

**AGENDA FOR  
UNIVERSITY SENATE MEETING**

*(Meeting #8, 2011-12)*

**March 22, 2012**

**4:00 p.m.**

**LB (Letterman Building), 125**

Approval of senate minutes of February 16, 2012

I. Announcements

A. Next Scheduled Meetings

Senate Agenda Committee – Monday, April 9, 2012, 8:00 a.m., LB 104

University Senate – Thursday, April 19, 2012, LETTERMAN BUILDING, Rm. 125

**Note:** There will be two meetings on April 19; the last meeting of 2011-12 and the first meeting of 2012-13. New senators will be seated at the second meeting and elections of officers for 2012-13 will take place at that time.

B. Program Information – Academic Posting 2011-12, Volume XLIII-5&6 (Enclosure #1)

C. Recognition of Death – Joan E. Schreiber

D. Strategic Plan Presentation

E. Gene Burton, Director of Public Safety

II. Committee Reports

A. Governance and Elections Committee – Richard Bellaver, Chairperson

B. Faculty Council – John Ledbetter, Chairperson

C. University Council – Barbara Wills, Chairperson

D. Campus Council – Kevin Thurman, Chairperson

III. Report by Chairperson of Senate – Eric Kelly (Enclosure #2 - Issues in the Senate System)

IV. Questions Directed to the President

V. Question and Answer Period

VI. Unfinished Business

VII. New Business

- A. Constitutional Amendment – Second Reading (Enclosure #3)
- B. Student Code Revisions (Enclosure #4)
- C. Constitutional Amendment – First Reading (Enclosure #5)

Please note: This is the first reading of the proposed amendment. It is for informational purposes only. Discussion and vote will take place during the second reading, which will be on the agenda for the next meeting of the University Senate, April 19, 2012.

VIII. Other Items

IX. Adjournment

/mt

MINUTES OF THE SIXTH MEETING OF THE 2011-12 UNIVERSITY SENATE  
Thursday, February 16, 2012

Members Present: 58

Members Absent: 9

1. The meeting was called to order by the Chairperson of the University Senate, Eric Kelly, at 4:00 p.m.

Roll Call was taken by initialing the roster located at the entrance to LB 125.

Members Present: S. Aegisdottir, E. Agnew, R. Bellaver, O. Benkato, E. Bowers, R. Bremigan, B. Brey, S. Byrum, B. Canada, J. Chapman, C. Corbin, G. Crawley, J. Ellery, J. Forbey, A. Gary, M. Gerhard, J. Green, D. Grosnick, M. Guntsche, K. Hall, M. Hanley, A. Harden, M. Harvey, T. Hendricks, M. Holtzman, J. Huff, J. Jemiolo, E. Kelly, T. King, J. Kluth, K. Kreamelmeyer, D. LeBlanc, J. Ledbetter, M. Maggiotto, M. McGrew, D. Middleton, S. Pattison, D. Pearson, L. Pellerin, J. Popovicova, T. Richardson, C. Seni, D. Shawger, K. Stanton, G. Stamp, M. Steib, K. Thurman, B. Wagner, A. Wieseke, L. Wiley, B. Wills

Substitutes: Ray Dean for J. Cassady, Jerome McKean for P. Magro, Brian Meekin for C. Munchel, Jonathan Becker for S. Parkinson, Shannon Staton for G. Slater, Sushil Sharma for J. Zhao, Anthony Edmonds for S. Zhuk

Members Absent: S. Amato, J. Gora, C. Griewank, M. Hamil, B. Hannon, T. Hardin, T. Mahfouz, S. Rice-Snow, W. Sharp, K. Subler

Prior to commencing with the meeting, the chairperson of the Senate requested all members to treat other constituencies with respect when attending meetings of the Senate.

2. A motion was made and seconded (Crawley/Pearson) to approve the minutes of January 19, 2012.

The motion carried.

3. Items I. A., and B. (Next meeting date and Program Information), under Announcements were reviewed.

4. There was a moment of silence in recognition of the death of Patricia F. Beilke.

5. Item I. D. (Honorary Degree) under Announcements was reviewed.

6. Committee Reports

- A. Governance and Elections Committee – Richard Bellaver, Chairperson

Richard reported the committee met on February 2 and reviewed: 1) the membership of the Professional Education Committee (PEC) which was forwarded to the PEC for review and discussion, 2) merging the technology committees (Instructional Media Support and Information Technology) into one technology committee, and 3) discussed nominations to the slate of officers for the executive committee of the university senate.

- B. Faculty Council – John Ledbetter, Chairperson

John reported the council met on January 26 and reviewed: 1) Titles for Research Faculty, which will be handled by the Provost's Office, 2) the membership of the Professional Education Committee (forwarded to the Governance and Elections Committee), and 3) approved the membership of the Salary and Benefits Committee.

C. University Council – Barbara Wills, Chairperson

Barb reported the council met on February 2 and reviewed and approved the membership and responsibilities of the Salary and Benefits Committee.

D. Campus Council – Kevin Thurman, Chairperson

Kevin reported the council met on February 9 and discussed 1) lack of compliance of the Smoking Policy, and 2) reviewed and approved the revisions to the Student Code.

7. Report by Chairperson of Senate – Eric Kelly (University Senate Agenda 2/16/12, Enclosure #2)

The chairperson discussed the following with the membership of the Senate:

- A. The two items at the bottom of the GANTT chart: 1) Academic rigor – committee was charged two weeks ago, is chaired by Malcolm Cairns with representatives and students from all colleges, 2) Recognizing credit for hybrid and online education as we evaluate teaching, plus credit for immersive learning, will be back next year.

8. Questions Directed to the President

The President was attending the Foundation Board meeting today. Provost King discussed the following:

1. The website for the Strategic Planning Task Force, 2012-17 will be up tomorrow and will show preliminary work of the task force. Data was gathered last fall from the stakeholder meetings. The values statement was updated and the key strategy is very similar (4 themes, 27 outcomes, now working on performance indicators to confirm progress has been made). There is some shift of emphasis. One of the elements in this plan will call for an outcome for workplace issues. This rose to the top in many stakeholder meetings. There will be a formal presentation at the next senate meeting.
2. He is receiving reports from students that faculty are unilaterally cancelling classes the Friday before Spring Break. This is inappropriate and should not be done.

The Provost received the following questions from the senate:

1. ***What are the responsibilities of the task force on academic rigor?***

They have been given a charge. The charge will be distributed to the senate. They will collect data about grade inflation, use of credits, etc., as well as assess where we are as an institution using that data, and make recommendations to the university that will help us address this issue. The *Chronicle of Higher Education* article will be sent to the members of the senate.

2. ***Any more information on phased retirement?***

The Q&A meeting was delayed because of new information received from university attorneys. It will likely be next week.

3. ***With regard to academic rigor task force: has there been any explicit recognition from the State with increasing rigor, but having students graduate in four years? Has that been part of the conversation?***

It is an important topic and we will have to figure this out.

**4. Concerning lab fees that have now been listed as all the same price: Are the fees for a class going to that unit who are providing the lab courses?**

The lab fees are not all the same for every course, but the funds are distributed after the unit provides a proposal for justification to my office. Also, some courses were implemented earlier that had labs, but no fee was received for them. We have already been providing the fees for these labs. It is an allocation process. The purpose is to align courses and fees. The lab fees are gleaned off the top and the Provost's Office has a procedure to disperse those funds.

9. Question and Answer Period

- A. Vice President Howard gave a budget planning presentation that was used at the Administrative Retreat on February 13-14. The main idea is to fund the strategic Plan. The university has saved \$38M over the last five years which is the 2007-12 strategic plan.

With regard to administrative staffing, Indiana schools as a whole are lower than the national average.

Figures in the presentation with regard to students was traditional only (freshman, full-time students), in-state only.

10. New Business

- A. Constitutional Amendment – Second Reading (Senate Agenda, 2/16/12, Enclosure #3)

The motion to approve the revision in members of the Undergraduate Education Committee, carried.

- B. Constitutional Amendment – First Reading (Senate Agenda, 2/16/12, Enclosure #4)

This is the first reading and no discussion or vote will be taken until the March 22, meeting of the University Senate.

The meeting adjourned at 5:00p.m.

March 22, 2012

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Eric Kelly, Chairperson

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Amy Harden, Secretary

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Program Information – Academic Posting 2011-12, Volume XLIII-5 & 6  
(Revised Programs)

**Volume XLIII-5**

College of Applied Sciences and Technology

Department of Family and Consumer Sciences  
Major in Family and Consumer Sciences  
Minor in Residential Property Management

Department of Military Science  
Minor in Military Science

School of Physical Education, Sport, and Exercise Science  
Exercise Science Major in Physical Education

Department of Technology  
Major in Industrial Technology

College of Architecture and Planning

Department of Architecture  
Minor in Historic Preservation

College of Fine Arts

School of Music  
Major in Music Performance  
Department of Theatre and Dance  
Major in Theatre

College of Sciences and Humanities

Department of Computer Science  
Minor in Computer Science  
Minor in Computer Security  
Certificate in Computer Applications  
Certificate in Systems, Networks, and Security  
Certificate in Transition to Graduate Studies in Computer Science  
Certificate in Web Applications

Department of Geography  
Major in Geography

Department of Mathematical Sciences  
Major in Mathematical Sciences

Department of Modern Languages and Classics  
Major in Classical Culture  
Major in Classical Languages  
Minor in Classical Languages

Department of Speech Pathology and Audiology  
Major in Preaudiology

Teachers College

Department of Educational Studies  
Doctor of Philosophy in Educational Studies

## **Volume XLIII-6**

### College of Applied Sciences and Technology

#### Department of Family and Consumer Sciences

Master of Science in Nutrition and Dietetics

#### School of Physical Education, Sport, and Exercise Science

Master of Arts or Master of Science in Physical Education and Sport

Sport and Exercise Psychology

Sport Administration

Athletic Coaching Education

#### Department of Technology

Teaching Major in Technology Education

Senior High, Junior High/Middle School Education Program

Minor in Design Technology

### College of Architecture and Planning

#### Department of Landscape Architecture

Major in Landscape Architecture

### College of Communication, Information, and Media

#### Department of Journalism

Major in Journalism, Graphics track, Magazine track, News track, Photo track

#### Department of Telecommunications

Master of Arts in Telecommunications

### College of Fine Arts

#### Department of Art

Major in Art

#### School of Music

Minor in Music: Jazz/Commercial

### College of Sciences and Humanities

#### Department of Computer Science

Master of Science in Computer Science

#### Department of English

Master of Arts in English (Creative Writing)

Master of Arts in Linguistics

Master of Arts in Teaching English to Speakers of Other Languages (TESOL) and  
Linguistics

#### Department of Mathematical Sciences

Master of Science in Mathematics

#### Department of Sociology

Master of Arts in Sociology

Revision to Salary and Benefits Committee Membership and Responsibilities  
SECOND READING

9. Faculty Salary and Benefits Committee

- 9.1 Membership – The membership of the Faculty Salary and Benefits Committee shall consist of the following:
- 9.11 Voting
- 9.111 Seven members selected by and from the membership of the Faculty Council, one representing each college, for staggered two year terms;
- 9.12 Non-Voting
- 9.121 The Provost and Vice President for Academic Affairs, ex officio, or a designee.
- 9.122 The Vice President for Business Affairs, ex officio, or a designee.
- 9.123 The chairperson of the Professional Personnel Salary and Benefits Committee; One Professional Personnel member appointed by the University Council, for staggered two year terms.
- 9.124 One member appointed by and from the University Council’s Financial and Budgetary Affairs Committee, for a one year term.
- 9.2 Responsibilities – The Faculty Salary and Benefits Committee is responsible for the following initiatives and activities:
- 9.21 To elect a Chairperson and a Secretary from its ~~appointed~~-elected faculty membership by majority vote of the committee, for one year terms;
- 9.22 To forward minutes of each committee meeting to the Chairperson of the Faculty Council within a timely manner;
- 9.23 To monitor and evaluate faculty salary and benefit programs, including those concerning emeriti, and recommend appropriate changes and improvements.
- 9.24 To initiate reviews and assessments of market conditions periodically and make appropriate recommendations for adjustments regarding incremental money distributed to faculty for market purposes;
- 9.25 To review the administration of faculty salary programs annually, working with the President or the Provost and Vice President for Academic Affairs, to assure compliance with established policies;
- 9.26 To review for approval all criteria and processes regarding faculty salaries for all units.
- 9.27 To act in an advisory capacity to those who administer faculty salary and benefit programs for the University and to represent the interests of the faculty in discussions with such persons.
- 9.28 To meet jointly with the Professional Personnel Salary and Benefits Committee on all matters dealing with university benefits that apply ~~equally to all~~both faculty and professional personnel.
- 9.281 The chairs of both the ~~F~~faculty ~~S~~Salary and ~~B~~Benefits ~~C~~Committee and the Professional Personnel Salary and Benefits ~~C~~Committee shall share chair duties whenever joint meetings are called and the secretaries from each respective committee shall alternate in taking minutes during joint sessions. Acting secretaries shall see to it that minutes are forwarded to both the Faculty and Professional Personnel Salary and Benefits Committees for their review ~~by their respective bodies.~~
- 9.282 All voting members of the respective salary and benefits committees from each council shall be eligible to vote at joint meetings.

## 12. Professional Personnel Salary and Benefits Committee

- 912.1 Membership – The membership of the Professional Personnel Salary and Benefits Committee shall consist of the following:
- 912.11 Voting
- 912.11 Seven members selected by and from the membership of the University Council for staggered two year terms;
- 912.12 Non-Voting
- 912.121 The Vice President for Business Affairs, ex officio, or a designee.
- 912.122 The chairperson of the Faculty Council Salary and Benefits Committee;.
- 912.123 One member appointed by and from the University Council’s Financial and Budgetary Affairs Committee, for a one year term.
- 912.2 Responsibilities – The Professional Personnel Salary and Benefits Committee is responsible for the following initiatives and activities:
- 912.21 To elect a Chairperson and a Secretary from its appointed membership by majority vote of the committee, for one year terms;
- 912.22 To forward minutes of each committee meeting to the Chairperson of the University Council within a timely manner;
- 912.23 To monitor and evaluate salary and benefit programs of professional personnel, including those concerning emeriti, and recommend appropriate changes and improvements.
- 912.24 To initiate reviews and assessments of market conditions periodically and make appropriate recommendations for adjustments regarding incremental money distributed to professional personnel for market purposes;
- 912.25 To review the administration of salary programs of professional personnel annually, working with the President or the Provost and Vice President for Academic Affairs, to assure compliance with established policies;
- 912.26 To review for approval all criteria and processes regarding professional personnel salaries for all units.
- 912.27 To act in an advisory capacity to those who administer professional personnel salary and benefit programs for the University and to represent the interests of professional personnel in discussions with such persons.
- 912.28 To meet jointly with the Faculty Salary and Benefits Committee on all matters dealing with university benefits that apply equally to all both faculty and professional personnel.
- 9.281 The chairpersonss of both the Faculty Salary and Benefits Committee and the Professional Personnel Salary and Benefits Committee shall share chair duties whenever joint meetings are called and the secretaries from each respective committee shall alternate in taking minutes during joint sessions. Acting secretaries shall see to it that minutes are forwarded to both the Faculty and Professional Personnel Salary and Benefits Committees for their review. review by their respective bodies.
- 912.282 All voting members of the respective salary and benefits committees from each council shall be eligible to vote at joint meetings.

### P. 46 of Faculty and Professional Personnel Handbook

In addition, Changes will have to be made to Amend Section 2 (2.4) under Faculty Council (p. 29 of Handbook) to place the word “Faculty” prior to Salary and Benefits Committee;  
Amend Section 2 (2.4) under University Council (p. 39 of Handbook): Increase “Eleven” other standing committees to “Twelve” other standing committees, adding “Professional Personnel Salary and Benefits Committee” to the list of committees at the end of the sentence.

Amend “Policy Formation Flow Chart” in Faculty and Professional Personnel Handbook.

## Revisions to Salary and Benefits Committee Membership and Responsibilities

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P. 46 of Faculty and Professional Personnel Handbook

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\*Amend “Policy Formation Flow Chart” in Faculty and Professional Personnel Handbook.

## CODE OF STUDENT RIGHTS AND RESPONSIBILITIES

### **I. Bill of Rights and Responsibilities**

- 1.5.3 All students are subject to the University policy on intellectual property, as amended from time to time. A copy of the University's Intellectual Property Policy is available for review on the University website at <http://cms.bsu.edu/About/AdministrativeOffices/TechTransfer/ResourcesforStudents.aspx><sup>1</sup> or a copy can be obtained from the University Office of Technology Transfer. An excerpt of the Intellectual Property Policy specifically for students is included as Appendix P.<sup>2</sup>

### **II. AUTHORITY**

- 2.6 **Amendments and Review**—Amendments may be proposed by the Ball State Student Government Association, University Senate, administrative staff, or by the Board of Trustees. In addition, the *Code of Student Rights and Responsibilities* shall be reviewed at least every two years under the direction of the Director of Student Rights and Community Standards or other University official designated by the Vice President for Student Affairs and Dean of Students. The Code was last reviewed and amended in 2012 2014.

- 2.7 **Notice**—A notice of the *Code of Student Rights and Responsibilities* will be sent at the beginning of each semester to the University community by email.

### **III. EQUITABLE PROCEDURES**

All students at Ball State University have a right to fair and equitable procedures for determining the validity of charges of violation of University regulations.

- 3.5 Students charged with or convicted of a violation of federal, state or local law (see Appendix R for policy requiring students to disclose a felony conviction occurring after admission to the University)<sup>3</sup> may be subject to the University sanctions for the same conduct, in accord with established policies and procedures, when the conduct is in violation of a University rule which is important to the continuing protection of other members of the University or to the safeguarding of the educational process. At the discretion of University officials, disciplinary action under this *Code of Student Rights and Responsibilities* may proceed in advance of or during the pendency of criminal proceedings. Determinations made or sanctions imposed under this *Code of Student Rights and Responsibilities* shall not be subject to change because criminal charges arising out of the same set of facts giving rise to University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

### **V. CODE OF CONDUCT**

Any student found to have committed or to have attempted to commit the following offenses is subject to the disciplinary sanctions outlined in sections VI and Section VII (*Student Academic Ethics Policy*).

#### **5.1 Offenses Against Persons:**

- 5.1.3 ~~Physical Abuse~~—~~Physical harm of any person or persons or threat of physical harm of any person or persons which causes that person to be reasonably apprehensive of physical harm.~~ **Harm, Threat or Endangerment** – Conduct that causes physical harm to any person is prohibited, as is any reckless or unauthorized conduct that threatens, endangers or reasonably could threaten or endanger the health or safety of any person. Conduct covered under this rule also

<sup>1</sup> Added for student convenience and ease of use.

<sup>2</sup> The Intellectual Property Policy was added to the Code in 2011 as Appendix P. This added over 20 pages to the Code. The proposed Appendix P (see this document) is an excerpt specifically for students pointing them to the webpage linked in this paragraph for a complete version of the Intellectual Property policy.

<sup>3</sup> See Appendix R, a new proposed policy.

includes but is not limited to impairment of any person's freedom of movement as well as verbal or written threats of any action described above.<sup>4</sup>

## 5.2 Offenses Related To The Operation Of The University

5.2.1 **Academic Dishonesty.** Acts—which include but are not limited to cheating, plagiarism, falsely claiming to have completed work, cooperating with another person in academic dishonesty, knowingly destroying or altering another student's work, or attempting to commit an act of academic dishonesty—that violate the *Student Academic Ethics Policy*.<sup>5</sup> See also Student Academic Ethics Policy, section VII.

## 5.3 Violations That Compromise The Health/Safety/Welfare Of Others

5.3.1 **Alcohol** -Using, possessing or distributing alcoholic beverages except as expressly permitted by law and University policies. See also *Alcohol Policy, Appendix A*.

5.3.2 **Arson** – Setting or attempting to set fires, or acting in a manner that disregards fire safety rules and results in a fire.

## 5.4 Offenses Against Property

## 5.5 Offenses Involving The Judicial Process

# VI. DISCIPLINARY PROCEDURES

## 6.1 General Procedures

## 6.2 HOUSING AND RESIDENCE LIFE DISCIPLINARY PROCEDURES

(See also *Housing and Residence Life Handbook for a detailed description*.)

When a violation occurs within or adjacent to facilities of Housing and Residence Life or in the context of programs sponsored by that office, the following disciplinary procedures apply.

### 6.2.5—Automatic Review<sup>6</sup>

The Associate Director of Housing and Residence Life will automatically review any case resulting in termination of the housing contract. This review does not constitute an automatic appeal on behalf of the student. The student is solely responsible for submitting an appeal.

### 6.2.6 Referrals to the Office of Student Rights and Community Standards

Any case may be referred to the Office of Student Rights and Community Standards for adjudication or for consideration of additional sanctions when:

- a. Violations are of a more serious nature and may warrant consideration of suspension or expulsion from the University.
- b. Violations involve off-campus students.

## 6.3 RECREATION SERVICES DISCIPLINARY PROCEDURES

When a violation occurs within or adjacent to facilities of the Office of Recreation Services or in the context of programs sponsored by that Office, the following disciplinary procedures apply.

## 6.4 STUDENT ORGANIZATIONS AND ACTIVITIES DISCIPLINARY PROCEDURES

### 6.4.4 Appeal Process

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<sup>4</sup> “Physical abuse” is believed to inaccurately describe this rule which has been expanded to include mental harm after reviewing conduct codes from Central Michigan, Ohio University, Miami University of Ohio, and Purdue University.

<sup>5</sup> This rule has previously only made reference to the Student Academic Ethics Policy. The text proposed to be added here does not modify that policy but highlights a few of the behaviors included in that policy.

<sup>6</sup> A similar statement has been deleted in sections 6.4.4.a and 6.5.8.h. These were amended in 2011 to clarify that the automatic review does not constitute an appeal. These sections are removed this year to eliminate confusion. While reviews of significant sanctions like contract termination, suspension, expulsion, and loss of recognition/registration will occur, there is no need for them to be in the Code as the important action available to students is the appeal.

- a. *Appellate Review.* The appellate review will be based on the information and materials in the case file; a summary of the evidence submitted; findings and recommendations; the student organization's written request for an appellate review; and the record of the hearing.

**NOTE:** Where the sanction imposed is withdrawal of recognition for the organization, the decision shall automatically be reviewed by the Vice President for Student Affairs & Dean of Students or his/her designee. This review does not constitute an automatic appeal on behalf of the organization. The organization is solely responsible for submitting an appeal.<sup>7</sup>

- b. A student organization may appeal the result of an administrative hearing decision to the next level administrator.
- c. Decisions by the Hearing Board may be appealed to the Vice President for Student Affairs & Dean of Students or his/her designee.
- d. In both cases, the student organization has five (5) business days from receipt of the original decision in which to submit an appeal in writing.
- e. The organization may appeal based on the following reasons:
  - 1) A substantial procedural error that unreasonably impaired the student organization or the hearing body.
  - 2) An unduly harsh sanction against the accused student organization.
  - 3) New information of a substantive nature not available at the original hearing.
  - 4) Information of substantial bias on the part of the disciplinary body hearing the case.
- f. An appeal may be resolved in one of the following ways:
  - 1) The original decision may be upheld.
  - 2) Modified sanctions, either greater or lesser, may be imposed.
  - 3) The case may be remanded back for a new hearing.
  - 4) All allegations may be dismissed.
- g. Appeal decisions shall be based solely upon the written documentation of the incident and a written statement of appeal from the organization.
- h. The appellate decision shall be final and will not be subject to any further appeal.

## **6.5 OFFICE OF STUDENT RIGHTS AND COMMUNITY STANDARDS DISCIPLINARY PROCEDURES**

### **6.5.1 Preliminary Meeting**

The preliminary meeting is an initial meeting with a designated Student Rights and Community Standards staff person (Director or a Graduate Assistant) at which time the accused student is made aware of University disciplinary procedures, the nature of the complaint and alleged violations, charges against him/her and the range of sanctions possible for that type of offense. The student is also given an opportunity to respond to the complaint. At that time, the Director or designee, based on the information available, may; dismiss some or all of the alleged violations; continue an investigation into the complaint to determine if the allegations have merit; refer the complaint to an alternative resolution process with the mutual consent of the parties involved and if such referral is acceptable to the Director; or charge the student with one or more violations of the *Code of Student Rights and Responsibilities*.<sup>8</sup>

If charged by the designated staff person with a violation(s) of the *Code*, the student is also informed of his/her options in adjudicating the case violation(s), including one of the following:

- a. To plead "responsible" for the violation, request an informal resolution in lieu of a hearing, and have the sanctions determined at that time by the staff person. The designated staff person conducting the preliminary meeting may choose to refer the determination of sanctions to a hearing board if the level of offense warrants more serious sanctions than that staff person is authorized to impose. As part of an informal resolution, the Director of Student Rights and Community Standards may impose sanctions indicated in section 6.6.4 up to and including suspension from the University but not expulsion or revocation of admission or degree.<sup>9</sup>
- b. To plead "not responsible" for the violation and request a hearing. In the case of minor offenses, the designated staff person may choose to hear the case administratively or to refer the case to another administrative hearing officer. In cases that are complicated in nature and scope, or where the violations may result in more serious sanctions, the case may be referred to the Screening Committee of the University Review Board.

<sup>7</sup> Deleted to clarify that the appeal, whatever the sanction, is the obligation of the student organization.

<sup>8</sup> Modified to provide transparency to the process and to reflect actual practice in preliminary meetings.

<sup>9</sup> This authority is added to address numerous situations in which students have accepted responsibility for violations that placed them in jeopardy of suspension. The Director's lack of authority to suspend led to delays to convene sanctioning reviews by hearing bodies which ultimately led to suspension. The Director may choose to exercise this authority or not and any sanctioning decision may be appealed by the student, regardless of whether she or he accepted responsibility for a violation or not.

### 6.5.2 Screening Committee

After the Preliminary Meeting, **and if the case meets the criteria noted in 6.5.1.b above<sup>10</sup>**, the Director or his/her designee shall convene the Screening Committee made up of the Director or his designee, the Vice President of Student Government Association, and a faculty or professional staff member from the University Review Board. The Screening Committee shall review all information available concerning the incident and make a decision on how to proceed, exercising one of the following options:

- a. Refer the case on to the University Review Board.
- b. Refer the case back to the Office of Student Rights and Community Standards for an Administrative Hearing.
- c. Dismiss any or all charges. Any charges not dismissed will be referred as described in a. or b. above.

### 6.5.5 University Review Board

The University Review Board hears disciplinary cases referred to it by the Screening Committee. It is composed of twenty (20) members; ten (10) shall be students and ten (10) shall be University faculty members and/or professional staff members.

- a. **Student Membership.** The student membership will include the Vice President of the Student Government Association, five (5) members of the Judicial Court of Student Government Association and four (4) additional students appointed by the Student Government Association President. The Judicial Court members shall be elected by students in the spring, assume their committee responsibilities on the first day of fall semester and shall hold office for one calendar year. Other appointed students also assume responsibility at the start of the fall semester and serve for one calendar year. A student member may serve an unlimited number of terms. **If insufficient student members have been appointed by the Student Government Association when a hearing is required, the Director has the discretion to utilize non-appointed students in order to provide a timely process.**<sup>11</sup>
- b. **Faculty and Professional Staff Membership.** The faculty and professional staff members shall be selected by the University Senate's Governance Committee to assume their committee responsibility on the first day of fall semester and serve for one calendar year. A faculty or professional staff member may serve an unlimited number of terms. **If insufficient faculty or professional staff members have been appointed by the appropriate governance committee when a hearing is required, the Director has the discretion to utilize non-appointed employees in order to provide a timely process.**<sup>12</sup>
- c. **Quorum.** To conduct a hearing for a student disciplinary case, a Hearing Board composed of a minimum of four (4) members of the University Review Board, of whom at least two (2) must be students and two (2) must be faculty and/or professional staff will be designated by the Director of Student Rights and Community Standards or his/her designee. A hearing may proceed with a minimum of 3 members present.
- d. **Hearing Board Moderator Chairperson<sup>13</sup>**. The hearing shall be **moderated chaired** by one member of the Hearing Board designated in advance by the Office of Student Rights and Community Standards. The ~~moderator~~ **chairperson** shall be a voting member of the Board. The Director of Student Rights and Community Standards or his/her designee will be present at all hearings as a non-voting consultant to the Hearing Board.
- e. **Hearings During Summer Session and Breaks.** To insure the functioning of the Hearing Board during Summer Session and at other times when regular classes are not in session, the Director of Student Rights and Community Standards or his/her designee may convene a **University Review Board<sup>14</sup>** hearing with a minimum of three persons chosen from the pool of the University Review Board membership who are available. Should a minimum of three be unavailable from the University Review Board pool, the Director may select additional faculty, staff or student members to participate in the hearing process.

### 6.5.6 Procedures for Disciplinary Hearings.

Procedures for disciplinary cases of the Hearing Board shall be as follows:

- a. **Written<sup>15</sup> Notice of Hearing.** The accused student(s) shall be notified by the Office of Student Rights and Community Standards in writing of the date, time, and place of the hearing at least three (3) school days before the hearing. This notice shall also include a statement of the allegations of policy violations, information about the hearing process and the range of sanctions available. **In cases where there are multiple accused students, the Director of the Office of Student Rights and Community Standards may choose at his discretion to convene one hearing or separate hearings for the accused students.**<sup>16</sup>

<sup>10</sup> Added for clarification.

<sup>11</sup> In the past two years, there have been periods of time extending well into the fall semester and beyond when insufficient members have been appointed. This addition allows for hearings to proceed by providing direction in those cases.

<sup>12</sup> While this has not been a concern as with students, this provides direction if required.

<sup>13</sup> "Chairperson" is the term used in preceding sections of the Code. This is modified for consistency.

<sup>14</sup> Added for clarity: there is more than one type of hearing.

<sup>15</sup> "Written" is added to conform to the definition in section 4.8 of the Code.

<sup>16</sup> Added to provide guidance in cases where there are multiple accused students.

- b. **Absence of the Accused Student.** The accused student may choose not to attend the hearing and may instead submit a written presentation of his/her case. The hearing may proceed in the absence of the accused and by such absence; the accused forfeits his/her right to question witnesses.
- c. **Witnesses.** The accused student, the complainant and the Director of Student Rights and Community Standards or his/her designee may invite persons who have information relevant to the accusation to present testimony at the hearing; however, the chairperson of the Hearing Board may limit the number of witnesses to avoid repetition and cumulative testimony. The Board may also limit the number of character witnesses, **whose testimony may be considered only determination of to the sanctioning phase of the hearing.**<sup>17</sup> The names of witnesses and written disclosure of the main points of their testimony must be provided to the Office of Student Rights and Community Standards a minimum of twenty-four (24) hours before the hearing. Each party shall be responsible for insuring the presence of his/her witnesses at the hearing or delivery of a written or recorded statement in lieu of personal testimony. Witnesses invited by either party shall be present only while they are testifying.
- d. **Student Assistance.** The accused student and the complainant may be accompanied and assisted at the hearing by an advisor of their choice, **provided the advisor is an employee or student of the University, or a relative**<sup>18</sup>. **In the event the accused student faces pending criminal charges based on the incident that has given rise to the University disciplinary proceedings, his/her attorney may accompany the student as the advisor.** The student must provide the name of his/her advisor to the Office of Student Rights and Community Standards at least **twenty-four (24) hours one business day**<sup>19</sup> before the hearing. At no time may the advisor **or the attorney** participate directly in the hearing proceedings. He/she may only consult with the student.
- e. **Disqualification, Challenges.** Any Hearing Board member may disqualify himself/herself if he or she has a conflict of interest with the case, with the accused student, with the complainant or when the Board member feels a personal bias makes it impossible to render a fair decision. The accused student or complainant may challenge a Hearing Board member on the grounds of conflict of interest or personal bias. The decision whether to disqualify a challenged member shall be made by a majority vote of the remaining members present. If a challenge is upheld, the chairperson may, at his/her discretion, either appoint another person to fill the vacancy or direct that the vacancy not be filled. In the latter case, a quorum shall thereafter consist of the remaining members of the Hearing Board.
- f. **Conduct of the Hearing.** The hearing shall be conducted in an informal manner and without reference to rules applicable to a court of law concerning the examination of witnesses and admissibility of evidence, but with a view toward providing the Hearing Board with a complete understanding of the facts involved. **The chairperson may limit questioning deemed to be irrelevant, immaterial, and unduly repetitious evidence may be excluded.**<sup>20</sup> The hearing and the deliberations of the Hearing Board shall be private. Decisions of the Hearing Board shall be made by majority vote.
- g. **Record of the Hearing.** There shall be a single verbatim record, such as an audio recording, of all University Review Board hearings (not including deliberations). Deliberations shall not be recorded. No other recording shall be made. The accused student may review the recording in the Office of Student Rights and Community Standards upon request. The recording shall be the property of Ball State University and shall be maintained by the Office of Student Rights and Community Standards until the conclusion of all appeal proceedings, or until the appellate term has surpassed. There are no audio recordings of preliminary meetings or administrative hearings, unless otherwise deemed necessary by the hearing officer.
- h. **Continuances:** The Hearing Board, by majority vote, may continue the hearing to a later time.
- i. **Additional Rules:** Procedural rules not inconsistent with this process may be established by the Hearing Board from time to time to fulfill its functions in an orderly manner.

### 6.5.7 The Decision

The decision of the Hearing Board shall be submitted as a recommendation to the Director of Student Rights and Community Standards who may do one of the following:

- a. Accept the recommendation and direct that the sanctions be implemented.
- b. Lessen or otherwise modify the sanctions imposed by the Hearing Board.

<sup>17</sup> This is modified to clarify the limits of character witnesses, who are unable to provide facts pertinent to a determination of whether or not a violation has occurred.

<sup>18</sup> This is proposed to be removed as (1) it may be difficult to determine if the advisor is a relative, (2) in a number of recent cases, students have requested assistance from attorneys even when criminal charges are not pending or unlikely to occur, (3) the requirement to have "pending criminal charges" disadvantages students making the complaint (e.g., sexual misconduct) if the accused student is able to have an attorney and the complaining student may not, and (4) regardless of who it is, the advisor has a prescribed role—to assist the student respondent or complainant.

<sup>19</sup> The 24 hour requirement can result in notice on a weekend or University holiday.

<sup>20</sup> Evidence is determined to be relevant/irrelevant and so on in fact-finding conducted by the Hearing Board during deliberations. The chairperson, as with limiting witnesses, is charged with maintaining hearing decorum and efficiency and should be allowed to limit questioning that does not lead to information useful to the Board.

- c. Refer the case back to the **Hearing Review** Board for further consideration of sanctions.

### 6.5.8 Appeal Process

- a. Students may appeal the result (**finding and sanctions**)<sup>21</sup> of an Administrative Hearing decision to the next level administrator.
- b. Decisions by the Hearing Board (**including accepted sanctioning recommendations**) may be appealed to the Vice President for Student Affairs & Dean of Students or his/her designee.
- c. In both levels of cases, the student has three (3) business days from receipt of the original decision in which to submit an appeal in writing.
- d. Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the University Review Board hearing and supporting documents.
- e. A student may appeal based on the following reasons:
  - 1) A substantial procedural error that unreasonably impaired the student or the hearing body.
  - 2) An unduly harsh sanction against the accused student.
  - 3) New information of a substantive nature sufficient to alter a decision, because such information and/or facts were not known to the person appealing at the time of the original hearing.
  - 4) Information of substantial bias on the part of the disciplinary body hearing the case
- f. An appeal may be resolved in one of the following ways:
  - 1) The original decision may be upheld.
  - 2) Modified sanctions, either greater or lesser, may be imposed.
  - 3) The case may be remanded to the Hearing Board reconstituted with new members to allow reconsideration of the original determination and/or sanctions.
- g. The appellate decision shall be final and not subject to any further appeal.
- h. **NOTE:**<sup>22</sup> ~~Any case resulting in suspension or expulsion from the University is automatically reviewed by the Vice President for Student Affairs & Dean of Students or his/her designee. This review does not constitute an automatic appeal on behalf of the student. The student is solely responsible for submitting an appeal.~~

## 6.6 Sanctions

6.6.4 **Student Rights and Community Standards** administrators may impose **any of the sanctions listed above in cases referred by offices listed above**<sup>23</sup> and one or more of the following sanctions when a student is found responsible for violations of the Ball State *Code of Student Rights and Responsibilities* or the *Handbook for Student Organizations*:

- a. **Official Reprimand** - a written warning that the continuation or repetition of unacceptable conduct may lead to further disciplinary action.
- b. **Educational Requirements** - student may be required to do interviews, a research project, a reflection paper, University or community service or other type of assignment to provide a learning experience related to the violation.
- c. **Restitution** - a student whose actions cause damage to, defacing of or destruction of public or private property or injury to another person, may be required to provide monetary reimbursement for restoration of or replacement of property for medical bills related to injuries.
- d. **Referral** - the student may be referred to an appropriate University service office or to an outside agency to assist that student in achieving personal, social or emotional growth.
- e. **Disciplinary Probation** - for a specified period of time during which the student must demonstrate a willingness and ability to conform to all University regulations. Any violation of University policy while on Disciplinary Probation may result in referral to the University Review Board with the possibility of suspension or expulsion from the University.
- f. **Trespass** - a student may be prohibited from entering or being on the premises of specific locations, facilities or buildings or the entire campus.
- g. **Restriction and Loss of Privileges** - Denial or restriction of specified privileges (including contact with a specific person or persons) for a designated period of time.
- h. **Suspension** - termination of enrollment indefinitely or for a specific period of time. During the period of suspension, the student is issued a trespass notice and may not be present on University property at any time or attend any University-sponsored event or activity without prior authorization by the Office of Student Rights and Community Standards. Conditions of re-enrollment following period of suspension may be determined by the University Review Board and/or the Office of Students Rights and Community Standards.

<sup>21</sup> Added for clarity. Similar for addition below in b.

<sup>22</sup> Deleted to clarify that the appeal, whatever the sanction, is the obligation of the student.

<sup>23</sup> This addition clarifies that, for instance, in a case referred by Housing & Residence Life that could lead to contract termination, the Director may impose that sanction in consultation with that office.

- i. **Expulsion** - permanent termination of enrollment. Upon expulsion, the student is issued a trespass notice and may not be present on University property at any time or attend any University-sponsored event or activity without prior authorization by the Office of Student Rights and Community Standards.
- j. **Revocation of Admission and/or Degree** - Admission to or a degree awarded from Ball State University may be revoked for fraud, misrepresentation, or other violation of Ball State standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.

## 6.7 Grade Appeals<sup>24</sup>

### 6.7.1 Introduction<sup>25</sup>

- a. This process includes any appeal of a final grade (pass-fail or letter grade) for a ~~classroom~~ course, field experience, clinical, student teaching, practicum, internship or externship. *Appeal of ~~an involuntary~~ removal from a course in the middle of a term (~~involuntary withdrawal~~) would be subject to departmental or program<sup>26</sup> procedures, not the grade appeal process, unless a failing grade was issued.*<sup>27</sup> ~~Students considering an appeal of a final grade are encouraged to meet informally with their~~ A student who is considering an appeal of a final grade is encouraged to meet informally with his/her<sup>28</sup> instructor before submitting a written appeal.
- b. Grades issued for examinations, individual papers, quizzes, portfolios and other grades that are not final grades are not eligible for consideration for the University Grade Appeal process as discussed in section 6.7.3.<sup>29</sup>
- c. This appeal procedure is not to be used for a review of the judgment of an instructor in assessing the quality of a student's work or to complain of an instructor's performance.<sup>30</sup>
- d. **NOTE:** Time deadlines in the following procedures are intended to provide a framework for the grade appeal process and may be extended, as circumstances warrant, by the Director of Student Rights and Community Standards or by the Associate Provost.<sup>31</sup>
- e. **This policy will be reviewed by the Ball State Grade Appeals Committee at its meeting each academic year.**<sup>32</sup>
- f. **The Office of Student Rights and Community Standards will provide an annual notice by email of the grade appeal policy to students and faculty and will provide a paper copy to those persons who request one.**
- g. **Faculty members are encouraged to note the grade appeal policy and provide the link [www.bsu.edu/studentrights/gradeappeal](http://www.bsu.edu/studentrights/gradeappeal) in their syllabi.**

### 6.7.2 Department Grade Appeal Process<sup>33</sup>

<sup>24</sup> Proposed changes to Grade Appeal process for 2012-2013 academic year were approved by University Grade Appeal Committee on February 3, 2012 and also by the Student Rights, Ethics, and Standards Committee on February 3, 2012. All changes are highlighted in yellow. Text to be added is underlined; text to be deleted is struck through. Some spelling, typographical and grammatical corrections have been made without highlight or comment. Please direct questions about proposed changes to Dr. Mike Gillilan, Director of Student Rights and Community Standards, at 765 285 5036 or [mrgillilan@bsu.edu](mailto:mrgillilan@bsu.edu).

<sup>25</sup> Section codified. All other sections renumbered to accommodate this change.

<sup>26</sup> "Involuntary withdrawal" refers to a process outlined in [Appendix F](#) of the [Code of Student Rights and Responsibilities](#). This refers to a process in which a department or academic program removes a student from a class for other reasons (e.g., the student does not have prerequisite grades or coursework, student has breached some other requirement of the program)

<sup>27</sup> Italics removed from this sentence.

<sup>28</sup> Replaced for verb/subject agreement clarification.

<sup>29</sup> Added for clarification. Students have requested information about appealing grades of specific tests, etc.

<sup>30</sup> Moved from 6.7.3b

<sup>31</sup> Bolding removed.

<sup>32</sup> The Grade Appeals Committee is required to meet annually. This addition mirrors an item of the expected agenda for that meeting.

<sup>33</sup> The following section has been reorganized and restated for ease of reading. It does not change the substance or intents of former (a) and (b) sections except where specifically noted.

- a. A student who wishes to appeal a final grade must send to the instructor a request for reconsideration of the grade with a rationale for reconsideration. The request shall be in writing (email preferred) and sent to the instructor within ten (10) school days after the final grade is posted by the Registrar's office.
- b. The instructor shall respond in writing (email preferred) with a decision regarding the student's grade within five (5) school days after receiving the request.
- c. If the instructor does not respond within the five day period in (b) above, the student may choose to send the appeal request to the unit head<sup>34</sup> (e.g., department chair or program director) of the department or program that offers the class for a response.
- d. If the instructor responds within the five (5) school day period with a decision with which the student does not agree and the student wishes to proceed with an appeal<sup>35</sup>, the student shall send written request (email preferred) for review of the grade to the unit head within five (5) days of receiving the response from the instructor. The written communication to the unit head should provide detailed information regarding the disputed grade including the written exchanges with the instructor.
- e. The unit head shall respond in writing (email preferred) to the student within five (5) school days of receiving the student's request for a review of the grade. The unit head's response should outline the details of the resolution. If the unit head cannot resolve the dispute, his/her communication to the student should refer the student to the University Grade Appeal process (e.g., a link to the Grade Appeal policy at [www.bsu.edu/studentrights/gradeappeal](http://www.bsu.edu/studentrights/gradeappeal) and/or the Student Rights and Community Standards office).
- f. The student may then choose to proceed with a university-level grade appeal as described below.

**a. Meeting with instructor:** A student wishing to appeal a final grade must inform the instructor or, in his or her absence, the department chairperson, within ten (10) school days after the final grade is posted by the Registrar's Office. The student's request for review of the grade must be submitted in writing (via letter or email) to the faculty member. The faculty member or, in his or her absence, the department chairperson, must respond via letter or email with a decision regarding the student's grade within five (5) school days after receipt of the request.

**b. Resolution by department chair:** If the matter cannot be resolved with the faculty member, the student may notify the department chairperson within five (5) school days after the date of the instructor's response. This notification shall be made via letter or email to the department chair and should outline the nature of the dispute. The department chairperson will then attempt to resolve the dispute. If resolution is successful, the department chair shall inform the student and the faculty member of the nature of the resolution in writing. If the matter cannot be resolved, the department chairperson shall notify the student via letter or email. Either notification must be made within five (5) school days of the student's contact with the department chair. The student may then choose to proceed with a university appeal.

### 6.7.3 University Grade Appeal Process

**a. Formal appeal.** If the matter cannot be resolved satisfactorily at the unit level, the student may request consideration of a University grade appeal hearing. The University grade appeal process consists of the following steps:

- 1) The student must submit a formal appeal of the grade in writing (email preferred) to the Director of the Office of Student Rights and Community Standards ([stdtrights@bsu.edu](mailto:stdtrights@bsu.edu)) or designee (Director) within five (5) school days after notification from the unit head. *Note: a sample structure for the appeal is available at [www.bsu.edu/studentrights/gradeappeal](http://www.bsu.edu/studentrights/gradeappeal).*<sup>36</sup>
- 2) The appeal shall clearly include the criterion or criteria on which the appeal is based and a supporting argument for each criterion cited in the appeal with evidence that supports that argument. See 6.7.3.b below for the criteria for appeals.

<sup>34</sup> "Unit head" or "unit" replaces department chair and department as this level of appeal may be to program, school or institute directors in some cases.

<sup>35</sup> This section was added to address situations in which instructors did not respond in the timeframes noted.

<sup>36</sup> Once changes are approved or modified, the "sample structure" or form will be created and posted summer 2012 as an aid for persons using or explaining an appeal.

- 3) The appeal also shall include all written exchanges with the instructor and unit head regarding the grade appeal. The written exchanges must include the original date stamps. Direct forwards of emails to the Director are acceptable and preferred.<sup>37</sup>
- 4) The appeal also should include the following components:
  - a. The student's full name, email address, telephone number and local mailing address;
  - b. The class name, number, and section number of the class in which the grade was received (e.g., SRCS 100, section 002, Introduction to Grade Appeals);
  - c. The instructor's name;
  - d. The semester in which the class was taken;
  - e. The grade received;
  - f. The grade expected to have been received;
- 5) Once the appeal has been received, the Director shall review the appeal to determine if the student has complied with grade appeal procedures, met the required deadlines and provided the information noted in 2) and 3) above. If the student's appeal does not comply with grade appeal procedures, meet required deadlines, or provide information noted in 2) and 3) above, the Director may inform the student that the appeal does not meet requirements and terminate the appeal request.
- 6) If the Director determines that the appeal meets the requirements in 2) through 4), the Director shall forward the student's appeal to the instructor by email (with copy to unit head) and solicit the following:
  - a. a written response from the instructor;
  - b. a copy of the syllabus for the appropriate class; and
  - c. any other materials relevant to the grade appeal (e.g., rubric, class grades, etc.).
- 7) The instructor is expected to respond to the Director's request within five (5) school days. Upon receipt of the materials from the instructor, a screening committee comprised of the Director, the Associate Provost or designee, and the Vice President of the Student Government Association or designee will review the appeal request and make a decision on whether to refer the appeal to the University Grade Appeal Committee for a hearing. The decision to refer, or not to refer, the appeal for a hearing shall be based upon the student's compliance with grade appeal procedures, the written request for appeal and the criteria cited within the written appeal.
- 8) If the decision is not to forward the appeal to a hearing, the appeal will be rejected and the matter is concluded. The Director shall inform the student in writing of the decision and the matter is concluded.
- 9) If the appeal is approved for further review, the Director shall inform the student in writing of the decision and convene a University grade appeal hearing as described below.
- 10) The notification to the student as described in 8) and 9) above should take place within ten (10) school days after receipt of the formal appeal.

**a. Notification of intent to appeal.** If the matter cannot be resolved satisfactorily at the departmental level, the student may request consideration of a grade appeal hearing. To do so, the student must submit a formal appeal of the grade in writing to the Office of Student Rights and Community Standards within five (5) school days after notification from the department chairperson, clearly stating the basis for appeal and providing supporting argument. The Director of Student Rights and Community Standards or his/her designee shall solicit a written response from the instructor. Within five (5) school days after receipt of the written appeal in the Office of Student Rights and Community Standards, the Director or designee, in

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<sup>37</sup> This and section 4) below are added to make current practice explicit.

collaboration with the Associate Provost or designee and the Vice President of the Student Government Association, will make a decision on whether to refer the appeal to the University Grade Appeal Committee for a hearing. The decision to refer or not to refer shall be based upon the student's compliance with grade appeal procedures, the written request for appeal and the criteria cited within the written appeal. If the decision is not to forward the appeal to a hearing, the matter is concluded.

**b. Basis for Grade Appeals.** The University Grade Appeal Committee will only address those appeals for which a procedural or fairness issue is in question. The criteria for a grade appeal are:

- 1) An obvious error in the calculation of the grade.
- 2) The assignment of a grade to a particular student by application of more exacting or demanding standards than were applied to other students in the course.
- 3) The assignment of a grade to a particular student on some basis other than performance in the course.
- 4) The assignment of a grade by a substantial departure from the instructor's previously announced standards.

**NOTE:** This appeal procedure is not to be used for a review of the judgment of an instructor in assessing the quality of a student's work.<sup>38</sup>

#### 6.7.4 University Grade Appeal Committee

The University Grade Appeal Committee hears grade appeals referred to it by the Office of Student Rights and Community Standards after the screening process described above is concluded. It is composed of fourteen (14) members; seven (7) shall be students and seven (7) shall be University faculty members.

- a. **Student Membership.** The student membership will include one undergraduate or graduate student appointed by each of the seven college deans for a one year appointment to assume their committee responsibility at the start of the fall semester and serving for a twelve-month term. A student member may serve an unlimited number of terms.
- b. **Faculty Membership.** The faculty members, one from each of the seven colleges, shall be elected by the faculty of each individual college, assuming responsibility at the start of the fall semester and serving for a twelve-month term. A faculty member may serve an unlimited number of terms.
- c. **Vacancies.** Should a faculty member or student vacancy occur, the appropriate dean shall appoint a member to the committee for the remainder of the twelve-month term.

#### 6.7.5 Hearing Procedures

- a. **Quorum.** To conduct a hearing for a grade appeal, a hearing panel (Panel) composed of five (5) members of the University Grade Appeal Committee, of whom at least two (2) must be students and two must be faculty. The Office of Student Rights and Community Standards shall assume responsibility for assembling the Panel. A hearing may proceed with a minimum of four (4) members present.
- b. **Hearing ~~Board~~ Moderator and Advisor.** The hearing shall be moderated by the Associate Provost or his/her designee (Associate Provost). The Director of Student Rights and Community Standards or his/her designee (Director) will be present at all hearings as a non-voting procedural consultant to the Hearing Panel and will make a record of the proceedings.
- c. **Notice of Hearing.** If a hearing is to be held, the student and the faculty member who assigned the grade being appealed will be notified in writing of the date, time, and place of the hearing at least five (5) school days in advance. In case of an absent instructor, the unit head, with consent of the absent instructor, shall appoint a faculty member from the department or himself or herself to represent the instructor at the hearing. The Panel may delay judgment if neither the faculty member nor a representative is available for the hearing, if such a presence, in the opinion of the Hearing Panel, is necessary to the decision.
- d. **Presentation of Case.** The presentation of the case is the responsibility of the student and the burden of proof is on the student. The instructor shall be provided an opportunity to respond to the student's claim and to present evidence in support of his or her original grade decision. Each presentation is not to exceed 15 minutes in length. Both sides will also have an opportunity to call witnesses with information pertaining to the appeal criteria cited by the student.
- e. **Access to Information.** The Hearing Panel will have access to pertinent information in the case and may request additional information from either party or call additional witnesses as needed to render a decision.
- f. **Multiple Appeals.** If two (2) or more members of a class appeal their grades, the Panel may elect to hear the appeals individually or collectively.
- g. **Disqualifications; Challenges.** Any Panel member shall disqualify himself or herself if he or she has a conflict of interest with the case or with the student or believes he/she may have a personal bias. The student or instructor may challenge a Panel member on the grounds of conflict of interest or personal bias. The burden of proof is on the

<sup>38</sup> This has been codified and moved to section 6.7.1.

challenger. The decision regarding disqualifying a challenged member shall be made by a majority vote of the remaining members present. If a challenge is upheld, the Associate Provost or his/her designee<sup>39</sup> has the discretion to either appoint another person to fill the vacancy or direct that the vacancy not be filled. In the latter case, a quorum shall thereafter consist of three-fourths (3/4) of all remaining members of the Panel.

- h. **Conduct of Hearing.** The hearing shall be conducted in an informal manner and without reference to rules applicable to a court of law concerning the examination of witnesses and admissibility of evidence, but with a view toward providing the Panel with a complete understanding of the facts involved. Irrelevant, immaterial, and unduly repetitious evidence may be excluded. The hearing and deliberations of the committee shall be private. The hearing shall be closed to the public; the deliberations of the Panel shall be limited to Panel members only.
- i. **Advisors.** The student and the faculty member shall each have the right to have one person of his or her choice present as an advisor in the hearing. That person must be a student, faculty or staff person of the University or (in the case of the student) his/her parent. The advisor may not participate directly in the hearing and is only present to consult with or support the student or faculty member involved.
- j. **Continuances.** The Panel, by majority vote, may continue the hearing to a later time or times.
- k. **Additional Rules.** Procedural rules not inconsistent with these procedures may be established by the Panel from time to time to ensure that the hearing is conducted in a fair and orderly manner.
- l. **Confidentiality of Appeal Hearing.** With the exception of the Director for the purposes of maintaining the case record, Panel members shall not retain in their possession any personal files, materials received during the appeal procedure, or notes taken during the meetings of the University Grade Appeal Committee. No party, Panel member, or other participant or observer in the appeal procedure shall reveal any facts, documents, or testimony gained through participating in or observing the hearing to any other person, unless required by a court of law to do so or upon the advice of the University's legal counsel.<sup>40</sup>
- m. **Hearings during Summer Session and Breaks.** To ensure the functioning of the University Grade Appeal Committee during Summer Session and at other times when regular classes are not in session, the Director Associate Provost or his/her designee<sup>41</sup> may convene a hearing with a minimum of three persons chosen from the pool of the committee membership who are available. Should a minimum of three be unavailable from the pool, the Director Associate Provost or his/her designee may select additional faculty members or student members to participate in the hearing process. The Associate Provost will moderate the hearing.

**6.7.6 Findings.** Decisions of the Hearing Panel shall be made by majority vote which shall not be revealed to either the student or the instructor. Upon completion of the hearing, the Associate Provost will communicate the Panel's decision via letter to the student, the instructor, the Provost and Vice President for Academic Affairs, and the instructor's department chairperson within two (2) school days of completion of the hearing.

- a. **Findings of the Panel.** The Panel may render one of two decisions:
  - 1) That a grade which has been appealed be changed with specific designation of the new grade;
  - 2) That a grade which has been appealed remains the same.If the decision of the panel is that the grade be changed, If the panel decides to change the grade, the instructor shall have five (5) school days in which to file a grade change with the Office of the Registrar or request a review by the Provost (see 6.7.6b below). In the event the instructor takes no action, the Provost shall process a change of grade form.
- b. **Provost's Determination.** If either party believes that there have been procedural errors or that they did not receive a fair hearing, they may request a review by the Provost that shall be limited to an examination of the process and procedures followed. The Provost shall communicate the final decision to all parties in writing. The review may be resolved in one of the following ways:
  - 1) The Provost will determine that there were no procedural errors, in which case the original decision is upheld. If that original decision was to change the grade, the Provost shall notify the faculty member that a change of grade form is to be submitted to the Office of the Registrar. The instructor shall have five (5) school days in which to file a grade change with the Office of the Registrar or inform the Provost of intent not to do so. In the event the instructor takes no action or chooses not to change a grade, the Provost shall process a change of grade form.
  - 2) The Provost will determine that there were procedural errors, in which case the grade appeal may be remanded back to the original Panel for further consideration.
- c. **Transcript notation.** If a grade has been changed by the Provost, the transcript appeal case record<sup>42</sup> shall reflect the following: *Original grade of \_\_\_ was overruled by the Provost upon recommendation of the University Grade Appeal Panel.*

<sup>39</sup> "Associate Provost" includes designee (see section b immediately above)

<sup>40</sup> Bolding removed from highlighted section.

<sup>41</sup> In section 6.7.5a, the Office of Student Rights and Community Standards is indicated as the party responsible for assembling the Panel. The changes in this section clarify that this section is consistent with that earlier direction.

<sup>42</sup> This change is still pending regarding clarification of Banner capabilities for making notations on transcripts. At its February 3, 2012 meeting approving these changes, the grade appeal committee took a stance that the notation should be made if the

d. **Record.** A record of the case including all materials submitted during the appeal process, written exchanges to and from the student regarding the appeal, the record of the proceedings of the University Grade Appeal Committee hearing (if applicable) and communication to and from the Provost (if applicable) shall be retained on file in the Office of Student Rights and Community Standards for a period of one year after the decision. After that year, unless precluded by a pending legal matter, all materials will be destroyed with the exception of final decisions made by the screening committee, the University Grade Appeal Committee, and the Provost as applicable. These documents may be maintained in digital form.<sup>43</sup>

## VII. STUDENT ACADEMIC ETHICS POLICY

7.9.4 **Transcripts.** Other than the grade finally assigned in a course, a student's academic dishonesty shall not be recorded on the student's transcript unless the student is expelled from the University or a previously awarded degree is revoked. In these cases the transcript has a notation but which does not specify expulsion or revocation of degree.<sup>44</sup>

### APPENDIX A - Alcohol Policy

When students choose to consume alcoholic beverages, Ball State University encourages responsible practices and behavior in accordance with campus policies, the laws of the State of Indiana and the City of Muncie. On and off campus violations of University policy and local and state laws related to alcohol will result in disciplinary action.

#### A. General Guidelines

1. *University Sponsored Events* - Illegal purchase, service, consumption, or possession of alcoholic beverages at any University-sponsored event on or off campus is prohibited. Upholding applicable local, state, and federal laws in connection with this policy is the joint responsibility of the persons in attendance at the activity, the sponsoring organization, and the management of the establishment in which the activity is held.
2. Illegal purchase, consumption, or possession of alcoholic beverages by any student under 21 years of age is prohibited wherever it may occur.
3. Providing alcoholic beverages at any time to an individual who is under 21 years of age is strictly prohibited.
4. Adverse behavior as a result of alcohol consumption, including disruption, disorderly conduct, and public intoxication shall be a violation of the Student Code.
5. The sale of alcoholic beverages by any person without a license is strictly prohibited.
6. Students found responsible for providing alcohol to minors and selling or distributing alcohol in violation of state law shall be in violation of the student code.
7. Students hosting parties where (a) minors are allowed to consume alcohol<sup>45</sup>, (b) alcohol is provided to minors, (c) provided in excess to others, or (d) otherwise distributed in violation of the law are subject to sanctions outlined in the *Code of Student Rights and Responsibilities* up to and including suspension or expulsion from the University.

**B. On Campus:** With respect to the service, possession or consumption of alcoholic beverages on the Ball State University campus, state statutes and city ordinances will be enforced in addition to the following regulations:

1. Residents who are of legal age to possess or consume alcoholic beverages and who reside in University-operated employee apartments or University Apartment units may possess and consume such alcoholic beverages in the privacy of their residences.
2. Consumption and possession of alcohol may be permitted on some residence hall floors where all residents are of legal age to possess or consume alcoholic beverages. Such use of alcoholic beverages will not be permitted in the public lounges, study lounges, recreation areas, dining rooms, or any area other than the student rooms.

**C. Parental Notice:** The University will notify parents/guardians of students under 21 years of age when a student is found responsible for (1) a violation of the drug policy, (2) a *second* violation of the alcohol policy, and (3) on the *first* violation of the alcohol policy when one or more of the following occurs:

- the student demonstrates a reckless disregard for his or her personal safety or the safety of others;
- medical attention to any person, including the student, is required as a result of the student's alcohol-related behavior;
- there is property damage;
- the student operates a motor vehicle under the influence of alcohol;
- the incident involves another serious violation;
- the student's alcohol-related behavior negatively impacts the learning environment.

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technology allowed it.

<sup>43</sup> Section added to clarify responsibilities, maintenance, and other details pertaining to case record.

<sup>44</sup> Added for clarification. The processes that support transcript production do not allow this level of detail to appear directly on the transcript.

<sup>45</sup> Clause added to extend prohibition to circumstances where minors are drinking and establish expectation that hosts may not simply host open parties where minors bring alcohol to consume.

## APPENDIX B - Drug Policy

The use, abuse, possession, sale, distribution, manufacture or transfer of narcotics, illegal drugs as defined by state or federal law, or any controlled substance is prohibited at all times, except as expressly permitted by law. Any Controlled substances includes, but are not limited to without limitation, marijuana, hash oil, hashish, inhalants, and abuse of over-the-counter drugs and prescription drugs, and/or the use of over-the-counter drugs or prescription drugs, or any other immediate precursor to be used to manufacture any other illegal drug, including without limitation, methamphetamine, except as expressly permitted by law.

Possession or manufacture of drug paraphernalia which is to be used for any one of the following purposes (a) to introduce into a person's body a drug, marijuana or any controlled substance, (b) to test the strength, effectiveness or purity of a drug, marijuana or any controlled substance, or (c) enhances, or is perceived to enhance, the physiological effect of a drug, marijuana or any controlled substance, is also a violation of this policy.

Violation of this policy, on or off campus, will result in disciplinary action by the University. Those found responsible may face sanctions up to and including consideration of suspension or expulsion, depending on prior disciplinary record and severity of the violation.

Students who reside in University housing facilities, will be subject to immediate contract termination cancellation<sup>46</sup> if found responsible for any violation of this policy.

Student need to be aware that any student convicted of a state or federal drug violation that occurred while enrolled and while receiving federal financial aid may be declared ineligible for future federal student aid for up to a year. Individuals convicted of both possession and selling may face a longer period of ineligibility.

The University will notify parents/guardians of students under 21 years of age when a student is found responsible for (1) a violation of the drug policy, (2) a *second* violation of the alcohol policy, and (3) on the *first* violation of the alcohol policy when one or more of the following occurs:

- the student demonstrates a reckless disregard for his or her personal safety or the safety of others;
- medical attention to any person, including the student, is required as a result of the student's alcohol related behavior;
- there is property damage;
- the student operates a motor vehicle under the influence of alcohol;
- the incident involves another serious violation;
- the student's alcohol-related behavior negatively impacts the learning environment.

## APPENDIX F - Involuntary Withdrawal Policy<sup>47</sup>

### A. Introduction

The procedure for involuntary administrative withdrawal of a student from the University are to be used only after reasonable attempts to secure voluntary cooperation for psychological evaluation or withdrawal have been exhausted, and will be used only after thoughtful consideration by members of the Student Affairs staff. As described below under Section C., "Procedures," a student will be subject to involuntary administrative withdrawal from the University when, in the judgment of the Associate Vice President for Student Affairs & Director of Housing & Residence Life (hereafter referred to as the Associate Vice President), the Director of Counseling and Health Services and the Medical Director of the University Health Center, there is a substantial possibility that the student, as a result of a physical or psychological condition;

1. Will harm himself or herself or others, or
2. Will cause significant property damage, or causes significant interference with the educational environment of others, or
3. Will be substantially unable, even with the help of auxiliary aids, to meet his or her responsibilities as a student, or
4. Will be unable Demonstrates the inability to care for his or her daily physical or mental health needs without assistance and has failed to secure such assistance.

<sup>46</sup> Termination is the correct term in this instance?

<sup>47</sup> These changes were made in response to a Dear Colleague Letter (October 2011) from the US Department of Education's Office of Civil Rights.

The Associate Vice President will initiate a review through either this process or the University's student disciplinary process. If the student has engaged in an activity which subjects him or her to University disciplinary action, the matter will be handled through the University's student disciplinary process unless the Associate Vice President determines that the student, as a result of psychological conditions:

1. Lacks the capacity to respond to pending disciplinary charges against him or her, or
2. Did not know the nature or wrongfulness of the conduct at the time of the offense.

## B. Interim Withdrawal

An Interim Withdrawal may be implemented immediately by the Associate Vice President if he/she determines, based upon a qualified medical or psychological opinion, that the student may be suffering from a mental or psychological disorder and that the student's behavior poses an imminent danger of causing physical harm to the student or to others, of causing significant property damage, or of substantially impeding the lawful activities of others. A student withdrawn on an interim basis shall be given an opportunity to appear personally before the Associate Vice President within two (2) school days from the effective date of the interim withdrawal in order to review the following issues only:

1. The reliability of the information concerning the student's behavior and
2. Whether or not the student's behavior poses a danger of causing imminent physical harm to the student or to others, causing significant property damage, or substantially impeding the lawful activities of others. Unless the Associate Vice President determines otherwise, the student will remain withdrawn on an interim basis pending completion of the procedures described below.

## C. Procedures

1. **Meeting with the Associate Vice President.** A student may be requested in writing and/or orally (depending on the urgency of the situation) to attend an informal meeting with the Associate Vice President for the purpose of determining whether the student, as a result of a physical or psychological condition, falls within one of the four categories described in Section A., "Introduction," above, and, if so, the necessity for withdrawal. Such a request will include a statement of the reasons for the University's concern. The Director of Counseling and Health Services and the Medical Director of the University Health Center will attend the meeting. Other appropriate personnel may be present and/or consulted. Parents, spouse, or any person who would be of support to the student may, with the consent of the Associate Vice President, and of the student, participate in the informal meeting. At the meeting the reasons for the University's concern regarding the student will be stated and the student will be given an opportunity to respond to these concerns. If, after the meeting, the student is found not to fall within one of the four categories described in the "Introduction" above, he or she will be so informed in writing by the Associate Vice President and allowed to continue as a student.
2. **Associate Vice President's Withdrawal Decision.** If, after the informal meeting, the Associate Vice President, the Medical Director of the University Health Center, and the Director of Counseling and Health Services, decide that the student should withdraw from the University and be permitted to re-enter the University only with their approval, the student shall be informed in writing of such decision and the basis for the decision within five (5) school days of the informal meeting. Notification may be made to the person listed as the student's Emergency Contact.

## **APPENDIX K - Sexual Misconduct Policy**<sup>48</sup>

~~Ball State University defines sexual misconduct as sexual intercourse (anal, oral, or vaginal) or sexual touching (including disrobing or exposure), however slight, with any object, by a man or woman upon a man or a woman, without effective consent.~~

~~Effective consent is informed, freely and actively given, mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon sexual activity. Consent is not effective if it results from the use of force, threats, intimidation, or coercion. (Note: this language is adapted from work by Brett Sokolow, JD of the National Council on Higher Education Risk Management.)~~

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<sup>48</sup> This proposal replaces the current Sexual Misconduct Policy—Appendix K in its entirety. The development of this proposal is prompted and informed by the April 14, 2011 Dear Colleague Letter from the U.S. Department of Education's Office of Civil Rights that focused on student-on-student sexual harassment particularly in regards to sexual violence. This proposal was developed, in part, by reviewing similar policies at the University of Notre Dame, Purdue University, Indiana University, University of Virginia, Indiana State University, University of Southern Indiana, and a model policy written by Brett Sokolow (National Council of Higher Education and Risk Management). Questions about this draft should be directed to Mike Gillilan, Director of Student Rights and Community Standards at (765) 285-5036 or [mgillilan@bsu.edu](mailto:mgillilan@bsu.edu).

In addition, to have sex with someone who you know to be, or should know to be incapable of making a rational, reasonable decision about a sexual situation is a violation of this policy (e.g. an intoxicated person or someone with a mental or emotional impairment).

Ball State University respects and fully endorses the *Sexual Assault Victims Bill of Rights* ([www.bsu.edu/studentrights/sexualassaultbillofrights](http://www.bsu.edu/studentrights/sexualassaultbillofrights)) which provides protection, guidance, and options for complainants of sexual misconduct. This includes such principles as:

- Every complainant will be treated with dignity and respect.
- Every complaint will be taken seriously and thoroughly investigated regardless of the complainant's gender or the gender of the accused.
- The University will assist the complainant in obtaining necessary medical attention and counseling.

The prior sexual histories of any party in a sexual misconduct complaint are inadmissible in University judicial proceedings. The only exception to this rule will be when a party can demonstrate the relevance of past sexual relations between the parties and the issue of consent and/or when the accused wishes to demonstrate physical evidence in the complaint which can be attributed to another party. The University Review Board retains the right to consider these exceptions and their admissibility in closed session.

## **Introduction**

Sexual misconduct of any kind is inconsistent with the University's values and incompatible with the safe, healthy environment that the Ball State community expects. All members of this community share responsibility for creating and maintaining an environment which promotes the safety and dignity of each individual. Sexual assault will not be tolerated at Ball State. Federal law views sexual misconduct and sexual assault as forms of sexual harassment prohibited under Title IX. Sexual assault also violates state law as well as University policy. Students found responsible for sexual misconduct or sexual assault will ordinarily face disciplinary sanctions up to and including expulsion from the University.

The University believes that no person should bear the effects of sexual assault alone. When a sexual assault occurs, the University's paramount concern is for the safety, health and well-being of those impacted. To support and assist students, the University provides a wide range of services and resources. Please see the section below on **Resources** to learn more.

## **Application**

This policy applies to Ball State students as defined in the *Code of Student Rights and Responsibilities* (or *Code* which may be found at [www.bsu.edu/studentcode](http://www.bsu.edu/studentcode)). The Code provides that any person may file a complaint against a student. Complaints of sexual misconduct by an employee should be filed with the Office of University Compliance (AD 335, 285-5162) or with the Ball State Police by calling (765) 285-1111. Complaints of sexual misconduct by a third party should be filed with the Ball State Police (765) 285-1111.

## **Sexual Misconduct Offenses**

Sexual misconduct offenses that are prohibited are:

- **Non-consensual sexual intercourse** is any sexual intercourse by any person upon another without effective consent. It includes oral, anal and vaginal penetration, to any degree, with any object. It is referred to as "sexual assault" in this policy.
- **Non-consensual sexual contact** is any sexual touching, with any object, by any person upon another, without effective consent. Sexual touching is contact of a sexual nature, however slight. It includes, but is not limited to, disrobing or exposing another person.
- **Other forms of sexual misconduct include, but are not limited to:**
  - Sexual exhibitionism
  - Sex-based cyber-harassment
  - Prostitution or the solicitation of a prostitute
  - Peeping or other voyeurism

- Going beyond the boundaries of consent, e.g., by allowing others to view consensual sex or the non-consensual video or audiotaping of sexual activity.

**Effective Consent** means informed, freely and actively given mutual agreement, communicated by clearly understandable words, to participate in each form of sexual activity. Consent cannot be inferred from silence, passivity, or lack of active resistance. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. By definition, there is no consent when there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. A person who is the object of sexual aggression is not required to physically or otherwise resist the aggressor; the lack of informed, freely given consent to sexual contact constitutes sexual misconduct.

In addition, to have sex with someone who one knows to be, or reasonably should know to be incapable of making a rational, reasonable decision about a sexual situation policy is a violation of this policy. For example, a person who is:

incapacitated by alcohol or drug consumption; or

unconscious, asleep, or otherwise physically impaired; or

has a mental or emotional impairment

is incapable of giving effective consent. Having sex with such a person is a violation of this policy; being intoxicated is not an excuse for failure to obtain consent.

## **Privacy and Confidentiality**

### **Confidential Resources**

Under Indiana law, if a student wishes the details of an incident to be kept strictly confidential, she or he can speak with counselors at the Ball State Counseling Center, Student Health Center, Office of Victims Services, or off-campus rape crisis resources, such as A Better Way, the IU Ball Memorial Hospital Emergency Room, other health providers, or pastoral counselors. These individuals will honor confidentiality unless there is an imminent danger to the student or to others.

### **Limits of Confidentiality and Mandated Title IX Investigations**

In all instances and to the extent possible, the University will protect the privacy of all parties to a report of sexual misconduct or sexual assault. That said, under federal law, campus officials (with the exception of those listed under **Confidential Resources**, above) who receive a report of sexual misconduct, whether from the student involved or a third party, must share that information with the appropriate University authorities for investigation and follow-up.

An administrative investigation under Title IX must be initiated if the University has enough information to reasonably determine key facts, e.g., time, date, location, and names of parties involved in an alleged incident. Ordinarily, this administrative investigation will include a review of statements obtained from either party, interviews with both parties, interviews with witnesses as appropriate, and review of relevant documentary evidence, and will be conducted by the Director of Student Rights and Community Standards or his/her designee when the accused person is a student.

The University will seek the complainant's consent prior to beginning the investigation. However, the University is obligated to conduct this investigation regardless of the complainant's requests. In the course of the administrative investigation, information will be shared as necessary with people who need to know, such as investigators, witnesses, and the accused

As required by Title IX and in accordance with the Ball State *Code of Student Rights and Responsibilities*, the University typically will not wait for criminal investigations or criminal proceedings to conclude or begin before beginning its own administrative investigation. When the University must delay temporarily to delay its investigation in order not to interfere with criminal investigations, it will resume promptly its investigation once notified that police have completed gathering evidence.

## **Reporting Sexual Misconduct and Sexual Assault**

To report an incident of sexual misconduct or sexual assault, call Ball State Police at 285-5111; Ball State police officers are available 24 hours a day, 7 days a week. During business hours, persons wishing to report sexual misconduct by a student may also call or email

- the Director of Student Rights and Community Standards or his designee at (765) 285-5036 or [stdtrights@bsu.edu](mailto:stdtrights@bsu.edu) or
- the Title IX Coordinator at the Office of University Compliance at (765) 285-5162

The University encourages persons to report all incidents of sexual misconduct or sexual assault by students to the Ball State Police regardless of where the incident occurred.

Incidents of sexual misconduct involving students that are reported to Ball State Police will also be referred to the Director for follow-up and administrative investigation. Similarly, the Director of Student Rights and Community Standards or his/her designee will follow-up where appropriate in those instances where the University has a report of an incident of sexual assault or misconduct that has been reported to another law enforcement agency. The administrative investigation conducted by the Director of Student Rights and Community Standards or his/her designee is separate from any criminal investigation.

### **Other University Responses to Sexual Misconduct Complaints**

Whenever the University receives a report of sexual misconduct or sexual assault, complainants who are members of the University community may be referred to an advocate from the Office of Victim Services (OVS—located in Rm. 205 of the Student Health Services Building at 1500 W. Neely Ave. [ [www.bsu.edu/ovs](http://www.bsu.edu/ovs)]) who can serve as a resource person to the complainant to identify, explain and navigate the complainant's reporting options and the available support services. This can include but is not limited to referrals to counseling, educational support, medical treatment, and information about University processes, criminal processes, and legal assistance. The advocate can also provide assistance in rearranging class schedules, extracurricular activities, and on-campus housing/dining arrangements (for reasons including avoiding contact with the accused student).

The advocate can also assist the complainant with working with the Director of Student Rights and Community Standards or his/her designee to make reasonable accommodations, and issue written instructions to the accused student restricting him or her from making contact with the complainant (including but not limited to temporarily moving the accused student—if living in University housing—to other living arrangements or making alternative instructional arrangements for the accused student).

### **Intimidation or Threats to Inhibit Reporting**

Any actual or threatened retaliation or any act of intimidation to prevent or otherwise obstruct the reporting of sexual misconduct or sexual assault or the participation in proceedings relating to sexual misconduct or sexual assault by an accused student or third party is itself prohibited and may result in criminal proceedings or disciplinary proceedings or both. A complainant or witness who is threatened in any way should immediately report these concerns to the Ball State police by calling (765) 285-5111.

### **University Disciplinary Procedures**

Administrative investigations and resolutions of complaints of sexual misconduct against students will be conducted by the Director of Student Rights and Community Standards or his/her designee (Director) using procedures outlined in the Ball State *Code of Student Rights and Responsibilities* found at [www.bsu.edu/studentcode](http://www.bsu.edu/studentcode). Those procedures are briefly described below and include but are not limited to:

- a determination of whether to charge the accused student with a violation of this sexual misconduct policy (and any other policy violations that may be appropriate) using a preponderance of evidence standard;
- providing the accused student the option to accept responsibility for the violation and seek an informal resolution or request a hearing:
  - if the accused student accepts responsibility in writing and seeks an informal resolution, the Director may impose sanctions up to and including suspension from the University;
  - if the accused student requests a hearing, a hearing of the University Review Board (a body comprised of University students, faculty, and professional staff members) will be convened to determine if a violation has been occurred. The determination will be made using a preponderance of evidence standard.
- Mediation will not be used to resolve sexual assault complaints.

### **Hearings**

- The Director, having conducted the investigation and made the determination to charge the accused student with a policy violation, will serve as the official complainant at the hearing; the initial complainant will serve as the complaining witness;
- Both the initial complainant and accused student will be notified in writing of the date, time, and location of the hearing and their rights at the hearing including being present at the entire hearing, presenting evidence and testimony, presenting witnesses, equal and timely access to information to be presented at the hearing, and the presence of an advisor (who may be an attorney) whose role in the hearing is limited;

- Both the initial complainant and accused student may ask questions of each other and of witnesses through the hearing chairperson (so-called “cross-examination” is not permitted);
- The Director may make arrangements to convene hearings in such a manner that contact between the initial complainant and accused student is limited but allows effective participation by both parties (e.g., conducting the hearing in separate rooms connected by teleconferencing).

### **Notice of Outcome**

Both the complainant and the accused student will be notified in writing of the outcome of the informal resolution or hearing and any appeal (that is, whether the sexual misconduct policy was found to have been violated). The accused student will also be notified of all sanctions that have been imposed and procedures for appeal. The complainant will be notified of sanctions imposed against the accused student that are related directly to the complainant (for example, if the accused student is restricted from making contact with the complainant) and procedures for appeal.

### **Timely Resolution**

The University will strive to resolve complaints in a timely and reasonable timeframe. Resolution through an informal resolution or hearing will typically take place within 14 school days after completion of the investigation. The notice of outcome will come within three school days after the resolution is completed. Appeal procedures typically will be completed within seven school days after notice of outcome is delivered. If circumstances (for example, a complaint involving multiple incidents, complainants, and/or accused students) require longer timeframes, these will be documented and the complainant(s) informed of the need for additional time.

### **Maintenance of Records**

The University will maintain records of sexual misconduct complaints, including audio recordings of hearings, in a manner and for a period of time that complies with federal law including Title IX and the Clery Campus Security Act.

### **Resources**

It is especially important for students who have been sexually assaulted to seek immediate and appropriate medical treatment. The **Student Health Center** (at 1500 Neely Avenue). The phone number is (765) 285-8431; the website is [www.bsue.edu/healthcenter](http://www.bsue.edu/healthcenter). The Student Health Center is equipped to provide confidential and professional medical care. The Student Health Center can provide medical care, treatment for injuries and infection, assistance and support. The Student Health Center staff does not perform procedures related to the collection of evidence for the purposes of pursuing criminal prosecution. Students are encouraged to seek evaluation for the collection of evidence, and assistance is offered for transportation to the Ball Memorial Hospital Emergency Room for this purpose, but the collection of evidence is not a requirement for students to receive comprehensive care at the Student Health Center. Follow-up treatment or testing for sexually transmitted infections can be provided by the Women’s Center located within the Student Health Center on the second floor.

The **Counseling Center**, located in Lucina Hall 320, is staffed by trained professionals who can provide specialized support and assistance to students who have been assaulted. Current students may seek counseling at any time after the incident. The confidential services of the Counseling Center are available to the student or employee who was assaulted. The Counseling Center can be reached at 765-285-173 (during office hours) and 765-747-7330 for after-hours emergencies. The Counseling Center website is [www.bsue.edu/counselingcenter](http://www.bsue.edu/counselingcenter).

The on-campus resources listed above are available to all Ball State students including accused students and witnesses in sexual misconduct and sexual assault cases.

The **Office of Victim Services (OVS)** provides educational and supportive services for the Ball State University community related to sexual assault, relationship violence, and stalking. The program is designed to assist individuals in the recovery process by providing timely information and confidential support and guidance through the campus judiciary and criminal justice systems. During office hours, the OVS can be reached at (765) 285-7844. A victim advocate is available after hours for emergencies by calling the Ball State University Police dispatch 765-285-1111 and requesting the on-call victim advocate be paged.

Off-campus support services include but are not limited to:

- **A Better Way** (advocacy services for victims of sexual assault and a participating member of the Delaware County Sexual Assault Response Team (SART) (765) 288-4357 (HELP).
- The **Indiana University Ball Memorial Hospital Emergency Room** (ER--located at 2401 University Ave) has a specially trained sexual assault team available 24 hours a day, seven days a week. Forensic exams (“rape kits”) for sexual assaults are provided at the ER. Under Indiana law, the tests and procedures at the hospital are free of charge if

treatment is sought within 96 hours of the assault. IU Ball Memorial ER staff may ask if the student wishes to speak to the police; this decision is up to the student. The IU Ball Memorial Hospital Emergency Services can be reached by calling 911 or (765) 747-3241.

For more information about resources, please visit [www.bsu.edu/ovs](http://www.bsu.edu/ovs) or call the Office of Victim Services at (765) 285-7844.

Revised February 3, 2012

## **APPENDIX M – Student Funeral and Bereavement Rights and<sup>49</sup> Appeals**

### ***From Code of Student Rights and Responsibilities Section 1.6.9***

#### ***Right to Funeral and Bereavement Leave<sup>50</sup>***

- a. Students will be excused from class for funeral leave in the event of the death of a member of the student's immediate family or household, including: father, mother, husband, wife, son, daughter, grandfather, grandmother, grandchild, brother, sister, father-in-law, mother-in-law, daughter-in-law, son-in-law, stepfather, stepmother, stepson and stepdaughter. The number of excused absences allowed is determined by the distance of funeral services from Muncie, Indiana, as follows:

**Three work days** - Within 150 miles radius of Muncie

**Four work days** - Between 150-300 miles radius of Muncie

**Five work days** - Beyond 300 miles radius of Muncie

**Seven work days** - Outside of North America

If the student is unable to attend the funeral services, the student will be allowed three work days for bereavement.

- b. In the event of the death of a student's stepmother-in-law, stepfather-in-law, brother-in-law, sister-in-law, uncle, aunt, nephew, and niece, students will be allowed one work day.
- c. A student may contact the Office of Student Rights and Community Standards to request that an informational notice (without verification) be sent to the student's instructor(s). The student will provide documentation to each instructor. Given proper documentation, the instructor will excuse the student from class and provide the opportunity to earn equivalent credit for assignments missed. If the student is not satisfied with the outcome, he or she may appeal as outlined in the Ball State University's Procedure for Student Bereavement Leave Appeals. (See below.)

### **Procedures for Student Funeral and Bereavement Leave Appeals<sup>51</sup>**

- A. To initiate a Funeral and Bereavement Appeal, the student must request a review of funeral and bereavement conflict by contacting (in person, by phone, or by letter) the faculty member, or in his or her absence the department chairperson. Students are strongly encouraged to request the review as soon as the funeral and bereavement conflict becomes apparent, but must request the review no later than ten (10) school days after the start of the next academic (fall, spring, or summer) semester following the semester or summer session in which the funeral and bereavement conflict occurred. The faculty member, or in his or her absence the department chairperson, must respond to the student's request within ten (10) school days after receipt of the request.
- B. If the matter cannot be resolved with the faculty member, the student must inform the department chairperson of the disagreement with the faculty member and present the student's side of the dispute. The department chairperson will then attempt to resolve the dispute by consulting all affected parties.
- C. If the department chairperson cannot resolve the dispute to the student's satisfaction, the student may continue with the appeals process by contacting the Dean of the College in which the department resides. The Dean will then attempt to resolve the dispute by consulting all affected parties. If the Dean of the College cannot resolve the dispute to the student's satisfaction, the student may appeal to the Provost and Vice President for Academic Affairs, who will consult all affected parties. The decision of the Provost and Vice President for Academic Affairs is final.
- D. In the case that the faculty member involved in the appeal is the administrator next in the line of the appeal process, then

<sup>49</sup> Added to incorporate section inserted below.

<sup>50</sup> This section was added for the purpose of ease of use by placing together the policy granting student right to funeral and bereavement leave and the procedures for appeals. Section 1.6.9 remains intact in the Code section Bill of Rights and Responsibilities (section I of *Code*)

<sup>51</sup> Heading added to note beginning of appeals procedures section.

the appeal will move directly to the next level.

## **APPENDIX P - Policy Concerning the Ownership, Distribution and Commercial Development of Ball State University Intellectual Property and Technology<sup>52</sup>**

This policy appendix was added to the *Code of Student Rights and Responsibilities* in 2011 to supplement the statement in section 1.5.3 of the *Code*. The excerpt here applies to students. Students should familiarize themselves with the entire policy which may be found at <http://cms.bsu.edu/About/AdministrativeOffices/TechTransfer/ResourcesforStudents.aspx>.

This policy excerpt includes the introduction, Ball State policy statements, and a section on student theses and dissertations.

Persons with questions about this policy should contact the Ball State Innovation Corporation Technology Transfer Office at 765-285-4900.

### **PART 1. INTRODUCTION AND SELECTED DEFINITIONS**

#### **1.0 INTELLECTUAL PROPERTY AND RELATED RIGHTS**

The material set forth in this document addresses the ownership, distribution, and commercial development of technology developed by Ball State University (“Ball State”) faculty, staff, and students and others participating in Ball State programs. The term “technology” is broadly defined in this document to include technical innovations, inventions, and discoveries, as well as writings, audiovisual or digital or other creative works, and other information in various forms, including computer software.

The principal rights governing the ownership and disposition of technology are known as “intellectual property” rights, which are derived primarily from federal and state legislation granting patent, copyright, trademark, trade secret and integrated circuit mask work protection.

In some instances, distribution and commercialization of technology may be accomplished by the transfer/assignment or licensing of the intellectual property rights, such as the licensing of patents or copyrights. In other instances, distribution and commercialization of technology may be aided by or depend upon access to the physical or tangible embodiment of the technology, as in the case of biological organisms, plant varieties or computer software through a material transfer arrangement.

Therefore, this policy will define not only the ownership, distribution, and commercialization rights associated with the technology in the form of intellectual property, but will also define policies and procedures which govern use and distribution of the technology in its tangible form.

The following overview of intellectual property rights is limited in scope. The Ball State Technology Transfer Officer (“TTO”) at the Ball State Technology Transfer Office should be contacted for further information regarding any of these rights.

...section removed for space reasons. See entire policy at <http://cms.bsu.edu/About/AdministrativeOffices/TechTransfer/ResourcesforStudents.aspx>

### **PART 2. BALL STATE’S POLICY STATEMENTS**

#### **2.0 GENERAL POLICY STATEMENT**

The prompt and open dissemination of the results of Ball State research and the free exchange of information among scholars are essential to the fulfillment of Ball State’s obligations as an institution committed to excellence in education and research.

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<sup>52</sup> Intellectual Property and Technology policy was added as Appendix P to the *Code of Student Rights and Responsibilities* in 2011. This addition added 20 pages to the *Code* in addition to the notice in section 1.5.3 that the policy applies to students. This proposal excerpts the policy for those portions pertaining specifically to students as well as the introduction and provides a link to the entire policy in addition to referring questions to the Office of Technology Transfer. I believe that the excerpt makes this policy more user-friendly to students in addition to saving space.

Matters of ownership, distribution, and commercial development, nonetheless, arise in the context of technology transfer, which is an important aspect of Ball State's commitment to public service. Technology transfer is, however, subordinate to education and research; and the dissemination of information must, therefore, not be delayed beyond the minimal period necessary to define and protect the rights of the parties.

## 2.1 INTELLECTUAL PROPERTY OWNERSHIP POLICY STATEMENT

With the exception of the *written content* of student theses, dissertations and research reports as addressed more fully in Section 2.1.5, intellectual property rights in inventions, mask works, trade secrets, tangible research property and copyright ownership of materials made or created by Ball State faculty, students, staff, and others participating in Ball State programs, including visitors, are as follows:

### BALL STATE OWNED

(a) Patents, copyrights (including copyrights on software), maskworks, trade secrets, and tangible research property and trademarks developed by faculty, students, staff and others, including visitors participating in Ball State programs or using Ball State funds, resources or facilities, are owned by Ball State when either of the following applies:

(1) The intellectual property was developed within the scope of employment and/ or by students as part of the student's participation and receipt of instruction in any Ball State class, funded project or independent study, internship or practicum under the supervision and direction of a faculty or staff member as outlined in the discussion below regarding Student Ownership and/or in the course of, or pursuant to, a sponsored research agreement with Ball State; or

(2) The intellectual property was developed with significant use of funds, other resources or facilities administered by Ball State, as defined in Section 2.1.2.

(b) Except as set forth herein, all copyrights, including copyrighted software, will be owned by Ball State when it is created as (1) a "work for hire" as defined by copyright law, (see Section 2.1.3), or (2) it is "specially commissioned" by Ball State pursuant to a written agreement whereby Ball State retains copyright ownership, (see Section 2.1.3), or (3) it is created pursuant to a written agreement with Ball State providing for transfer or assignment of copyright or ownership to Ball State.

### INVENTOR/AUTHOR OWNED

Inventors/Authors, including students, will own patents/copyrights/other intellectual property when none of the situations defined above for Ball State ownership of intellectual property applies.

### STUDENT OWNERSHIP

Except as set forth herein and in Section 2.1.5, under ordinary circumstances, students who independently develop intellectual property as part of, or arising outside, of their participation in programs of study at Ball State retain ownership rights to that intellectual property **unless any** of the conditions set forth in this section on Student Ownership and outlined above in Section 2.1(a) or Section 2.1(b) regarding Ball State owned intellectual property are applicable.

In this regard, any student engaging in research or development of intellectual property subject to Ball State ownership under Sections 2.1(a) (2), 2.1(b), or 2.1(a) (1) under a sponsored research agreement or under the supervision and direction of a faculty or staff member in connection with a class, funded project or independent study, internship, practicum or other program or activity subject to this Policy **shall have no ownership interest in the resulting intellectual property**. By way of illustration, this may include without limitation, patentable processes or inventions, computer aided designs, digital designs, models or fabrications, or student produced films, videos or digital productions. This paragraph is not determinative of appropriate academic credit for authorship of any resulting work product in which students are supervised or directed by Ball State faculty or staff. In instances where the intellectual property may be subject to Ball State ownership, a Disclosure outlined in Part 3 of this Policy shall be made for purposes of determining ownership, cost recovery and royalty distribution.

Where copyright ownership arising out of the student's participation in programs of study at Ball State is retained by the student in intellectual property, however, the student shall grant to Ball State a royalty-free perpetual non-exclusive license and consent to reproduce, use and publicly distribute the intellectual property for the following limited purposes of Ball State: (1) institutional promotion and marketing; (2) educational and instructional; and (3) entries into appropriate competitions.

...section removed for space reasons. See entire policy at <http://cms.bsu.edu/About/AdministrativeOffices/TechTransfer/ResourcesforStudents.aspx>

#### 2.1.5 STUDENT THESES AND DISSERTATIONS

Students will own copyright in theses and dissertations, however, where significant use is made of Ball State equipment or facilities provided to Ball State without copyright or other related restrictions, students own copyright in theses or dissertations, but any software code, patentable subject matter and/or any other intellectual property contained in, or produced as part of, the theses or dissertations remain subject to Ball State ownership pursuant to Section 2.1.2 above.

Moreover, where copyright ownership is retained by the student in the theses, dissertations and/or research reports, the student shall grant to Ball State a perpetual royalty-free, non-exclusive limited license and consent to reproduce, use and publicly distribute the thesis, dissertation and/or research report for the following limited purposes of Ball State: (1) institutional promotion and marketing; (2) educational and instructional; and (3) entries into appropriate competitions.

...section removed for space reasons. See entire policy at <http://cms.bsu.edu/About/AdministrativeOffices/TechTransfer/ResourcesforStudents.aspx>

**Proposal to combine Information Technology (IT) and Instructional Media Support Committees**  
**FIRST READING**

- IT committee will no longer exist. The combined committee will be under Faculty Council
- Change in Name: Recommended Committee Name: **Academic Technology Committee**

3. Membership: *Added 2 additional professional personnel 3.12*

3.1 Voting:

- 3.11 Seven faculty members, one representing each college, at least one of whom must be a member of the Faculty Council, appointed by the Faculty Council, for staggered two year terms;
- 3.12 ~~One-Three~~ Professional personnel from appropriate representative areas appointed by the University Council.
- 3.13 ~~One-two~~ students appointed by Student Government Association, for a one year term.

3.2 Non-voting: *Changed Non-voting – two non-voting, one from Information Technology and one from Academic Affairs*

- 3.21 Provost and Vice President of Academic Affairs, ex officio, or a designee
- 3.22 Vice President of Information Technology, ex officio, or a designee
- ~~iii. The Executive Director of Teaching and Learning Advancement, ex officio, or a designee;~~
- ~~iv. The Director of the Teleplex, ex officio, or a designee;~~
- ~~v. The Director of University Computing Services, ex officio, or a designee;~~

4. Responsibilities: *Removed 4.3 and 4.4 and added 4.3 through 4.6*

- 4.1 To elect a chairperson, who must be an elected member of Faculty Council, and a Secretary from its appointed faculty membership by majority vote for one year terms;
- 4.2 To forward minutes to the Chairperson of the Faculty Council within a timely manner.
- ~~4.3. To receive and consider recommendations for improving instructional media, extended education technologies, and related academic computing procedures and practices;~~
- ~~4.4. To evaluate instructional media support, extended education technologies, and instructional computer technology.~~
- 4.3 Help to inform and advise a strategic vision and plan for academic technology at Ball State that supports the overall strategic mission of the University
- 4.4 Consider and recommend policies regarding support of faculty, staff and student activities that would be aided by Academic Technology Solutions
- 4.5 Make recommendations for improving all technology services
- 4.6 Provide feedback on all technology resources and alternatives and make recommendations to the Office of Information Technology

(Clean Copy) Academic Technology Committee

3. Membership:

3.1 Voting:

- 3.11 Seven faculty members, one representing each college, at least one of whom must be a member of the Faculty Council, appointed by the Faculty Council, for staggered two year terms;
- 3.12 Three Professional personnel from appropriate representative areas appointed by the University Council;
- 3.13 Two students appointed by Student Government Association, for a one year term.

3.2 Non-voting:

- 3.21 Provost and Vice President of Academic Affairs, ex officio, or a designee;
- 3.22 Vice President of Information Technology, ex officio, or a designee.

4. Responsibilities:

- 4.1 To elect a chairperson, who must be an elected member of Faculty Council, and a Secretary from its appointed faculty membership by majority vote for one year terms;
- 4.2 To forward minutes to the Chairperson of the Faculty Council within a timely manner;
- 4.3 Help to inform and advise a strategic vision and plan for academic technology at Ball State that supports the overall strategic mission of the University;
- 4.4 Consider and recommend policies regarding support of faculty, staff and student activities that would be aided by Academic Technology Solutions;
- 4.5 Make recommendations for improving all technology services;
- 4.6 Provide feedback on all technology resources and alternatives and make recommendations to the Office of Information Technology.