

# Spelman College Conduct Procedures

## College as Convener

The College is the convener of every action under the Student Code of Conduct. Within that action, there are several roles. The responding student is the person who is alleged to have violated the Code. The party bringing the complaint, who may be a student, employee, visitor, or guest, may choose to be present and participate in the process as fully as the responding student. There are witnesses, who may offer information regarding the allegation. There is an investigator(s) whose role is to present the allegations and share the evidence that the College has obtained regarding the allegations.

## B. Group Violations

A student group or organization and its officers and membership may be held collectively and individually responsible when violations of this code by the organization or its member(s):

- Take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit;
- Have received the consent or encouragement of the organization or of the organization's leaders or officers; or
- Were known or should have been known to the membership or its officers.

Hearings for student groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual and the organization.

## C. Amnesty

- 1 *For Victims.* The College provides amnesty to victims who may be hesitant to report to College officials because they fear that they themselves may be accused of minor policy violations, such as underage drinking, at the time of the incident. Educational options will be explored, but no conduct proceedings or conduct record will result.
- 2 *For Those Who Offer Assistance.* To encourage students to offer help and assistance to others, College pursues a policy of amnesty for minor violations when students offer help to others in need. At the discretion of the Dean of Students amnesty may also be extended on a case-by-case basis to the person receiving assistance. Educational options will be explored, but no conduct proceedings or conduct record will result.
- 3 *For Those Who Report Serious Violations.* Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the College are offered amnesty for their minor violations. Educational options will be explored, but no conduct proceedings or record will result. Abuse of amnesty requests can result in a decision by the Dean of Students not to extend amnesty to the same person repeatedly.
- 4 *Safe Harbor.* The College has a Safe Harbor rule for students. The College believes that students who have a drug and/or addiction problem deserve help. If any College student brings their own use, addiction, or dependency to the attention of College officials outside the threat of drug tests or conduct sanctions and seeks assistance, a conduct complaint will not be pursued. A written action plan may be used to track cooperation with the Safe Harbor program by the student. Failure to follow the action plan will nullify the Safe Harbor protection and campus conduct processes will be initiated.

## D. Notice of Alleged Violation

Any member of the College community, visitor or guest may allege a policy violation(s) by any student for misconduct under this Code via the following URL: [https://cm.maxient.com/reportingform.php?SpelmanCollege&layout\\_id=0](https://cm.maxient.com/reportingform.php?SpelmanCollege&layout_id=0)

Notice may also be given to the Dean of Students (or designee) and/or to the Title IX Director, when appropriate. Additionally, administrators may act on notice of a potential violation whether a formal allegation is made or not. All allegations can be submitted by a victim or a third party, and should be submitted as soon as possible after the offending event occurs. The College has the right to pursue an allegation or notice of misconduct on its own behalf and to serve as convener of the subsequent campus conduct process.

The Dean of Students (or designee) will assume responsibility for the investigation of the alleged violation as described in the sub-section below.

## E. Investigation

The Dean of Students (or designee) will take the following steps:

- a) Initiate any necessary remedial actions on behalf of the victim (if any);
- b) Determine the identity and contact information of the party bringing the complaint, whether that person is the initiator of the complaint, the alleged victim, or a College proxy or representative;
- c) Conduct an immediate preliminary investigation to identify an initial list of all policies that may have been violated, to review the history of the parties, the context of the incident(s), any potential patterns and the nature of the complaint;
  - a. If the victim is reluctant to pursue the complaint, determine whether the complaint should still be pursued and whether sufficient independent evidence could support the complaint without the participation of the victim;
  - b. Notify the victim of whether the College intends to pursue the complaint regardless of their involvement, and inform the victim of their rights in the process and option to become involved if they so choose;
  - c. Preliminary investigation usually takes between 1-7 business days to complete;
- d) If indicated by the preliminary investigation and authorized by the Dean of Students, conduct a comprehensive investigation to determine if there is reasonable cause to believe that the responding student violated College policy, and to determine what specific

- policy violations should serve as the basis for the complaint;
- a. If there is insufficient evidence through the investigation to support reasonable cause, the allegations will be closed with no further action;
  - b. A comprehensive investigation usually takes between one day and two weeks;
- e) Meet with the party bringing the complaint to finalize the Party bringing the complaint's Statement, which will be drawn up by the Dean or designee as a result of this meeting;
  - f) Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding student, who may be given notice of the interview prior to or at the time of the interview;
    - a. Prepare the notice of alleged policy violation(s) on the basis of the reasonable cause determination, which may be delivered prior to, during or after the responding student is interviewed, at the discretion of the investigator(s);
  - g) Interview all relevant witnesses, summarize the information they are able to share and have each witness sign the summary to verify its accuracy;
  - h) Obtain all documentary evidence and information that is available;
  - i) Obtain all physical evidence that is available;
  - j) Complete the investigation promptly by analyzing all available evidence without unreasonable deviation from the intended timeline;
  - k) Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
  - l) Present the investigation report and findings to the responding student, who may:
    - a. accept the findings,
    - b. accept the findings in part and reject them in part,
    - c. or may reject all findings;
  - m) Share the findings and update the party bringing the complaint on the status of the investigation and the outcome.

## F. Findings

The following options (1-3) describe how to proceed depending on whether the responding student is found responsible and whether the Responding Student accepts or rejects the findings and/or the sanctions either in whole or in part.

- a) *The Responding Student is Found "Not Responsible"*. Where the responding student is found not responsible for the alleged violation(s), the investigation will be closed. The party bringing the complaint, if any, may request that the [Title IX Coordinator and/or] Dean of Students, as applicable, review the investigation file to possibly re-open the investigation or convene a hearing. The decision to re-open an investigation or convene a hearing rests solely in the discretion of the Title IX Coordinator or the Dean of Students in these cases, and is granted only on the basis of extraordinary cause.
- b) *The Responding Student Accepts a Finding of "Responsible"*
  - a) *The Responding Student Accepts a Finding of "Responsible" and Accepts the Recommended Sanctions*. Should the responding student accept the finding that they violated College policy, the investigator will recommend appropriate sanctions for the violation, having consulted with Dean of Students and/or Title IX Coordinator, as appropriate. In cases involving discrimination, recommended sanctions will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the College community. If the responding student accepts these recommended sanctions, the sanctions are implemented by the Dean of Students and the process ends. [There will be a three-day period for review between the date of acceptance and when the resolution becomes final. Should the responding student decide to reject the sanctions within that time period, Option cb, below, will apply]. This outcome is not subject to appeal.
  - b) *The Responding Student Accepts a Finding of "Responsible" and Rejects the Sanctions Recommended*. If the responding student accepts the "responsible" findings, but rejects the recommended sanctions, there will be an administrative conference on the sanction, only. Administrative conference procedures are detailed below.
- c) *Responding Student Rejects the Findings Completely or In-part*
  - a) *Responding Student Rejects the Findings Completely*. Where the responding student rejects the finding that they violated College policy, a formal hearing will be convened within seven business days, barring exigent circumstances. At the hearing, the investigator(s) will present their report to the panel, the panel will hear from the parties, and any necessary witnesses. The investigation report will be considered by the panel, which renders an independent and objective finding. Full panel procedures are detailed below. If the panel finds the responding student not responsible for all violations, the Dean of Students will timely inform the parties of this determination and the rationale for the decision in writing. This determination is subject to appeal by any party to the complaint. Appeal review procedures are outlined below. If the panel finds a violation, it will recommend a sanction/responsive action to the Dean of Students, who will [confer with the Title IX Coordinator as necessary and], render a decision within 7 days of the hearing and timely notify the parties in writing. An appeal of sanction(s) may be filed by any party to the complaint as detailed below.
  - b) *Responding Student Accepts the Findings in Part and Rejects in Part*. Where the responding student rejects in part the finding that they violated College policy, there will be a panel hearing solely on the disputed allegations within seven days, barring exigent circumstances. For all findings holding a responding student responsible for a violation, the College/ will follow the sanctioning process detailed in sub-sections K(h) and K(i), below. If the Panel finds the responding student "Not Responsible" on any of the contested allegations, the process will move to the Sanctioning Phase on only the uncontested allegations, as detailed in sub-sections K(h) and K(i), below.

## G. Special Hearing Provisions for Sexual Misconduct, Discrimination and Other Complaints of a Sensitive Nature

All hearings under this sub-section will be conducted by a three-member administrative panel drawn from the panel pool. For sexual

misconduct, discrimination and other complaints of a sensitive nature, whether the alleged victim is serving as the party bringing the complaint or as a witness, alternative testimony options may be provided, such as placing a privacy screen in the hearing room or allowing the alleged victim to testify from another room via audio or audio/video technology. While these options are intended to help make the alleged victim more comfortable, they are not intended to work to the disadvantage of the responding student.

The past sexual history or sexual character of a party will not be admissible by the other parties in hearings unless such information is determined to be highly relevant by the panel Chair. All such information sought to be admitted by a party or the College will be presumed irrelevant until a showing of relevance is made, in advance of the hearing, to the Chair. Demonstration of pattern, repeated, and/or predatory behavior by the responding student, in the form of previous findings in any legal or campus proceeding, [or in the form of previous good faith allegations], will always be relevant to the finding, not just the sanction. The parties will be notified in advance if any such information is deemed relevant and will be introduced in the hearing.

The party bringing any complaint alleging sexual misconduct, other behavior falling within the coverage of Title IX and/or a crime of violence will be notified in writing of the outcome of a hearing, any sanctions assigned and the rationale for the decision.

#### **H. Notice of Hearing**

Once a determination is made that reasonable cause exists for the Dean of Students (or designee) to refer a complaint for a hearing, notice will be given to the responding student. Notice will be in writing and may be delivered by one or more of the following methods: in person by the Dean of Students (or designee) or emailed to the student's College-issued email account. Once emailed and/or received in-person, such notice will be presumptively delivered. The letter of notice will:

- a) Include the alleged violation and notification of where to locate the Code of Conduct and College procedures for resolution of the complaint; and
- b) Direct the responding student to contact the Dean of Students (or designee) within a specified period of time to respond to the complaint. This time period will generally be no less than two days from the date of delivery of the summons letter.

A meeting with the Dean of Students (or designee) may be arranged to explain the nature of the complaint and the conduct process. At this meeting, the responding student may indicate, either verbally or in writing, to the Dean of Students (or designee), whether they admit to or deny the allegations of the complaint.

#### **I. Interim Action**

Under the Code of Conduct, the Dean of Students or designee may impose restrictions and/or separate a student from the community pending the scheduling of a campus hearing on alleged violation(s) of the Code of Conduct when a student represents a threat of serious harm to others, is facing allegations of serious criminal activity, to preserve the integrity of an investigation, to preserve College property and/or to prevent disruption of, or interference with, the normal operations of the College. Interim actions can include separation from the institution or restrictions on participation in the community for no more than ten (10) business days pending the scheduling of a campus hearing on alleged violation(s) of the Code of Conduct. [A student who receives an interim suspension may request a meeting with the Dean of Students or designee to demonstrate why an interim suspension is not merited. Regardless of the outcome of this meeting, the College may still proceed with the scheduling of a campus hearing].

During an interim suspension, a student may be denied access to College housing and/or the College campus/facilities/events. As determined appropriate by the Dean of Students, this restriction may include classes and/or all other College activities or privileges for which the student might otherwise be eligible. At the discretion of the Dean of Students and with the approval of, and in collaboration with, the appropriate Vice President(s), alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding student.

#### **J. Hearing Options & Preparation**

The following sub-sections describe the College's conduct hearing processes. Except in a complaint involving failure to comply with the summons of the Dean of Students (or designee), no student may be found to have violated the Code of Conduct solely as a result of the student's failure to appear for a hearing. In all such instances, conduct hearings will proceed as scheduled and the information in support of the complaint will be presented to, and considered by, the Dean of Students, hearing officer, or panel presiding over the hearing.

Where the responding student admits to violating the Code of Conduct, the Dean of Students (or designee) may invoke administrative hearing procedures to determine and administer appropriate sanctions without a formal hearing. This process is also known as an administrative conference. In an administrative conference, complaints will be heard and determinations will be made by the Dean of Students or designee.

Where the responding student denies violating the Code of Conduct, a formal hearing will be conducted. This process is known as a panel hearing. At the discretion of the Dean of Students (or designee), a request by one or more of the parties to the complaint for an administrative conference may be considered. Students who deny a violation for which a panel hearing will be held will be given a minimum of three days to prepare unless all parties wish to proceed more quickly. Preparation for a formal hearing is summarized in the following guidelines:

- a) Notice of the time, date and location of the hearing will be in writing and may be delivered by one or more of the following methods: in person by the Dean of Students (or designee) or emailed to the student's College-issued email account. Once emailed and/or received in-person, such notice will be presumptively delivered.
- b) If there is an alleged victim of the conduct in question, the alleged victim may serve as the party bringing the complaint or may elect to have the College administration serve as the party bringing the complaint forward. Where there is no alleged victim, the College administration will serve as the party bringing the complaint forward.
- c) If a responding student fails to respond to notice from the Dean of Students (or designee), the dean of Students (or designee) may initiate a complaint against the student for failure to comply with the directives of a College official and give notice of this offense. Unless the student responds to this notice within two days by answering the original notice, an administrative conference may be scheduled and held on the student's behalf. As a result, the student may be administratively withdrawn from attending classes or a disciplinary hold may be placed on their College account, deeming them ineligible to register for courses or College housing until

- such time as the student responds to the initial complaint.
- d) At least three (3) days before any scheduled formal hearing, the following will occur:
    - a. The responding student will deliver to the Dean of Students (or designee) a written response to the complaint;
    - b. The responding student will deliver to the Dean of Students (or designee) a written list of all witnesses for the College to call at the hearing;
    - c. The responding student will deliver to the Dean of Students (or designee) all physical evidence the student intends to use or needs to have present at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Dean of Students can arrange for its presence;
    - d. The party bringing the complaint will deliver to the Dean of Students (or designee) a written list of all witnesses for the College to call at the hearing;
    - e. The party bringing the complaint will deliver to the Dean of Students (or designee) all items of physical evidence needed at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Dean of Students can arrange for its presence;
    - f. The party bringing the complaint and the responding student will notify the Dean of Students (or designee) of the names of any advisors/advocates who may be accompanying the parties at the hearing.
  - e) The Dean of Students (or designee) will ensure that the hearing information and any other available written documentation is shared with the parties at least two (2) days before any scheduled hearing. In addition, the parties will be given a list of the names of all the panelists in advance. Should any party object to any panelist, that party must raise all objections, in writing, to the Dean of Students immediately. Hearing officers will only be unseated if the Dean of Students concludes that their bias precludes an impartial hearing of the complaint. Additionally, any panelist who feels they cannot make an objective determination must recuse themselves from the proceedings.

#### K. Panel Hearing Procedures

The Dean of Students will appoint one panelist as the Chair for the hearing. The parties have the right to be present at the hearing; however, they do not have the right to be present during deliberations. If a student cannot attend the hearing, it is that student's responsibility to notify the Dean of Students no less than three (3) days prior to the scheduled hearing to arrange for another date, time and location. Except in cases of grave or unforeseen circumstances, if the responding student fails to give the requisite minimum three (3) day notice, or if the responding student fails to appear, the hearing will proceed as scheduled. If the party bringing the complaint fails to appear, the complaint may be dropped unless the College chooses to pursue the allegation on its own behalf, as determined by the dean of Students.

The Dean of Students (or designee), the Chair and the Panel will conduct panel hearings according to the following guidelines:

- a) Hearings will be closed to the public.
- b) Admission to the hearing of persons other than the parties involved will be at the discretion of the panel chair and the Dean of Students.
- c) In hearings involving more than one responding student, the standard procedure will be to hear the complaints jointly; however, the Dean of Students may permit the hearing pertinent to each responding student to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding student.
- d) The parties have the right to an advisor/advocate of their own choosing, including attorneys. Typically, advisors are members of the campus community, but the parties may select whomever they wish to serve as their advisor. The advisor may not make a presentation or represent the party bringing the complaint or responding student during the hearing. They may confer quietly with their advisee, exchange notes, clarify procedural questions with the chair and suggest questions to their advisee.
- e) The party bringing the complaint, the responding student, the panel, and the Dean of Students (or designee) will have the privilege of questioning all present witnesses and questioning all present parties (directly or through the Chair, at the discretion of the Chair). Unduly repetitive witnesses can be limited at the discretion of the [panel Chair and/or the Dean of Students, or designee].
- f) Pertinent records, exhibits, and written statements may be accepted as information for consideration by the panel and the Dean of Students. Formal rules of evidence are not observed. The [panel Chair and/or the Dean of Students, or designee] may limit the number of character witnesses presented or may accept written affidavits of character instead.
- g) All procedural questions are subject to the final decision of the Dean of Students [or panel Chair].
- h) After a panel hearing, the panel will deliberate and determine, by majority vote, whether it is more likely than not that the responding student has violated the Code of Conduct. The Dean of Students (or designee) will be present and available as a resource during all deliberations. Once a finding is determined, if the finding is that of a policy violation, the panel will determine an appropriate sanction(s). The Dean of Students (or designee) is responsible for informing the panel of applicable precedent and any previous conduct violations or other relevant pattern information about the responding student. The panel Chairperson will prepare a written deliberation report and deliver it to the Dean of Students, detailing the recommended finding, how each member voted, the information cited by the panel in support of its recommendation, and any information the panel excluded from its consideration and why. This report should conclude with any recommended sanctions. This report should not exceed two pages in length and must be submitted to the Dean of Students within two (2) days of the end of deliberations.
- i) The Dean of Students will consider the recommendations of the panel, may make appropriate modifications to the panel's report and will then render a decision and inform the responding student and party bringing the complaint (if applicable by law or College policy) of the final determination within five days of the hearing. Notification will be made in writing and may be delivered by one or more of the following methods: in person by the Dean of Students (or designee) or emailed to the student's College-issued email account. Once emailed and/or received in-person, such notice will be presumptively delivered. In cases of sexual misconduct and other crimes of violence, notice of the outcome will be delivered to all parties simultaneously, meaning without substantial delay between the notifications to each.

- j) There will be a single verbatim record, such as an audio recording, for all panel hearings. Deliberations will not be recorded. The record will be the property of the College and maintained according to the College's record retention policy.

#### L. Conduct Sanctions

One or more of following sanctions may be imposed upon any student for any single violation of the Code of Student Conduct:

- a) Administrative Fees – Fees may range from \$35–\$300.
- b) Counseling – The student may be required to attend counseling sessions with a member of the Counseling Staff or referred to a professional off campus.
- c) Dismissal/Expulsion – Dismissal/expulsion requires that the student completely sever any and all connection with Spelman College within 24 hours of notification. Students will be charged the full housing fee for the entire semester and refunded tuition based on the refund schedule outlined in the Spelman College Bulletin.
- d) Educational Project – The student is required to conduct research or a project in an area relevant to the offense.
- e) Housing Dismissal – Students who are permanently dismissed from housing will be required to vacate their residence halls within 24 hours of notification of the disciplinary action. In the event of suspension, students will be charged the full housing fee for the entire semester. The student may not reapply for residency.
- f) Housing Relocation – If a student is living in a residence hall, they may be required to move to another floor or into another residence hall.
- g) Housing Suspension – Students who are suspended from College housing will be required to move out of housing within 24 hours of notification of the disciplinary action for the length of time specified by the hearing officer.
- h) Loss of Privileges – Denial of specified privileges for a designated period of time. This may include limited access to residence halls, participation in clubs, organizations and/or activities, intercollegiate athletics and/or activities, loss of opportunity to participate in housing lottery process, loss of privilege to participate in special weeks organized by Class Council(s), and loss of privilege to participate in Commencement activities (seniors only).
- i) No Contact Order – A No Contact Order may be imposed in instances where it is determined that a student poses a potential threat to another person. The student will be asked to refrain from making contact in person, via phone, cell phone, text message, instant message, communication via friends or other third parties, etc.
- j) Official Warning – The official warning is notification to the student(s) that she has been found responsible for a violation and that any other violations will result in more serious sanctions.
- k) Parents/Guardian Notification – Parents and legal guardians may be notified of violations of College policies pertaining to alcohol and drugs, potentially life-threatening emergencies, incidents involving hospitals or police agencies, and violations of the any federal, state or local laws. In addition, parents and legal guardians will be notified in cases of potential changes to student status.
- l) Probation – Probation is a sanction permitting a student to remain enrolled under prescribed conditions. The Probation may be imposed for a specified period of time, or through graduation. During the Probation, the student must demonstrate that her behavior conforms to College standards of conduct. Student conduct violations are cumulative. Therefore, all subsequent violations of the Community Standards and Code of Conduct will be subject to suspension or dismissal.
- m) Restitution – The student is required to pay for repair or replacement of damaged or stolen property. The payment required may not exceed the cost of repair or replacement of the damaged or stolen item, but a lesser amount may be specified.
- n) Suspension – Students will be removed from the College within 24 hours of notification of the disciplinary action. While a student is suspended, they are not to return to the campus, programs, facilities, and activities of the university without written permission from the vice president for student affairs or dean of students. In the event of suspension, students will be charged the full housing fee for the entire semester and refunded tuition based on the refund schedule outlined in the College Bulletin. All other fees and charges are forfeited. If a student is suspended from the College, a letter will be sent to her parent(s) or legal guardians with notification of the suspension. The student is not eligible for transient status or enrollment at another AUC institution.
- o) *Eligibility Restriction:* The student is deemed “not in good standing” with the University/College for a specified period of time. Specific limitations or exceptions may be granted by the Dean of Students and terms of this conduct sanction may include, but are not limited to, the following:
  - a. Ineligibility to hold any office in any student organization recognized by the College or hold an elected or appointed office at the College; or
  - b. Ineligibility to represent the College to anyone outside the College community in any way including: participating in the study abroad program, attending conferences, or representing the College at an official function, event or intercollegiate competition as a player, manager or student coach, etc.
- p) *Other Sanctions:* Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Dean of Students or designee.
- q) The following sanctions may be imposed upon groups or organizations found to have violated the Code of Conduct:
- r) One or more of the sanctions listed above and/or
- s) Deactivation, de-recognition, loss of all privileges (including status as a College registered group/organization), for a specified period of time.

### **M. Parental Notification**

The College reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. The College may also notify parents/guardians of non-dependent students who are under the age of 21 of alcohol and/or other drug violations. Parental notification may also be utilized discretionarily by administrators when permitted by FERPA or consent of the student.

### **N. Notification of Outcomes**

The outcome of a campus hearing is part of the education record of the responding student and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. As allowed by FERPA, when a student is accused of a policy violation that would constitute a "crime of violence" or forcible or non-forcible sex offense, the College will inform the alleged victim/party bringing the complaint in writing of the final results of a hearing regardless of whether the College concludes that a violation was committed. Such release of information may only include the alleged student's/responding student's name, the violation committed, and the sanctions assigned (if applicable). In cases of sexual misconduct and other offenses covered by Title IX, only, the rationale for the outcome will also be shared with all parties to the complaint in addition to the finding and sanction(s).

In cases where the College determines through the student conduct process that a student violated a policy that would constitute a "crime of violence" or non-forcible sex offense, the College may also release the above information publicly and/or to any third party. FERPA defines "crimes of violence" to include:

- 1 Arson
- 2 Assault offenses (includes stalking)
- 3 Burglary
- 4 Criminal Homicide—manslaughter by negligence
- 5 Criminal Homicide—murder and non-negligent manslaughter
- 6 Destruction/damage/vandalism of property
- 7 Kidnapping/abduction
- 8 Robbery
- 9 Forcible sex offenses
- 10 Non-forcible sex offenses

### **O. Failure to Complete Conduct Sanctions**

All students, as members of the College community, are expected to comply with conduct sanctions within the timeframe specified by the Dean of Students or Administrative Hearing [Conference] Officer. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions and/or suspension from the College [and may be noted on, or with, the student's official transcript at the end of the semester]. In such situations, resident students will be required to vacate College housing within 24 hours of notification by the Dean of Students, though this deadline may be extended upon application to, and at the discretion of, the Director of Housing and Residence Life and/or the Dean of Students. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. This determination will be made by the Dean of Students.

### **P. Appeal Review Procedures**

Any party may request an appeal of the decision of the Panel/Administrative Conference by filing a written request to the Dean of Students, subject to the procedures outlined below. All sanctions imposed by the original hearing body remain in effect, and all parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision.

#### **GROUND FOR APPEAL REQUESTS**

Appeals requests are limited to the following grounds:

- a) A procedural [or substantive error] occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.);
- b) To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
- c) The sanctions imposed are substantially outside the parameters or guidelines set by the College for this type of offense or the cumulative conduct record of the responding student.
- d) A perceived bias on the part of a hearing board member or hearing officer that deprived the process of impartiality

Appeals must be filed in writing with the dean of Students within 3 business days of the notice of the outcome to the hearing, barring exigent circumstances. Any exceptions are made at the discretion of the Dean of Students and, when appropriate, the Title IX Coordinator.

The Dean of Student will share the appeal by one party with the other party (parties) when appropriate under procedure or law (e.g., if the responding student appeals, the appeal is shared with the complainant, who may also wish to file a response, request an appeal on the same grounds or different grounds). The Dean of Students will refer the request(s) to the College's designated Appeal Review Officer. The Dean of Students will also draft a response memorandum to the appeal request(s), based on the Appeal Review Officer's determination that the request(s) will be granted or denied, and why. All request-related documents are shared with all parties prior to submission to the Appeal Review Officer.

The Appeal Review Officer will conduct an initial review to determine if the appeal request meets the limited grounds and is timely. They may consult with the Dean of Students and/or Title IX Coordinator on any procedural or substantive questions that arise.

If the appeal is not timely or substantively eligible, the original finding and sanction will stand and the decision is final. If the appeal has standing, the Appeal Review Officer determines whether to refer the appeal to the Appeals Panel or to remand it to the original decision-

maker(s), typically within 3-5 business days. Efforts should be made to use remand whenever possible, with clear instructions for reconsideration only in light of the granted appeal grounds. Where the original decision-maker may be unduly biased by a procedural or substantive error, a new panel will be constituted to reconsider the matter, which can in turn be appealed, once. Full re-hearings by the Appeals Panel are very rarely used. Where new evidence is presented or the sanction is challenged, the Appeals Review Officer will determine if the matter should be returned to the original decision-maker for reconsideration or if it should be reviewed by the Appeals Panel with instruction on the parameters regarding institutional consistency and any applicable legal guidelines. In review, the original finding and sanction are presumed to have been decided reasonably and appropriately, thus the burden is on the appealing party(ies) to show clear error. The Appeals Panel must limit its review to the challenges presented.

On reconsideration, the Appeals Panel or original decision-maker may affirm or change the findings and/or sanctions of the original hearing body according to the permissible grounds. Procedural [or substantive] errors should be corrected, new evidence should be considered, and sanctions should be proportionate to the severity of the violation and the student's cumulative conduct record.

All decisions of the Appeals Panel are to be made within five (5) days of submission to the Panel and are final, as are any decisions made by the original hearing body, Dean of Students or Title IX Coordinator as the result of reconsideration consistent with instructions from the Appeal Review Officer.

#### *THE APPEALS PANEL*

Three-member Appeals Panels are drawn from the hearing panel pool, with the following requirements to serve:

- a) they did not serve on the Panel for the initial hearing
- b) they were not involved in the investigation in any way
- c) they have been properly trained in appeals procedures
- d) If the institution allows for students to serve in the panel pool, they must:
- e) Be in academic good standing and have completed 15 hours of academic credit with a cumulative GPA of at least 2.5.
- f) Be in good standing with respect to the conduct process throughout the term in which they serve. Good standing is defined as having no record of misconduct during the semester(s) in which a student wishes to serve on the panel, as well as not currently being on any probation. A serious history of misconduct could disqualify a student for service.

The Appeal Review Officer will have final authority to approve all those serving on the panel. The parties may challenge a panelist(s) on the basis of potential bias, and any panelist who cannot render an impartial decision must recuse themselves. The Appeals Review Officer will make the determination as to the validity of any challenge or need for recusal. In the event of a recusal from the panel, the Appeals Review Officer will solicit a replacement from the pool of panelists.

The Dean of Students or designee serves as the non-voting advisor to the panel, with responsibility for training the panel, conducting preliminary investigations, and ensuring a fair process for the complainant and responding student.

The presumptive stance of the College is that all decisions made and sanctions imposed by the original decision-maker are to be implemented during the appellate process. At the discretion of the Dean of Students, and in consultation with the Title IX Coordinator when necessary, implementation of sanctions may be stayed pending review only in extremely exigent circumstances. This does not include proximity to graduation, end of term, or exams. Instead, it refers to an overwhelming likelihood, as determined by the Appeals Review Officer and Dean of Students, in consultation, that the appeal would result in a reversal of the finding and/or substantial modification of the sanctions.

#### *OTHER GUIDELINES FOR APPEALS*

- a) All parties will be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
- b) Every opportunity to return the appeal to the original decision-maker for reconsideration (remand) should be pursued;
- c) Appeals are not intended to be full re-hearings of the complaint (de novo). In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal; Witnesses may be called if necessary.
- d) Appeals are not an opportunity for appeals panelists to substitute their judgment for that of the original decision-maker merely because they disagree with the finding and/or sanctions. Appeals decisions are to be deferential to the original decision-maker, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.

#### **Q. Disciplinary Records**

All conduct records are maintained by the College for seven (7) years from the time of their creation except those that result in separation (suspension or expulsion, including from housing) and those that fall under Title IX, which are maintained indefinitely.

#### **R. Approval and Implementation**

This Code Conduct was approved on [date] by, and implemented on [date].