



INDIANA UNIVERSITY  
SOUTH BEND  
OFFICE OF STUDENT CONDUCT

## 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 Indiana University South Bend students, as defined under the Indiana University [Code of Student Rights, Responsibilities and Conduct](#).

- 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. These procedures do not apply to cases involving sexual misconduct, including sexual harassment. Complaints of sexual misconduct, as well as disciplinary procedures, are governed by the University-wide Sexual Misconduct Policy ([UA-03](#)). (See *Appendix A*)
- C. If a student withdraws from the University, no longer remains enrolled, or otherwise loses student status while a disciplinary matter is pending, the University maintains authority to adjudicate the matter under these procedures.
- D. 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 a simultaneous act of academic and personal misconduct, disciplinary proceedings may be initiated by the faculty member and Director of Student Conduct. 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 professionals, in accordance with both academic and personal misconduct procedures.

## II. Standard of Proof

The standard of proof for a finding of misconduct will be based upon a preponderance of the information. Preponderance of the information is defined as information that a reasonable person would find persuasive or that it is 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 and warrant 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 disciplinary procedures.

## IV. Notice of Charges

- A. 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 will be personally delivered 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.
- B. 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 alleged violation of the Student Code of Conduct;
  2. The best known date, time, and location of the alleged violation 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 student, 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 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. 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. 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 severity 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

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 acknowledgment of 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 Indiana 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 Indiana University permanently. When a student is expelled from Indiana 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 Indiana 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 Indiana 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 Dean of Students

- A. The student has the right to appeal the decision of the hearing panel to the Dean of Students. The Dean of Students may assign a designee if there is conflict of interest. The appeal must be submitted in writing to the Dean of Students 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; or
  - 3. That there is new *and* significant information that affects the finding of responsibility for the act of personal misconduct.
- C. The Dean of Students will take the appropriate actions to review if the appeal criteria are met as noted above ("B") and outlined in *Appendix E: Appeals to the Dean of Students*.

## 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. Summary Actions

A student or student organization may be summarily suspended from the University and summarily excluded from University property and programs by the Chancellor or designee of the University campus. The Chancellor or designee may act summarily without following the hearing procedures established by this section if they conclude that the student or student organization's continued presence on the campus constitutes a serious threat of harm to the student, student organization or to any other person on the campus or to the property of the university or property of other persons on the university campus.

- A. A student who is summarily suspended and excluded from the University shall be required to leave the property of the University immediately and shall be notified that he or she will thereafter be treated as a trespasser if he or she returns to University property.
- B. Within 24 hours after the student or student organization is banned from campus, a written notice must be sent to the student or student organization by email and certified mail informing the student or student organization of the following:
  1. That the student or student organization has been suspended from the University;
  2. That the student or student organization has been excluded from being on University property;
  3. That the student or student organization will be considered a trespasser if they return to or operate on University property;
  4. The reasons for the suspension from the University and the exclusion from University property;
  5. Any conditions that must be met before the student or student organization may petition the Chancellor or designee for reinstatement;
  6. That the student or student organization may not petition for reinstatement for at least one calendar year from the implementation date of the summary suspension.
- C. Allegations of misconduct filed against a student or student organization who has been summarily suspended will be resolved by a formal hearing, only if requested in writing by the student or student organization within 10 calendar days of receiving notice of the summary suspension to the Dean of Students. Procedures for formal hearing can be found in *Appendix D*.
  1. The basis of the hearing request may be:
    - a. The student or student organization disagrees with the decision of responsibility for misconduct reached by the Chancellor of the campus, or
    - b. The student or student organization believes the sanction of summary suspension is not proportionate to the act of misconduct.
- D. The student shall thereafter be permitted to enter the university campus only for the limited purpose of participating in the disciplinary proceedings conducted under this section.
- E. The Dean of Students may require that the student be escorted to and from the disciplinary proceedings by members of the University police department.
- F. During the formal hearing for a summary action, a representative of the Chancellor shall be permitted to present witnesses and information.
- G. The hearing panel will follow all procedures as outlined in *Appendix D* at the hearing. The panel will then make a finding of whether the student or student organization has committed the misconduct as alleged.

1. If the hearing panel finds that the student or student organization has committed the offense(s), it shall uphold the summary suspension decision.
  2. If the hearing panel does not find the student or student organization to be responsible for the offense(s), a recommendation to dismiss the case will be submitted to the Chancellor.
- H. The presiding officer of the hearing panel for a summary action shall furnish copies of the recommendation to the student or student organization, the Dean of Students, and the Chancellor of the campus.
1. If a student or student organization fails to appear at the hearing panel, the student or student organization may explain the failure to appear in writing within 10 days to the presiding officer of the hearing panel. Written documentation supporting the cause of absence must be included. The presiding officer will notify the student or student organization within 10 days of receipt whether the formal hearing may be rescheduled.
  2. If the student or student organization fails to appear at the hearing without good cause, the hearing panel is required to uphold the summary suspension.
  3. The Chancellor will decide whether to accept or reject the recommendation from the hearing panel.
  4. If the student or student organization does not consider the recommendation from the hearing panel to be acceptable, he or she may submit a written appeal to the Chancellor explaining the reasons for not accepting the recommendation, which may include the length of time of the suspension; the Chancellor will consider the student's written statement prior to making a final decision.
  5. This is the final step in the appeal process for summary suspension.
- I. At the student's request, the Dean of Students will expedite the formal hearing.
- J. The student or student organization may petition for reinstatement at the end of the summary suspension term to the Chancellor and Dean of Students. Upon receipt of the petition, the Chancellor and Dean of Students will evaluate if all criteria for reinstatement have been met, and conclude if the student or student organization still pose harm to self or the campus community.

## **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:**

**November 20, 2015**  
**June 19, 2015**  
**November 20, 2015**

## 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 within Indiana University Sexual Misconduct Policy (UA-03). These procedures can be found online at: <http://policies.iu.edu/policies/categories/administration-operations/equal-opportunity/sexual-misconduct.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. 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 unless an extension of time is reasonable as determined in *Appendix B*. 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 before 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 may submit a written statement to the Office of Student Conduct 3 calendar days in advance of the hearing;
  - 3. That, at the hearing, both the student and the Director of Student Conduct may make verbal statements;
  - 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 formal hearing will be closed to the public, unless otherwise requested by the student 3 calendar days prior to the hearing; and
  - 6. 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.
- 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 all 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 panel;
  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 presiding officer, 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 verbal statements submitted by the student and the Director of Student Conduct.
  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.
- 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 (unless it is hearing an allegation resulting in a summary action).
- J. Within 10 calendar days the presiding officer 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 Dean of Students as outlined in the Procedures for Personal Misconduct.

## Appendix E: Appeals to the Dean of Students

- A. The student may appeal the decision of the formal hearing panel based on the standard established in section VII. B. of the Personal Misconduct Procedures.
- B. An appeal must be sent to Dean of Students no later than 7 calendar days from the date of the decision of the formal hearing panel stating the reason for appeal.
- C. The Dean of Students or their designee will have the sole discretion in determining whether the basis for appeal has been met and whether the appeal can move forward.
- D. If the basis for appeal has been met, the Dean of Students or their designee will review the written appeal and the hearing panel recording.
- E. The Dean of Students or their designee must reach a decision within 10 calendar days of receipt of the appeal 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.
- F. Dean of Students or their designee is required to notify the student and Director of Student Conduct concerning their 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 Dean of Student 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 Dean of Students.
- G. The decision of the Senior Student Affairs Administrator or his/her designee is final and there will be no further appeals.

## Appendix F: Record Retention

All disciplinary records will be kept on file within the Office of Student Conduct and follow Indiana University and Indiana University South Bend file maintenance policies. Student disciplinary information will not be released unless it complies with FERPA guidelines as outlined at: <http://registrar.indiana.edu/policies/ferpa/student-privacy-students.shtml>.