Procedures for Personal Misconduct

Preamble

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

I. Jurisdiction

The Director of Student Conduct has the authority to initiate disciplinary proceedings against individual students in all cases involving allegations of personal misconduct. The Director of Student Conduct also has the authority to initiate disciplinary proceedings against groups of students or student organizations in any case involving allegations of misconduct.

These procedures apply to all students, as defined under the Code, at the campus of Indiana University South Bend.

A. These procedures apply to the adjudication of the Indiana University Code of Student Rights, Responsibilities, and Conduct provisions on Personal Misconduct. Authority to establish these procedures is provided in the Code under Part III: Procedures for Implementation of the Code.

B. If a student withdraws from the university, no longer remains enrolled, or otherwise fails to meet the definition of a student while a disciplinary matter is pending, the University will retain authority to adjudicate the matter under these procedures.

C. If, after a degree has been conferred, the university determines that the student committed misconduct prior to the conferral, the university may recommend the revocation of the degree to the Board of Trustees.

1. When an allegation of personal misconduct is made which would have occurred prior to degree conferral and if the allegation would be considered a higher offense or would have influenced or affected the academic process, or both, the Office of Student Conduct may adjudicate the case consistent with the procedures for personal misconduct.

Simultaneous Acts of Academic and Personal Misconduct

When a student commits an act of personal misconduct, separate academic misconduct and disciplinary proceedings may be initiated by the faculty member involved and the Director of Student Conduct in accordance with these procedures and/or an act of academic misconduct related to a course in which the student is enrolled and also commits a separate but simultaneous act of academic misconduct unrelated to that course. The faculty member and Director of Student Conduct have the discretion to handle the matter jointly or to decide that the matter should be handled by only one of the officers.
II. Standard of Proof

The standard of proof for a finding of misconduct will be based upon a preponderance of information. Preponderance of information is defined as information that a reasonable person would find persuasive or more likely than not that the violation occurred. The burden to demonstrate that the preponderance standard has been met will be upon the University.

III. Referring and Investigating Allegations of Personal Misconduct

Referrals
A complaint that a student has committed an act of personal misconduct must be submitted to the Director of Student Conduct in the form of a written, electronic, or oral report. After reviewing a complaint, the Director of Student Conduct has the discretion to decide whether disciplinary action should be initiated.

1. Referrals of alleged acts of personal misconduct occurring on or off campus will be referred to the Director of Student Conduct or his or her designee;
2. Referrals of alleged acts of personal misconduct occurring within a University residence may be directed to Housing and Residence Life staff, as determined by the Director of Student Conduct.

Investigations
The Office of Student Conduct may conduct an investigation to determine if the alleged violations of personal misconduct have merit warranting further investigation or adjudication. The Office of Student Conduct, upon the completion of the investigation, will determine the appropriate course of action, which may include, but is not limited to:

1. Taking no further action on the referral, which may include deferring the investigation if it is plausible that more information will be available at a later time;
2. Providing the accused student written notice of charges and options to resolve the charges under the University discipline procedures.

IV. Notice of Charges

A. If disciplinary proceedings are initiated against a dependent student under the age of 18, the Director of Student Conduct is required to make reasonable efforts to ensure that the parent(s) or, when appropriate, the legal guardian(s) of the student is notified concerning the proceedings and the nature of the complaint.

B. The notice will be sent by e-mail and/or certified mail to the student's address as it appears in the official records of the University or personally to the student. Notice must be delivered in a manner that the University officials believe is most likely to inform the student that charges are pending and that a hearing has been scheduled.

C. The notice will require the student to appear in the Office of Student Conduct to discuss the alleged violations and will include the following:
   1. The violation of the Student Code of Conduct the student is alleged to have committed;
   2. The best known date, time, and place of the alleged offense and other relevant circumstances;
3. The date, time, and place of the informal conference to discuss the alleged violation;
4. That the student may have an advisor present during the conference and that the advisor is limited to the role of advising the student;
5. That, if the student fails to appear for the conference, the Director of Student Conduct may make a determination of responsibility in the absence of the students, reschedule the conference, or dismiss the charges using the standard of proof established;
6. That any sanctions imposed under the circumstances noted in paragraph 5 above will be subject to further hearing or appeal, but the fact that the student’s failed to appear at the conference, if unjustified, may be weighed as a factor in future determinations.

V. Resolving Charges of Personal Misconduct

Informal Conference with Housing and Residence Life: The Director of Student Conduct may refer any complaints of housing violations to the Housing and Residence Life staff upon review of a complaint. A conduct professional in Housing and Residence Life will hold an informal conference with the accused student to resolve the complaint and discuss potential responsibility. If the student accepts responsibility and accepts the sanction from the conduct professional, the student may waive the right to a formal hearing and all related procedural guarantees, after approval from the Director of Student Conduct. The housing violation will also remain on file within the Office of Student Conduct.

Informal Conference with Office of Student Conduct: Accused students who receive written notice of charges for allegations of personal misconduct have the right to a formal hearing on the matter. However, the accused student will meet with an individual conduct professional first to resolve the complaint and discuss potential responsibility. If the student accepts responsibility, and the recommended sanctions the student may waive the right to a formal hearing during the informal conference. If the student waives the right to a formal hearing, the decision of the conduct professional will be final. Guidelines for an informal conference can be found in Appendix C.

Formal Hearing: Accused students who wish to dispute responsibility for charges brought by the conduct professional or the egregiousness of the sanction assigned by the conduct professional following the informal conference may choose to have their case resolved in a formal hearing. Procedures for the formal hearing can be found in Appendix D. A request for a formal hearing must be made in writing to the Office of Student Conduct within 7 calendar days of receipt of the decision letter of the informal conference.

VI. University Sanctions and Disciplinary Outcomes

If a student has more than one incident in the file, the incident to be kept on file the longest will determine the length of time all records are kept. The Director of Student Conduct and formal hearing panel is authorized to impose any one or a combination of the following sanctions for acts of personal misconduct:

A. **Formal Warning:** A warning is a written notification resulting from violations of the Indiana University Code of Student Rights, Responsibilities, and Conduct.
B. **Disciplinary Probation:** A student may be placed on disciplinary probation for a specified period of time, with a warning that any violation of the conditions or any further acts of misconduct may result in additional disciplinary sanctions, including suspension or expulsion from the University. Students placed on probation may be restricted from other University activities.
C. **Suspension**: A student may be prohibited from participating in all aspects of University life for a specified period of time. When a student is suspended from the University, the suspension applies to all campuses of the University. The Director of Student Conduct is required to notify the Office of the Registrar to indicate the suspension on all copies of the student’s academic transcript. When the term of the suspension has ended, the Registrar will remove the notation from the student’s transcript. Conditions for readmission may be specified.

D. **Deferred Suspension**: A sanction of suspension may be deferred for a period of time not to exceed one year, with the provision that a lesser sanction or sanctions be completed within that period of time. If the student does not complete the lesser sanction assigned, the suspension will take immediate effect with notification to the student.

E. **Expulsion**: A student may be dismissed from the University permanently. When a student is expelled from the University, the expulsion applies to all campuses of the University. The Director of Student Conduct is required to notify the Office of the Registrar to indicate the expulsion on all copies of the student’s academic transcript. Furthermore, the student may not thereafter petition for readmission to the University. Expulsion notations on transcripts are permanent.

F. **Additional Disciplinary Outcomes**: The conduct professional is authorized to impose additional sanctions, which may include, but are not limited to: Attendance at educational experiences, reflection assignments, restitution, orders of no contact or no trespass (or both), residence hall assignment relocation or contract termination, or other restrictions. If the student fails to participate in the additional sanctions as directed, the student may be subjected to further additional sanctions, including suspension or expulsion.

**Conditions of Suspension and Expulsion**: An individual separated from the University through suspension or expulsion will be denied all privileges afforded to a student. The suspended or expelled student may not re-enter campus, for any purpose, in the absence of express written permission of the Dean of Students or his or her designee. The conduct professional may notify other members of the University as needed of the student’s separation.

**VII. Appeal to Campus Review Board**

A. The student has the right to appeal the decision of the hearing panel to the Campus Review Board. The appeal must be submitted in writing to the Office of Student Conduct within 7 calendar days after receiving the decision of the hearing panel. The student must clearly outline the reason for the appeal in this submission.

B. Criteria for an appeal of the hearing panel’s decision include:
   1. That the student was not afforded due process per the Indiana University South Bend Procedures for Personal Misconduct;
   2. That the sanctions imposed were not proportionate to the act of personal misconduct; and
   3. That there is new and significant information that affects the finding of responsibility for the act of personal misconduct.

C. The Office of Student Conduct will take the appropriate actions to convene the Campus Review Board if the appeal criteria are met as noted above (“B”) and outlined in Appendix C: Appeals to the Campus Review Board.

*Procedures for the Campus Review Board can be found in Appendix E.*
VII. Deviations

A student and conduct professional may agree in advance to minor deviations from procedure, which will be documented in writing. Such deviations are not then subject to appeal.

IX. Interim Suspension

A. When the Dean of Students, in consultation with the Chancellor, has reasonable cause to believe that a student's or student organization's presence poses a significant risk of substantial harm to the safety or security of others or to property, the student or student organization may be immediately suspended from any and all University premises, University-related activities, and registered student organization activities.

B. Notice of this action will be provided to the student or student organization in writing as soon as practical. This must be sent to the student or student organization representative by certified mail and through official campus email. The interim suspension will remain in effect until the conclusion of the disciplinary process. Upon the issuance of a notice of interim suspension, the Director of Student Conduct or his or her designated conduct professional will initiate the disciplinary process for acts of personal misconduct without delay.

C. The student or student organization representative may, within 3 calendar days of the implementation of the interim suspension, petition the Dean of Students to have the interim suspension modified or removed. The petition must be made in writing by the student or student organization representative, and must include supporting documentation demonstrating that the student or student organization does not pose, or no longer poses, a significant risk of substantial harm to the safety or security to others or to property. The Dean of Students, in consultation with the Chancellor, will render a decision within 3 calendar days.

D. An interim suspension will result in a formal hearing with the Office of Student Conduct. There cannot be a request for an informal conference with an individual conduct professional.

X. Student Organizations

A. A complaint against the student organization must be submitted to the Director of Student Conduct in the form of a written, electronic, or oral report. The Director of Student Conduct may consult with the Office of Student Life upon receipt of the complaint to determine if a formal charge will be made against the organization.

B. Student organizations are expected to maintain appropriate standards of conduct that are commensurate with those expected of individual students in the University community. All student organizations will be held responsible by the University for abiding by federal, state, and local laws, as well as all University policies.

C. Student organizations are collectively responsible for any actions committed by members that serve to reflect upon the organization as a whole or upon the university community. Disciplinary action against organizations is separate from disciplinary action taken against individuals. Proper adjudication of an incident may necessitate actions against both an organization and its individual members.
D. When a student organization, including social Greek organizations, is charged with a violation of the Indiana University Code of Student Rights, Responsibilities, and Conduct, the case is referred to a formal hearing within the Office of Student Conduct.

E. The Office of Student Conduct, upon review, may determine that the complaint be heard by an alternative hearing board for student organizations.

XI. Interpretation and Revision

Questions of interpretation of these procedures will be referred to the Dean of Students or his or her designee for final determination. These procedures will be reviewed every 2 calendar years or at the request of the Dean of Students under the direction of the Director of Student Conduct or his or her designee.

Approved by Indiana University South Bend Academic Senate:  
Amended per the Office of the Vice President and General Counsel:
Effective Date:
Appendix A: Procedures for Sexual Misconduct

The procedures used to resolve matters of sexual misconduct, including, but not limited to, acts of sexual harassment, sexual violence, sexual assault, domestic violence, dating violence, stalking or related behaviors, can be found under Appendix E of the Indiana University Code of Student Rights, Responsibilities, and Conduct. These procedures can be found online at: http://www.indiana.edu/~code/bloomington/discipline/appendix_e.shtml

APPENDIX B: Time Limitations

A. Time limitations outlined in these procedures may be extended for a reasonable period of time if an extension is justified by good cause under the totality of the circumstances.
   1. The complainant or respondent may make a request for an extension of a specific time limitation.
   2. A request for an extension must be submitted in writing to the Director of Student Conduct.
B. If a time limitation is not specified for a particular action or proceeding under these procedures, the action or proceeding must be made within a reasonable period considering the totality of the circumstances.

Appendix C: Informal Conference Procedures

A. When the student appears for an informal conference, the Director of Student Conduct shall inform the student of the purpose of the conference that the conference will be limited to a consideration of the personal misconduct involved, and, if found responsible, also review any record of the student’s previous acts of academic and/or personal misconduct. The student may, but need not, make responses and explanations.
B. A student may not be suspended or expelled from the University unless the Director of Student Conduct concludes, in consultation with the Dean of Students, that such a sanction is justified by the nature of the act or because the student has committed previous acts of misconduct.
C. The student may have an advisor present during the conference but the advisor is limited to the role of advising the student and may not participate or make any statements during the conference.
D. The student will be given an opportunity to discuss the nature of the act of personal misconduct, the accuracy of the record, and any sanction that the Director of Student Conduct proposes. The student will then be offered the choice of either consenting to the determination and imposed sanction or requesting a hearing before a hearing panel.
E. If the student fails to appear for the conference and if the Director of Student Conduct reasonably concludes that the failure to appear is without good cause, the Office of Student Conduct may impose any of the authorized additional sanctions. Unless the sanction imposed is any one or a combination of expulsion from University housing, suspension from the University, or expulsion from the University, the student’s right to any further hearings automatically will be forfeited,
and the sanctions imposed in their absence will go into effect.

F. The student will be sent a decision letter following the informal conference within 10 calendar days of the informal conference. If a student desires a hearing before a hearing panel, the request must be made in writing and delivered to the office of the Director of Student Conduct within 7 calendar days after the date of the letter informing the student of the decision.

G. If no written request is received for a formal hearing by the Director of Student Conduct within the time specified, no hearing shall be held and the sanction or sanctions proposed by the Director of Student Conduct will be imposed, and the action is final.

Appendix D: Formal Hearing Procedures

A. A formal hearing provides a formal hearing panel the opportunity to consider charges brought against an accused student; the opportunity to hear information provided by the accused student, the conduct professional, reporting party, and witnesses; the opportunity to review facts gathered in the investigation; and the opportunity to consider new material made available at the hearing.

B. An accused student will receive notice of a formal hearing no less than 7 calendar days from the date of the scheduled hearing, unless the accused student submits, in writing, a reasonable request to waive the 7 day notice and schedule the hearing earlier. The notice shall include the following:
   1. The date, time, and place of the formal hearing;
   2. That either the student or Director of Student Conduct may submit a written statement to the Office of Student Conduct 3 calendar days in advance of the appeal hearing;
   3. That, at the hearing, both the student and the Director of Student Conduct may make oral arguments;
   4. That, at the hearing, both the student and Director of Student Conduct have a right to an advisor but that advisor is limited to advising the student or Director of Student Conduct;
   5. That the appeal hearing will be closed to the public, unless otherwise requested by the student 3 calendar days prior to the hearing;
   6. That the university may be represented by legal counsel if it so elects;
   7. That the student must prepare a list of the persons that the student may present as witnesses and/or whose statements may be offered as information at the hearing and submit the list to the Director of Student Conduct by no later than 3 calendar days before the hearing; and
   8. That the student need not answer questions and that a choice to remain silent will not be taken as an admission of responsibility.

C. Attendance at the formal hearing by the accused student is required. The University will make reasonable efforts to request witnesses and other parties to attend the hearing. Should an accused student fail to attend the hearing, absent extraordinary circumstances, the formal hearing panel will not delay the proceedings. Rather, the formal hearing panel will render a decision based on the information available. A student will, in no way, be assumed responsible for a charge solely on the basis of his or her failure to appear or to offer information at the hearing.

D. The formal hearing panel shall be composed of three persons who are appointed from a group of
trained hearing professionals as follows:
   1. A student appointed by the President of the Student Body upon recommendation of the student assembly;
   2. A faculty member appointed by the President of the Academic Senate; and
   3. An administrative officer appointed by the Chancellor. The administrative member shall serve as the presiding officer.

E. The members of the formal hearing panel shall hold office from the first day of the fall semester for a term of one year, but will complete the review of any case that is outstanding while in office.
   1. No hearing shall be held unless three of the members of the formal hearing panel are present;
   2. A member of the formal hearing panel may be appointed at any time during the year to fill a vacancy on the board;
   3. If a vacancy on the formal hearing panel occurs and there is a failure or refusal of the appropriate authority to make an appointment to fill the vacancy, the Director of Student Conduct in consultation with the Dean of Students may make an appointment to fill the vacancy or take such other action as may be necessary to constitute the formal hearing panel.

F. The formal hearing chair, in consultation with other members, shall maintain necessary order and shall make all decisions necessary for a fair, orderly, and expeditious process.
   1. Decisions by the formal hearing panel shall be by majority vote only.
   2. The formal hearing panel is required to review the complaints filed, and then consider any written and oral statements submitted by the student and the Dean or Director of the School or Unit Hearing Chair.
   3. The burden of proving that the student has committed the offense, or offenses as charged, shall be upon the university.
   4. The decision of the formal hearing panel must be based solely upon matters introduced at the hearing and upon a preponderance of information standard.

G. When it appears necessary to avoid undue hardship or to avoid injustice, the formal hearing panel may, in its discretion, grant a reasonable continuance of the hearing.

H. The formal hearing panel shall provide a recorded audio tape or transcript of all proceedings, which shall be maintained for a period of one year within the Office of Student Conduct.

I. The formal hearing panel shall make a finding whether the student has committed the act of misconduct. If the formal hearing panel finds that the student has committed the act of misconduct, it may, after a review of any disciplinary record the student may have, impose one, or a combination of the disciplinary sanctions enumerated under section VI of the Personal Misconduct Procedures.

J. Within 10 calendar days the formal hearing panel chair is required to notify the student and Director of Student Conduct of the panel’s decision. The decision must be in writing and copied to the Director of Student Conduct. This letter must include the following:
   1. The decision of the formal hearing panel regarding the act of misconduct and sanctions imposed; and
   2. That the student who filed the complaint may make an appeal to the Campus Review
Appendix E: Campus Review Board Procedures

A. The student may appeal the decision of the formal hearing panel based on the standard established by section VII. B. of the Personal Misconduct Procedures.

B. An appeal must be sent to the Director of Student Conduct no later than 7 calendar days from receipt of the decision of the formal hearing panel stating the reason for appeal.

C. The Director of Student Conduct will immediately forward the appeal to the presiding officer of the Campus Review Board to inform him/her of the appeal and establish a date and time for the campus review board hearing.

D. The Campus Review Board shall be composed of three persons who are appointed from a group of trained hearing officers as follows:
   1. A student appointed by the President of the Student Body upon recommendation of the student assembly;
   2. A faculty member appointed by the President of the Academic Senate; and
   3. An administrative officer appointed by the Chancellor. The administrative member shall serve as the presiding officer.

E. The members of the Campus Review Board will hold office from the first day of the fall semester for a term of one year, but they will complete the review of any case that is still outstanding when they leave office:
   1. No hearing shall be held unless three of the members of the Campus Review Board are present
   2. A member of the Campus Review Board may be appointed at any time during the year to fill a vacancy on the board.
   3. If a vacancy on the Campus Review Board occurs and there is a failure or refusal of the appropriate authority to make an appointment to fill the vacancy, the Director of Student Conduct in consultation with the Chancellor, make an appointment to fill the vacancy or take such other action as may be necessary to constitute the Campus Review Board.

F. The student will be notified with at least 7 calendar days’ notice by the Office of Student Conduct of the following:
   1. The date, time, and place of the Campus Review Board hearing;
   2. That either the student, Director of Student Conduct, or the formal hearing panel chair may submit a written statement to the Office of Student Conduct 3 calendar days in advance of the appeal hearing;
   3. That, at the hearing, the student, Director of Student Conduct, and the formal hearing chair may make oral arguments based on the record to the Campus Review Board;
   4. That, at the hearing, both the student and Director of Student Conduct, and the formal hearing chair have a right to an advisor but that advisor is limited to advising the student Director of Student Conduct, and the formal hearing chair;
   5. That the appeal hearing will be closed to the public, unless otherwise requested by the student 3 calendar days prior to the hearing;
   6. That the review board will not accept additional information unless it is new and
significant, but will consider only the statements submitted, oral statements, and, if applicable, record of the formal hearing panel;
7. That the student requesting the appeal shall have the burden of proving that due process was not followed, that the decision was not proportionate to the act of misconduct or that there is new and significant information regarding the act of personal misconduct.

G. The student or Formal Hearing Panel Chair may review any statements provided to the Campus Review Board 2 calendar days prior to the Campus Review Board meeting.

H. The presiding officer of the Campus Review Board, in consultation with other members, shall maintain necessary order and shall make all decisions necessary for a fair, orderly, and expeditious process.
   1. Decisions by the review board will be by majority vote only;
   2. The Campus Review Board is required to listen to the recorded tape or transcript of the Formal Hearing Panel, then consider any written and oral statements submitted by the student and the Director of Student Conduct and Formal Hearing Panel;
   3. The student requesting the appeal has the burden of proving that due process was not followed, and/or the decision of the Formal Hearing Panel was not proportionate to the act of misconduct and/or there is new and significant information regarding the act of misconduct.

I. The Campus Review Board must reach a decision within 10 calendar days of the hearing and may take any of the following actions:
   1. Affirm the original decision that the student committed the alleged act of misconduct;
   2. Affirm the original decision concerning the disciplinary sanction to be imposed;
   3. Reverse the original decision that the student committed the alleged act of misconduct and dismiss the complaint;
   4. Set aside the original decision concerning the disciplinary sanction to be imposed and impose less severe sanction or increase a more severe sanction.

J. The presiding officer of the Campus Review Board is required to notify the student and Director of Student Conduct concerning the Board's decision. The decision must be in writing and copy the Director of Student Conduct. This letter must include the following:
   1. The decision of the Campus Review Board regarding the act of misconduct and sanctions imposed; and
   2. That the student who filed the complaint may not take any further appeal from the decision of the Campus Review Board.

Records and Files