

Procedures for the Adjudication of Allegations of Personal Misconduct Indiana University-Purdue University Indianapolis

Article I: Preamble

The Indiana University-Purdue University Indianapolis (IUPUI) **Procedures for the Adjudications of Allegations of Personal Misconduct** is the mechanism by which the university will investigate reports of alleged acts of personal misconduct by students and resolve the alleged violations through a process consistent with both the Indiana University Code of Student Rights, Responsibilities, and Conduct (the “Code”) and the mission of the university. The procedures are designed to provide students with due process, to ensure equal protection for all students, and to provide for the imposition of appropriate outcomes for matters of personal misconduct. The university adjudication process is not to be considered a substitute for criminal or civil proceedings. Rather, the procedures are meant to provide a fair disciplinary process which fosters development and accountability for the students involved.

Article II: Definitions

- A. **University:** “University” refers to Indiana University-Purdue University Indianapolis (IUPUI).
- B. **University Premises:** “University Premises” includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the university, including adjacent streets and sidewalks.
- C. **Member of the university community:** “Member of the university community” includes any person who is a student, faculty member, university official, university organization or person employed by the university.
- D. **University official:** “University official” includes any employee of the university performing administrative professional or staff responsibilities.
- E. **Faculty or faculty member:** “Faculty or faculty member” includes all who teach and/or do research at the university, including but not limited to tenure track faculty, librarians, holders of research or clinical ranks, lecturers, graduate students with teaching responsibilities, visiting and part-time faculty, and other instructional personnel, including coaches, advisors, and counselors.
- F. **Student:** A “Student” is
 - 1. a person who is admitted or enrolled in any credit bearing course or program in any school or division of Indiana University;
 - 2. a person who is admitted to Indiana University and is present on a campus for the purpose of being enrolled in any credit bearing course or program in any school or division of Indiana University;
 - 3. a person who has been admitted and enrolled in any credit bearing course or program in any school or division of Indiana University and continues to be associated with Indiana University because of failure to complete the course or the program in which the person is enrolled;
 - 4. a person who is not admitted to the university but who is taking classes to transfer to another university, for personal enrichment, or in preparation to apply to a graduate program (non-degree student);
 - 5. “Student” includes all students enrolled on the campuses of Indiana University–Purdue University Indianapolis (IUPUI) or Columbus (IUPUC).
- G. **Student Organization:** “Student Organization” refers to any number of persons who have complied with any necessary requirements and are formally recognized by the university.

- H. **Business Day:** “Business Day” includes any day, Monday through Friday, in which the university offices are open.
- I. **Office of Student Conduct (Student Conduct or Office):** “Office of Student Conduct” refers the office designated to administer the Code on the IUPUI campus.
- J. **Conduct Officer (Hearing Officer):** “Conduct Officer” refers to designee of the Office of Student Conduct who is authorized to investigate and adjudicate student disciplinary cases and to impose sanctions upon any student or student organization found to have violated the Code.
- K. **Reporting Party:** “Reporting Party” includes any person(s) who submits a referral alleging that a student or organization has violated the Code.
- L. **Accused Student:** “Accused Student” refers to any student for whom an allegation of a violation of the Code has been filed with the university.
- M. **Referral:** “Referral” includes any documentation or information provided to the Office of Student Conduct alleging that a violation of the Code has occurred.
- N. **Notice:** “Notice” will be conclusively presumed to include documentation sent to the student through official university email; mailed to the address appearing on either the student’s current local address or permanent address on record in the IUPUI system; or provided to the student in person.
- O. **Sanction:** “Sanction” refers to the disciplinary outcome(s) imposed on a student for violations of the Code.
- P. **Tier I Offense:** “Tier I Offense” refers to an alleged violation of the Code, when in consideration of all aggravating and mitigating factors, is likely not to result in separation from the university as defined in Article IX of this document.
- Q. **Tier II Offense:** “Tier II Offense” refers to an alleged violation of the Code, when in consideration of all aggravating and mitigating factors, is likely to result in separation from the university as defined in Article IX of this document.
- R. **Consent:** Consent is expressed through affirmative, and voluntary words or actions mutually understandable to all parties involved. Consent is given for a specific sexual act at a specific time and can be withdrawn at any time. Consent cannot be coerced or compelled by duress, threat, or force. Consent cannot be given by someone who, for any reason, cannot understand the facts, nature, extent, or implications of the sexual situation occurring, including, but not limited to, those who are under the legal age of consent, asleep, unconscious, or mentally or physically impaired through the effects of drugs or alcohol. Consent cannot be assumed based on silence, the absence of “no” or “stop,” the existence of a prior or current relationship, or prior sexual activity.

Article III: Authority and Jurisdiction

- 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 apply to all students, as defined under the Code (which is consistent with II.F. above), at the campus of Indiana University-Purdue University Indianapolis (IUPUI).
- C. Should a student withdraw from the university, no longer remain enrolled, or otherwise not meet the definition of a student while a disciplinary matter is pending, the university will retain authority to adjudicate the matter under these procedures.
- D. As established under the Code *Part IV, Section C.3*. “any unit of the university may adopt additional or alternative substantive or procedural standards to this code, provided the alternative or additional standards:
 1. Are necessary to meet academic concerns or to comply with the professional or accreditation standards; and

2. Guarantee students in the unit a fair opportunity to be heard consistent with the standards of evidence and due process found in this code.”
- E. 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 academic misconduct is made prior to degree conferral, the unit/school/division that awarded the degree will conduct an investigation to determine whether misconduct occurred, and if so, whether to recommend revocation of the degree to the Board of Trustees. The unit/school/division, in consultation with the Dean of Faculties and the Director for the Office of Student Conduct, will determine the procedures to be followed in conducting its investigation. The unit/school/division will make every reasonable effort to notify the student regarding the misconduct allegation and permit the student to respond to the allegation.
 2. When an allegation of personal misconduct is made which would have occurred prior to degree conferral and if the allegation would be considered a Tier II offense and/or would have influenced or affected the academic process, the Office of Student Conduct may adjudicate the case consistent with the procedures to adjudicate allegations of personal misconduct.

Article IV: Standard of Proof

The standard of proof for a finding of misconduct will be based upon a preponderance of evidence. Preponderance of evidence is defined as evidence 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.

Article V: Procedures for Adjudication of Allegations of Academic Misconduct

- A. The Indiana University Code of Student Rights, Responsibilities, and Conduct prohibits academic misconduct in *Part II, Section G*. The Student Disciplinary Procedures for Academic Misconduct Involving the IUPUI Campus are the procedures used to resolve allegations of academic misconduct. The procedures are available through the student’s school and the Office of Student Conduct and available online at <http://studentaffairs.iupui.edu>.
- B. Prior violations of academic or personal misconduct may be considered aggravating circumstances when sanctions are determined for a new case of either academic or personal misconduct.

Article VI: Referring and Investigating Allegations of Personal Misconduct

- A. **Initiation of a Referral:** Any person may make a referral of alleged acts of personal misconduct by a student to the university. Such referral will be made to the appropriate university official as soon as practicable, absent any extraordinary circumstances.
 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 the Director of Housing and Residence Life or his or her designee, excluding acts which may result in separation from the university. Acts of personal misconduct which may result in separation from the university will be referred to the Director of Student Conduct or his or her designee.
- B. **Investigation:** The conduct officer may conduct an investigation to determine if the alleged violations of personal misconduct have merit and/or warrant further investigation or adjudication. The conduct officer, 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.
- C. **Role of the University:** The Indiana University Police Department or other appropriate law enforcement agency will have the primary responsibility to investigate acts of misconduct which are subject to federal, state, and/or local laws. The conduct officer and other designated university officials are authorized to investigate alleged acts of personal misconduct, independent and/or in collaboration with the police department and other appropriate officials.
- D. **Role of the Accused Student:** Through the course of the investigation, the accused student will be sent notice of the alleged violation and is required to attend an informal conference with the conduct officer. The notice will include information related to the referral made to the university as well as reference to the applicable disciplinary procedures which will be used to adjudicate the matter. Failure to schedule and/or keep a requested appointment will not preclude the conduct officer from continuing with the disciplinary process, which may include, but is not limited to, placing an administrative hold on a student's university account, filing of charges, or other appropriate actions.
- E. **Role of Other Participants:** Any other party believed to have information relevant to the investigation may be requested to meet with the conduct officer.
- F. **Role of an Advisor:** An accused student, or any other student requested to participate in the disciplinary process, may select at his/her sole expense an advisor of his/her choice to accompany him/her at any point in the disciplinary process, with the exception of any person who may also have had involvement in the matter referred to the conduct officer. The role of the advisor is limited to a supportive role and will not be interpreted as that of a representative of the student. The student is responsible for making necessary arrangements to have his/her advisor present. The advisor may not participate in the disciplinary process, unless an allowance is approved by the conduct officer or hearing commission chair.
- G. **Informal Conference:** An informal conference is a meeting between an accused student and a conduct officer. The purpose of the informal conference is for the conduct officer and the student to review the conduct process, to provide the student an opportunity to review the referral, and to discuss the student's understanding of the circumstances regarding the referral, including presenting information for review by the conduct officer.
- H. **Notice of charges:** The university will submit notice of charges to the accused student following the discovery of the alleged violation and any such charges will be resolved through the university discipline procedures.

Article VII: Resolving Charges of Personal Misconduct

- A. **Adjudication – Acceptance of Charges:** Accused students who receive written notice of charges for allegations of personal misconduct have the right to a formal hearing on the matter. However, in cases when the accused student wishes to accept responsibility for all charges in a case, the student may waive the right to a formal hearing and all related procedural guarantees, and receive a sanction from the conduct officer by whom charges were brought. In such situations, the student also waives the right to appeal a finding or sanction except on the grounds that the sanction imposed is grossly disproportionate to the violation(s) committed, in light of all relevant aggravating and mitigating factors, and in consideration of applicable university guidelines.

- B. **Adjudication – Requesting a Formal Hearing:** Accused students who wish to dispute responsibility for charges brought by the conduct officer may choose to have their case resolved in a formal hearing. Students who are charged with a Tier I offense may choose to have their case resolved by either a single administrative hearing officer or the hearing commission. Students who are charged with a Tier II offense must have their charges resolved in a hearing before the hearing commission only.
- C. **Formal Hearing Procedures:** A formal hearing provides an administrative hearing officer or hearing commission the opportunity to consider charges brought against an accused student; the opportunity to hear testimony provided by the accused student, the conduct officer, 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. The administrative hearing officer or hearing commission may also consider information relevant to aggravating and mitigating circumstances necessary to administer a sanction if the accused student is found responsible for one or more charges.
- D. **Notice of Hearing:** An accused student will receive notice of a formal hearing no less than ten (10) calendar days from the date of the scheduled hearing, unless the accused student submits, in writing, a reasonable request to waive the ten day notice and schedule the hearing earlier, if practicable. The notice will include the date, time, and location of the hearing as well as information on the hearing process.
- E. **Attendance:** Attendance and participation at the formal hearing by the accused student is expected, unless the student accepts his/her charges in accordance with section A above. 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 administrative hearing officer or hearing commission will not delay the proceedings. Rather, the administrative hearing officer or hearing commission 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/her failure to appear or to offer information at the hearing.
- F. **Procedures for a Prompt Review:** In circumstances where an accused student is nearing graduation or the end of a term, an accused student may be offered a prompt review of the case, thereby waiving the ten day notice of hearing requirement. The conduct officer may place an administrative hold on the student's account until the disciplinary matter has been resolved. An accused student may refuse a proposal for prompt review.
- G. **Record of the proceedings:** A record of the proceedings, whether written, audio or video recorded or any combination of these formats will be made of the hearing. The record is the sole property of the university.
- H. **Witness Participation:** An accused student and the conduct officer may each call upon witnesses to present information in the hearing. Accused students must notify the Office of Student Conduct of the witnesses they wish to invite to participate in the hearing in order for the witnesses to be included in the notice of the scheduled hearing. The witnesses are expected to present relevant and factual information. Character witnesses are not permitted to participate in the hearing; however, such witnesses may submit a written statement. Written character statements must be provided to the Office of Student Conduct no less than five business days prior to the scheduled hearing.
- I. **Deliberations and Notice of Outcome:** The administrative hearing officer or hearing commission will deliberate in a closed session after the completion of the formal hearing. Only members of the hearing commission, a representative of the Office of the Dean of Students, and individuals permitted by the chair to remain for reasonable cause will be present during the deliberations. Deliberations are not recorded. A decision of the hearing commission will be reached by majority vote. Once a decision has been reached by the administrative hearing officer or hearing commission, the Office of Student Conduct will provide the notice of outcome to the accused student.

Article VIII: The University Hearing Commission

- A. **Appointment Process:** Members of the hearing commission are appointed to serve per the appointment process described below. Appointing bodies must appoint a sustainable membership to the hearing commission.
1. The IUPUI Faculty Council will appoint faculty representatives to the hearing commission. A minimum of seven faculty members is recommended.
 2. The Dean of Students will appoint twelve at-large members to serve on the hearing commission. The Dean of Students will appoint five at-large members from the group of twelve to serve as administrative hearing officers for Tier I offenses.
 3. The IUPUI Undergraduate Student Government and IUPUI Graduate and Professional Student Government will each appoint student representatives to the hearing commission. It is recommended that each student governing body appoint a minimum of three representatives to the hearing commission.
 4. A chair of a meeting of the hearing commission will be selected by the Dean of Students or his or her designee and hold faculty status.
- B. A hearing commission will consist of at least one faculty representative, one staff representative, and one student representative.

Removal Process: Members of the hearing commission are expected to remain in good standing with all federal, state, and local laws as well as all university policies and standards. Members of the hearing commission are expected to participate in all training and development deemed necessary by the university. Members of the hearing commission must conduct themselves in a professional manner at all times. Members of the commission who fail to meet the requirements of their appointment may be removed per the policy of their representative governing bodies or at the recommendation of the Director of Student Conduct to the Dean of Students.

Article IX: University Sanctions and Disciplinary Outcomes

The following sanctions may be imposed upon any student found to have violated the Indiana University Code of Student Rights, Responsibilities, and Conduct:

- A. **Formal Warning:** A warning is a written notification resulting from violations of the Indiana University Code of Student Rights, Responsibilities, and Conduct.
- B. **Probation:** Students placed on probation are further warned that any violation of the conditions of the probation or any further acts of misconduct may result in additional disciplinary action, including suspension or expulsion from the university. Students placed on probation may be restricted from other university activities.
- C. **Suspension:** Students suspended from the university are separated from Indiana University-Purdue University Indianapolis and all Indiana University campuses for a specified period of time, over which time their enrollment is terminated. Conditions for readmission may be specified.
- D. **Expulsion:** Students dismissed from the university are permanently separated from Indiana University-Purdue University Indianapolis and all Indiana University campuses with full termination of the student's enrollment.
- E. **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 conduct officer may determine that the student must be required to vacate the university premises at a specified time. 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 officer may notify other members of the university as needed of the student's separation.

- F. **Transcript Notation:** The conduct officer is required to notify the Office of the Registrar to indicate a suspension or expulsion has been issued. A notation of the separation will appear on the student's academic transcript, including a notation of withdrawal (W) for all enrolled courses. When the term of suspension has ended, the Registrar will remove the notation from the student's transcript. Expulsion notations on transcripts are permanent. A record of suspension or expulsion will also remain a permanent part of the student's disciplinary record.
- G. **Additional Disciplinary Outcomes:** The conduct officer is authorized to impose additional sanctions, which may include, but are not limited to, attendance at educational experiences, restitution, orders of no contact and/or no trespass, residence hall assignment relocation or contract termination, or other restrictions.
- H. **Sanction Guidelines:** The Office of Student Conduct will periodically publish a guidance document on the administration of sanctions for conduct officers.

Article X: The Appeal Process

- 1. **Submitting an Appeal:** A sanction issued by a conduct officer, with the restrictions on such appeal as specified in VII.A, or the decision of the administrative hearing officer or hearing commission may be appealed by the accused student to the appropriate appeals officer, or his or her designee. Such appeals shall be received in writing by the appeals officer no later than five (5) business days from the date the notice of outcome was sent to the student. The appeal must clearly state the specific grounds for appeal (see C. below) and must include all supporting documentation. A student is limited to one opportunity to appeal.
- B. **Designated Appeals Officers:** Appeals related to alleged personal misconduct of graduate and professional students will be received by the Director of the Graduate Office or similar administrator. Appeals related to alleged personal misconduct of undergraduate students and other non-graduate or non-professional students will be received by the Dean of Students or similar administrator.
- C. **Grounds for Appeal:** An appeal will be considered if submitted on one or more of the following grounds:
 - 1. The discovery of new and substantial information, which was unavailable at the time the conduct officer imposed a sanction or at the time of the formal hearing, and is now available and, if had been available, reasonably would have affected the outcome of the student's case.
 - 2. A significant procedural error occurred which that reasonably would have affected the outcome of the student's case.
 - 3. The sanction imposed is grossly disproportionate to the violation(s) committed, in light of all relevant aggravating and mitigating factors, and in consideration of applicable university guidelines.
- D. **Possible Outcomes of Appeal:** An appeals officer may reach one or more of the following outcomes after a review of the appeal and supporting documentation, including prior disciplinary history, if applicable.
 - 1. The appeals officer will dismiss the appeal if the appeal is not clearly based upon one or more of the grounds set forth above.
 - 2. The original decision and/or sanction(s) reached by the conduct officer, administrative hearing officer or hearing commission is upheld.
 - 3. The original case, individual charge, and/or sanction(s), or any portion of the three, may be dismissed or vacated.
 - 4. The original sanction(s) may be modified.

5. The case may be remanded back to the original conduct officer, administrative hearing officer or hearing commission for consideration or rehearing. If practicable, a new conduct officer, administrative hearing officer or hearing commission will be sought to administer the rehearing. A case which is reheard may result in dismissal, modification of the finding, or a finding and/or sanction of greater or lesser severity than the original outcome.
6. The outcome provided by the appeals officer is final.

Article XI: Procedures for the Adjudication of Sexual Misconduct

- A. The procedures which will be used to adjudicate 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*.
 1. These procedures can be found online at http://www.indiana.edu/~code/bloomington/discipline/appendix_e.shtml

Article XII: Minor Deviations from Procedure

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

Article XIII: Interim Suspension

- A. When the Dean of Students or the Director of the Graduate Office and/or their designees have reasonable cause to believe that a student's presence poses a significant risk of substantial harm to the safety or security of others or to property, the student may be immediately suspended from any and all portions of university premises, university-related activities or registered student organization activities. Notice of this measure will be provided to the student in writing as soon as practicable. The interim suspension will remain in effect until the conclusion of the disciplinary process or upon modification by the Dean of Students or the Director of the Graduate Office and/or their designees.
- B. Upon the issuance of a notice of interim suspension, the Director of Student Conduct or his or her designated conduct officer will initiate the disciplinary process without undue delay.
- C. The student may, within three (3) business days of the imposition of the interim suspension, petition the Dean of Students or the Director of the Graduate Office and/or their designees to have the interim suspension modified or removed. The petition must be made in writing by the student, and must include supporting documentation which would demonstrate that the student 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 or the Director of the Graduate Office and/or their designees will render a decision without undue delay.

Article XIV: Resolving Allegations of Misconduct Committed by Student Organizations

- A. 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.

- B. 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.
- C. Any organization with restrictive membership clauses which discriminates on the basis of race, color, religion, national origin, sex (except as exempted by Federal Regulations), sexual orientation, marital status, age, disability, or veteran status will not obtain or maintain university registration or recognition.
- D. Student organizations may not engage in hazing activities.
- E. 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 the Office of Student Involvement and disciplinary actions will be pursued as outlined in the student organization conduct process.
- F. Student organizations in violation of the Indiana University Code of Student Rights, Responsibilities, and Conduct will be subjected to sanctions, including, but not limited to, termination of university registration, restriction or suspension of the use of university facilities or services, suspension of the privilege to sponsor events or recruit new members, the loss of university funds, and restitution of damage(s).

Article XV: Interpretation and Revision

- A. 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 five (5) 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 the IUPUI Faculty Council May 6, 2014

Effective May 12, 2014

**Amended per the Office of the Vice President and
General Counsel May 27, 2014 and August 16, 2014**