i) The evidence is sufficient to sustain the faculty member's decision that the student committed the alleged act of misconduct.
  - (ii) The evidence is not sufficient to sustain the faculty member's decision that the student committed the alleged act of misconduct.
- (i) If a majority of the members of the Review Board conclude that the evidence is insufficient to sustain the allegations against the student, the decision is final and the allegations must be dismissed. Consequently, any sanctions imposed for this offense made by the faculty member, or the Dean of Students are reversed.
- (6) If a majority of the members of the Review Board conclude that the evidence is sufficient to sustain the faculty member's decision that the student committed the alleged act of misconduct and/or if the subject of the appeal is only the faculty member's (or School Dean's) decision concerning the academic sanction to be imposed, the Review Board is required to follow the following procedures:
  - (a) The Presiding Officer is required to offer the student the opportunity to present testimony, present other witnesses, submit information, and make a statement or an argument concerning the propriety of the academic sanction imposed by the faculty member involved.
  - (b) The Presiding Officer shall also offer the faculty member the opportunity to testify, present other witnesses, submit information, and make a statement or an argument concerning the propriety of the academic sanction to be imposed.
  - (c) The Review Board must make a decision concerning the propriety of the academic sanction imposed by the faculty member.

- (i) The decision must be based solely upon the evidence and information presented at the hearing, contained in the record.
  - (ii) The decision of the faculty member must be sustained unless the Review Board finds that the decision is not supported by clear and convincing evidence, or is arbitrary, and unreasonable, or disproportionate to the nature of the student's act of misconduct.
  - (iii) A decision to sustain the faculty member's decision must be based upon a vote of a majority of the members of the Review Board.
  - (iv) If the Board overruled a School Dean's decision that set aside any additional sanctions by the Dean of Students (4.c.2.(a) above), the additional sanctions by the Dean of Students are reinstated, but are subject to review (See 7,8 below).
- (d) If a majority of the members of the Review Board conclude that the faculty member's decision concerning the sanction to be imposed was not supported by clear and convincing evidence or was arbitrary, and unreasonable, or disproportionate to the nature of the student's act of misconduct, the Review Board must decide what sanction should be imposed. The Board may impose only a lesser sanction than the sanction or sanctions imposed by the faculty member. This decision must be made by a vote of a majority of the members of the Review Board, and the decision is not subject to an appeal. This decision must be reported to the EVCAA who is required to initiate the necessary procedures to effectuate the decision.
- (7) Appeal of Sanctions imposed by the Dean of Students. The Review Board will consider appeals of sanctions imposed by the Dean of Students if any one of the following conditions is met:
- (a) The student is appealing a decision of the School Dean and is also appealing the decision of the Dean of Students to impose additional sanctions, and the majority of the members of the Board concluded that the evidence is sufficient to sustain the faculty member's decision that the student committed the alleged act of misconduct; or
  - (b) The student is appealing only the additional sanctions imposed by the Dean of Students, or
  - (c) The faculty member is appealing the School Dean's decision that reversed additional sanctions imposed by the Dean of Students, and the Board upheld the faculty member's decision (in this case, a continuance must be granted if the student requests it. The student may submit additional witnesses relevant to the Dean of Student's decision as in 2.(c) above).
- (8) If the Review Board is considering sanctions imposed by the Dean of Students, the Review Board is required to follow the following procedures:
- (a) The Dean of Students shall be called as a witness to state the reasons or justification for the additional sanction imposed. If the additional sanction was imposed because of any prior act or acts of misconduct by the student, the Dean of Students should inform the Review Board concerning the misconduct.

- (b) The student shall be given the opportunity to question the Dean of Students, concerning the reason or reasons for the additional sanction.
- (c) The student must be given the opportunity to present testimony, submit information, and make a statement or argument concerning the propriety of the additional sanction.
- (d) If the additional sanction was imposed even in part because of any prior acts of misconduct by the student, the accuracy of the records maintained or relied upon by the Dean of Students may be questioned but the propriety of the decisions made by the university or university officials concerning any prior acts of misconduct may not be questioned as part of the appeal.
- (e) The Board must make a decision concerning the propriety of the additional sanction imposed by the Dean of Students.
  - (i) The decision must be based solely upon the evidence and information presented at the hearing.
  - (ii) A decision of the Dean of Students to impose an additional sanction must be sustained unless the Review Board finds that the decision is not supported by clear and convincing evidence or is arbitrary, and unreasonable, or disproportionate to the nature of the student's act of misconduct and/or the student's record of previous misconduct.
  - (iii) A decision to sustain the decision of the Dean of Students to impose an additional sanction must be based upon a vote of a majority of the members of Board.
- (f) If a majority of the members of the Board conclude that the Dean's decision concerning the sanction to be imposed was not supported by clear and convincing evidence or was arbitrary, and unreasonable, or disproportionate, the Review Board must decide what, if any, additional sanction should be imposed.
  - (i) If the Dean of Students decided to impose expulsion from the university, the Review Board may decide to impose either disciplinary probation or suspension from the university or may decide not to impose any additional sanction at all.
  - (ii) If the Dean of Students decided to impose a period of suspension from the university, the Review Board may decide to shorten the length of the suspension, to impose disciplinary probation or may decide not to impose any additional sanction.
  - (iii) If the Dean of Students decided to impose disciplinary probation, the Review Board may decide not to impose any additional sanction.

A decision must be made by a vote of a majority of the members of the Board in a private executive session. The decision of the Review Board is final and not subject to an appeal. The decision must be reported to the EVCAA who is required to notify the appropriate university officer to effectuate the decision in accordance with university procedures.
- (g) If a majority of the members of the Board conclude that the decision of the Dean of Students to impose an additional

sanction was proper, the decision is not subject to an appeal. The decision must be reported to the EVCAA who is required to notify the appropriate university officer to effectuate the decision in accordance with university procedures.

- (9) The Presiding Officer is required to advise the student, the faculty member involved, and the Dean of Students, if involved in the hearing, concerning any decision of the Board.
- (10) Within 14 calendar days after the hearing, the Presiding Officer must prepare a written decision that includes a brief explanation of the Review Board's action and the findings of fact upon which the action is based. The decision must be submitted to the EVCAA with copies to the Dean of Students, the student, and the faculty member involved.

#### C. Academic Misconduct Procedures for Academic Misconduct Unrelated to a Particular Course

Disciplinary proceedings for acts of academic misconduct that are unrelated to a particular course in which the student is enrolled, including those that constitute simultaneous acts of academic and personal misconduct, are governed by the same procedures that apply to acts of personal misconduct.

#### D. Disciplinary Procedures for Personal Misconduct

1. Applicability of Procedures.
  - a. Disciplinary proceedings for acts of personal misconduct are governed by the following procedures.
  - b. Disciplinary proceedings for an act of personal misconduct that is committed simultaneously with an act of academic misconduct are governed by the following procedures unless the Dean of Students and the faculty member involved agree otherwise.
  - c. The disciplinary procedures in this section do not govern proceedings involving the alleged violation of campus motor vehicle provisions. The procedures likewise do not govern proceedings involving the university's use of a checklist (service indicators) to collect money from students.
2. Initiation of Proceedings.
  - a. A report that a student has committed an act of personal misconduct may be filed by any person.
  - b. A report that a student has committed an act of personal misconduct must be submitted in writing to the Dean of Students.
  - c. After reviewing a complaint, the Dean of Students has the discretion to decide whether disciplinary proceedings should be instituted.
3. Notice.
  - a. A disciplinary proceeding is initiated by the Dean of Students by sending a notice to the student who is the subject of the complaint. If disciplinary proceedings are initiated against a dependent student under the age of 18, the Dean is required to make reasonable efforts to ensure that the parent(s) or, when appropriate, the legal guardian of the student is notified concerning the proceedings and the nature of the complaint.
  - b. The notice shall be sent by certified mail and by email to the student's address as it appears in the official records of the university or shall be delivered personally to the student. Notice must be delivered in a manner university officials believe is most likely to inform the student that charges are pending and that a hearing has been scheduled. The notice shall quote the rule claimed to have been violated and shall fairly inform the student of the reported circumstances of the allegedly wrongful conduct. The notice shall require the student to appear in the Office of the Dean of Students at a time and on a date specified (which ordinarily will not be earlier than seven calendar days after the mailing of the notice) to discuss the alleged violations.
  - c. The notice shall inform the student of the following:
    - (1) The offense the student is alleged to have committed by citing the relevant section of these regulations;

- (2) The date, time, and place of the alleged offense and other relevant circumstances;
  - (3) The date, time, and place of the informal conference to discuss the alleged violation;
  - (4) That the student may have an advisor or other counsel present during the conference; that an advisor or counsel is limited to the role of advising the student; and that an advisor or counsel may not participate in presenting the case, questioning the witnesses, or making statements during the conference;
  - (5) That the student need not answer questions and that a choice to remain silent will not be taken as an admission that the student committed the alleged offense;
  - (6) That, if the student fails to appear for the conference, the Dean of Students may:
    - (a) reschedule the conference;
    - (b) dismiss the charges; or
    - (c) if the Dean of Students reasonably believes the failure to be without good cause, impose any of the disciplinary penalties described under part IV.D.4.e of this code.
  - (7) That any disciplinary penalties imposed under the circumstances noted in paragraph (6) above shall be subject to further hearing or appeal, but the fact of the student's failure to appear at the conference, if unjustified, may be weighed as a factor in future hearings.
4. Informal Disposition.
- a. When the student appears as required, the Dean of Students shall inform the student as fully as possible of the facts alleged. The student may, but need not, make responses and explanations.
  - b. If, after discussion and such further investigation as may be necessary, the Dean of Students determines that the violation alleged is not supported by clear and convincing evidence, the Dean of Students shall dismiss the accusation and notify the student.
  - c. If, after discussion, or if the student fails to appear, and if the Dean of Students believes that the violation occurred as alleged, the Dean of Students shall so notify the student and shall propose a penalty by means of a written notice. The student, by such notice, shall be offered the choice of either consenting to the determination and proposed penalty or of requesting a hearing before the Review Board for Misconduct and Grievances. Should a student desire a hearing before this Board, the request shall be made in writing and delivered to the Office of the Dean of Students by no later than seven calendar days after the mailing of the notice.
  - d. If no written choice is received by the Dean of Students within the time specified, no hearing shall be held, the sanction(s) proposed by the Dean of Students shall be imposed, and the action shall be final.
  - e. The Dean of Students is authorized to impose any one or a combination of the following sanctions for acts of personal misconduct.
    - (1) Reprimand and Warning. A student may be given a reprimand accompanied by a written warning that the student may receive additional sanctions if the student engages in the same misconduct again or commits any other violation of this code.
    - (2) Disciplinary Probation. A student may be placed on disciplinary probation for a specified period of time under conditions specified in writing by the Dean of Students, with a warning that any violation of the conditions or any further acts of misconduct may result in additional disciplinary sanctions, including suspension or expulsion from the university. As a condition of probation, the student may be required to participate in a specific program, such as a counseling

program or an alcohol education program, or to provide a specific service, such as the repair or restoration of any property damaged or taken by the student.

- (3) Restitution. A student may be required to pay the cost for the replacement or repair of any property damaged by the student. If the student fails to pay the cost or make the repairs, the student may be subjected to additional sanctions, including suspension or expulsion.
- (4) Participation in a Specific Program. A student may be required to participate in specific program, such as a counseling program, a program designed to stimulate good citizenship within the university community, an alcohol education program, or any other activity that would foster civic participation. If the student fails to participate in the program as directed, the student may be subjected to additional sanctions, including suspension or expulsion.
- (5) Provision of a Specific Service. A student may be required to provide a specific service, such as, but not limited to, the repair or restoration of any property damaged or taken by the student. If the student fails to provide the service as directed, the student may be subjected to additional sanctions, including suspension or expulsion.
- (6) Suspension. A student may be prohibited from participating in all aspects of university life for a specified period of time. When a student is suspended from the university, the suspension applies to all campuses of the university. The Dean of Students is required to notify the Office of the Registrar to indicate the suspension on all copies of the student's academic transcript. When the term of the suspension has ended, the registrar will remove the notation from the student's transcript.
- (7) Expulsion. A student may be dismissed from the university permanently. When a student is expelled from the university, the expulsion applies to all campuses of the university. The Dean of Students is required to notify the Office of the Registrar to indicate the expulsion on all copies of the student's academic transcript. Furthermore, the student may not thereafter petition for readmission to the university.

5. Formal Hearing.

a. If a student requests a hearing before the Review Board for Misconduct and Grievances, the Dean of Students shall call the Review Board; but thereafter, with notice to the student, the Dean may request the Board to dismiss the case. If a hearing is to take place, notice from the Dean of Students shall be sent by certified mail and email to the student's address as it then appears in the official records of the university or shall be delivered personally to the student or delivered in the manner most likely to inform the student that a hearing date has been set and charges are pending. The notice shall inform the student of the following:

- (1) The offense alleged to have been committed, by citing the relevant section of this code;
- (2) The date, time, and place of the alleged offense, and other relevant circumstances, including a summary of the evidence upon which the charges are based, the names of those who may be presented as witnesses and/or whose statements would be offered as evidence at the hearing.
- (3) The date, time, and place of the hearing, which shall not be earlier than seven calendar days after the date of the notice;
- (4) That the student must prepare a list of the persons that the student may present as witnesses and/or whose statements may be offered as

- evidence at the hearing and submit the list to the Dean of Students by no later than seven calendar days before the hearing.
- (5) That the student is required to be present at the hearing and is entitled to present witnesses and to cross-examine witnesses who appear unless the Board decides to proceed in the absence of the student because of extraordinary circumstances.
  - (6) That the student may have an advisor or other counsel present during the hearing; that an advisor or counsel is limited to the role of advising the student; and that an advisor or counsel may not participate in presenting the case, questioning the witnesses, or making statements during the hearing.
  - (7) That the university, likewise, may have an advisor or other counsel present during the hearing; that such advisor or counsel is limited to the role of advising; and that an advisor or counsel may not participate in presenting the case, questioning the witnesses, or making statements during the hearing.
  - (8) That the student need not answer questions, and that a choice to remain silent will not be taken as an admission of guilt;
  - (9) The sanctions that may be imposed by the Board;
  - (10) That the hearing will be closed to the public, unless the student(s) indicates in writing to the Dean of Students, at least seven calendar days in advance of the hearing, a desire to open the hearing to the public. The Dean of Students and the Presiding Officer of the Board shall make arrangements satisfactory to the Board to accommodate observers if a hearing is to be public, and the Board's choice of the place and determination of the number of observers that can be conveniently accommodated are final;
  - (11) That the failure to appear at the hearing will be action for which the Board may impose the disciplinary sanction initially proposed by the Dean of Students without right of further appeal if the Board, upon diligent inquiry, finds such failure to be without good cause.
- b. At the hearing, the Dean of Students and the student may present and examine witnesses, present other evidence, and cross-examine witnesses. The student charged with an offense may testify, but shall not be ordered to testify by the Board, nor shall failure to testify be considered an admission of guilt. The burden of proving that the student has committed the offense(s) as charged shall be upon the university.
  - c. The Board shall make a finding whether the student has committed the offense(s) as charged. If the Board finds that the student has committed the offense(s), it shall, after a review of any disciplinary record the student may have, impose one, or a combination of the disciplinary sanctions enumerated under part VI.D.4.e (above) of this code.
  - d. Within 10 calendar days after the conclusion of the hearing, the Presiding Officer of the Board shall render a written decision and include a brief explanation of the decision and set forth the findings of fact upon which the decision is made. The Presiding Officer shall furnish copies of the decision to the student and the Dean of Students.
  - d. If a student is notified to appear before the Board and fails to appear, the Board is required to impose the disciplinary sanction initially proposed by the Dean of Students, if the Board, after diligent inquiry, finds that the failure to appear is without good cause and that there is clear and convincing evidence to believe that the violation occurred as alleged. The Board is required to notify the student by means of a written notice that the sanction is imposed and that the student has no further right of appeal. When an extension of time appears necessary to avoid undue hardship or injustice, Board may extend the time to enable a student to respond to an accusation or prepare a defense.

7. Summary Action.

A student may be summarily suspended from the university and summarily excluded from university property by the Chancellor or, in his/her absence, the acting chief administrative officer.

- a. The Chancellor may act summarily without following the hearing procedures established by this section if the Chancellor is satisfied that the student's continued presence on campus constitutes a serious threat of harm to the student or to any other person on campus or to the property of the university or property of other persons on campus.
- b. A student who is summarily suspended and excluded from the university shall be required to leave the property of the university immediately and shall be notified that he or she will thereafter be treated as a trespasser if he or she returns to university property. Within 24 hours after the student is excluded, a written notice must be sent to the student by certified first-class mail and by email informing the student of the following:
  - (1) That the student has been suspended from the university;
  - (2) That the student has been excluded from being on university property;
  - (3) That the student will be considered a trespasser if he or she returns to university property;
  - (4) The reasons for the suspension from the university and the exclusion from university property;
  - (5) That the student, within fourteen calendar days after being excluded, may request a hearing before the Review Board for Misconduct and Grievances to review the information upon which the summary action was based and to determine whether the information was sufficient and reliable enough to justify the summary action; and
  - (6) That the Dean of Students will be initiating disciplinary action against the student within seven calendar days after the summary action was taken.
- c. The Dean of Students must initiate disciplinary proceedings against a student who is summarily suspended and excluded from the university within seven calendar days after the summary action is taken.
  - (1) The student shall thereafter be permitted to enter the university campus only for the limited purpose of participating in the disciplinary proceedings conducted under this section.
  - (2) The Dean of Students may require that the student be escorted to and from the disciplinary proceedings by members of the university police department.
- d. Within 14 calendar days after being summarily suspended and excluded from university property, a student may request a hearing before the Review Board for Misconduct and Grievances to determine whether the summary action was justified and whether the student should be reinstated and allowed to return to university property.
  - (1) The request must be submitted in writing to the Dean of Students.
  - (2) The Dean of Students shall call the Review Board for Misconduct and Grievances as provided in part IV.D.5.b (above).
  - (3) The Board shall hold a hearing within seven calendar days after being called by the Dean of Students.
  - (4) The Board is required to review the information upon which the summary action was based and to decide whether the information was sufficient and reliable enough to justify the summary action.
  - (5) The student is required to be present at the hearing. The student may have an advisor or other counsel present during the hearing; such advisor or counsel is limited to the role of advising the student; and the advisor or counsel may not participate in presenting the case, questioning the witnesses, or making statements during the hearing

- (6) The student shall be permitted to enter the university campus for the limited purpose of this hearing in accordance with part IV.D.7.c above.
- (7) The Board is required to make a decision by the end of the hearing and to notify the student, the Dean of Students, and the Chancellor of the campus concerning the decision.
- (8) The Board may affirm the decision and advise the student that the temporary suspension and temporary exclusion will continue until the student is notified otherwise in the course of subsequent disciplinary proceedings.
- (9) If the Board concludes that the summary action was not justified, the Presiding Officer is required to notify the Chancellor.
- (10) The Chancellor is required to consider the decision of the Board but is not bound by the decision. The Chancellor shall thereafter notify the student that the student is reinstated or that the temporary suspension and temporary exclusion will become permanent suspension or expulsion (see IV.B.4.e.(6) and (7)).

#### E. Time Limitations

1. Time limitations that are specified in the preceding sections of this code may be extended for a reasonable period of time if an extension is justified by good cause under the totality of the circumstances.
  - a. An interested party to a proceeding may make a request for an extension of a specific time limitation.
  - b. A request for an extension must be submitted in writing to the person conducting the proceeding or the Presiding Officer of the Board hearing the matter.
2. If a time limitation is not specified for a particular action or proceeding under this code, the action or proceeding must be taken or conducted promptly or within a reasonable period of time as determined from a consideration of the totality of the circumstances.
  - a. An interested party to a proceeding may make an appropriate objection concerning the promptness or reasonableness of the time within which an action is taken or a proceeding is conducted.
  - b. An objection must be made to the person conducting the proceeding or the Presiding Officer of the Board hearing the matter.
3. Any interested party to a proceeding may appeal a decision concerning an objection or request concerning a time limitation.
  - a. The appeal must be taken to the person or body that is authorized under this code to consider any other appeal from the person or body making the decision concerning the time limitation.
  - b. The decision concerning the appeal is a final decision and is not subject to a further appeal.

#### F. Misconduct by Student Organizations

1. A complaint that a student organization has committed an act of academic or personal misconduct may be filed against the student organization, against individual members of the organization, or against the organization and individual members of the organization. The complaint may be filed by any person.
2. A complaint against a student organization and/or individual members of the organization must be submitted in writing to the Dean of Students.
  - a. If the complaint is against a student organization, the Dean of Students has the authority to initiate disciplinary proceedings against the organization.
  - b. If the complaint involves an allegation of academic misconduct by an individual student member of the organization that is related to a particular course in which the student is enrolled, the Dean of Students must refer the complaint against the student to the faculty member who is teaching the course. The faculty member has the authority to initiate academic misconduct proceedings against the student as provided in this code.

- c. If the complaint involves an allegation of academic misconduct by an individual student member of the organization that is not related to a course in which the student is enrolled, the Dean of Students has the authority to initiate academic misconduct proceedings against the student after consulting with the School Dean of the unit in which the student is enrolled.
  - d. If the complaint involves an allegation of personal misconduct by an individual student member of the organization, the Dean of Students has the authority to initiate disciplinary proceedings against the student.
  - e. If the complaint involves an allegation that an individual student member of the organization has committed simultaneous acts of academic and personal misconduct, proceedings against the student may be initiated as provided in this code (see part IV.A.3 above).
- 3. Disciplinary proceedings against a student organization are governed by the procedures established by the campus for such proceedings.
  - 4. Academic misconduct proceedings against individual members of a student organization are governed by the procedures otherwise applicable to students alleged to have committed acts of academic misconduct.
  - 5. Disciplinary proceedings against individual members of a student organization are governed by the procedures otherwise applicable to students alleged to have committed acts of personal misconduct.

#### **V. Severability**

If a provision of this code is held in violation of state or federal laws and regulations, or contrary to Indiana University policy, or otherwise invalid, only the affected part shall be void. This invalidity shall not affect other provisions of this policy which can be given effect without the invalid provisions. To this end, the provisions of this policy are severable.

[Passed by Faculty Senate 5/2/06; Revised 3-2-10; 10-4-11]