

AMENDMENTS TO THE *CODE OF STUDENT CONDUCT*

Synopsis: Approval of the following amendments to the *Code of Student Conduct*, is proposed.

WHEREAS the University Senate, pursuant to rule 3335-5-48.4 (B)(8) of the Administrative Code, is authorized to recommend to the Board of Trustees the adoption of amendments to the *Code of Student Conduct* as proposed by the Council on Student Affairs and approved by the University Senate; and

WHEREAS the proposed changes to the *Code of Student Conduct* were approved by the University Senate on April 18, 2019:

NOW THEREFORE

BE IT RESOLVED, That the Board of Trustees hereby approves the attached amendments to the *Code of Student Conduct* be adopted as recommended by the University Senate effective no earlier than August 1, 2019, and on the date of issuance of interim university policies 1.10 and 1.15.

BACKGROUND

TOPIC: Amendments to the Code of Student Conduct

CONTEXT: The University Senate approved revisions to the Code of Student Conduct based on recommendations from the Council on Student Affairs

SUMMARY: A special ad hoc subcommittee of the Council on Student Affairs recommended revisions to the Code of Student Conduct as part of a five-year review. Changes to the Code of Student Conduct are designed to:

- Align with practices of the University Conduct Board and the Committee on Academic Misconduct to provide better notice for students on expectations and behaviors prohibited by the Code.
- Clarify that complaints of discrimination and harassment, including sexual misconduct, will be governed by university policies 1.15 and 1.10 and placed under the jurisdiction of the new Office of Institutional Equity.
- Provide new language related to early resolution and amnesty for minor violations of the code in certain circumstances where the reporter may otherwise be hesitant to share information regarding a potential violation or call for assistance for a friend.

REQUESTED OF THE ACADEMIC AFFAIRS AND STUDENT LIFE COMMITTEE: Approval of the resolution.

Code of Student Conduct

CHAPTER 3335-23 CODE OF STUDENT CONDUCT As of February 22, 2019

3335-23-01 Introduction and purpose.

The code of student conduct, a part of the Ohio Administrative Code, is established to foster and protect the core missions of the university; to foster the scholarly and civic development of the university's students in a safe and secure learning environment, and to protect the people, properties and processes that support the university and its missions. The core missions of the university are research, teaching and learning, and service. Preservation of academic freedom and free and open exchange of ideas and opinions for all members of the university are central to these missions.

(Board approval date: 4/6/2012)

3335-23-02 Jurisdiction.

(A) The code applies to the on-campus conduct of all students and registered student organizations, including conduct using university computing or network resources. The code also applies to the off-campus conduct of students and registered student organizations in direct connection with:

- (1) ~~(A)~~ Academic course requirements or any credit bearing experiences, such as internships, field trips, study abroad, or student teaching;
- (2) ~~(B)~~ Any activity supporting pursuit of a degree, such as research at another institution or a professional practice assignment;
- (3) ~~(C)~~ Any activity sponsored, conducted, or authorized by the university or by registered student organizations;
- (4) ~~(D)~~ Any activity that causes substantial destruction of property belonging to the university or members of the university community, or causes or threatens serious harm to the safety or security of members of the university community, ~~or creates or could reasonably create a hostile environment on campus as defined in the sexual misconduct policy;~~ or
- (5) ~~(E)~~ Any activity, which could constitute a criminal offense as defined by local, state or federal law, regardless of the existence or outcome of any criminal proceeding.

(B) The Code may be applied to behavior conducted online, via e-mail, text, or other electronic medium. Students should also be aware that online postings such as web postings and social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. The university does not routinely search for violations of this Code, but may take action if and when such information comes to the attention of university officials.

Students or a registered student organization may also be held accountable for their guest's or member's behavior when the student or members of the registered student organization has knowledge of, facilitates, or contributes to the guest's or member's misconduct.

The code governs all campuses of the university. Students attending regional campuses, centers, or institutes are advised to consult their local resources for additional information or rules pertaining to those locations

The university reserves the right to administer the code and proceed with the hearing process even if the student withdraws from the university, is no longer enrolled in classes, or subsequently fails to meet the definition of a student while a disciplinary matter is pending. The university may, within its discretion, place a hold or other notation on the student's transcript while the matter is pending.

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Students continue to be subject to federal, state, and local laws while at the university, and violations of those laws may also constitute violations of the code. In such instances, the university may proceed with university disciplinary action under the code independently of any criminal proceeding involving the same conduct and may impose sanctions for violation of the code even if such criminal proceeding is not yet resolved or is resolved in the student's favor.

(C) Discrimination and harassment, including, but not limited to sexual misconduct, based on a protected class in any form is never acceptable. Students are responsible to know and adhere to university policy 1.15 and university policy 1.10, which can be found at <http://policies.osu.edu>. These policies, and not this code, govern the investigation, adjudication and resolution of protected class discrimination and harassment complaints.

(Board approval dates: 3/2/2001, 12/7/2007, 4/6/2012, 4/8/2016, 9/2/2016)

3335-23-03 Definitions.

As used in the code:

- (A) "University premises" includes all lands, buildings, facilities, and resources owned, leased, managed, or operated by the university.
- (B) "Student" includes an individual to whom an offer of admission has been extended, paid an acceptance fee, registered for classes, or otherwise entered into another agreement with the university to take instruction.
 - (1) Student status lasts until an individual graduates, is permanently dismissed, or is not in attendance for two complete, consecutive terms, and includes those with a continuing educational relationship with the university;
 - (2) "Student" also includes registered student organizations. [A student organization remains a "student" for purposes of this Code for one calendar year following the expiration of the organization's most recent registration.](#)
 - (3) This Code also applies within the discretion of an appropriate university official to former students for violations committed while a student.
- (C) "Members of the university community" includes, but are not limited to, students, faculty, staff, and visitors to the campus.
- (D) "Complaint" includes information alleging a violation of the code of student conduct or other published rule, policy, standard, or guideline applicable to students at the university, provided to the university, per paragraph (A) of rule 3335-23-05 of the Administrative Code.

(Board approval dates: 3/2/2001, 12/7/2007, 4/6/2012, 4/8/2016, 9/2/2016)

3335-23-04 Prohibited conduct.

Any student found to have engaged, or attempted to engage, in any of the following conduct while within the university's jurisdiction, as set forth in rule 3335-23-02 of the Administrative Code, will be subject to disciplinary action by the university. For the purposes of this section, attempt shall be defined as conduct that, if successful, would constitute or result in the prohibited conduct.

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(A) Academic misconduct.

Any activity that tends to compromise the academic integrity of the university or subvert the educational process. Examples of academic misconduct include, but are not limited to:

- (1) Violation of course rules as contained in the course syllabus or other information provided to the student;
- (2) Knowingly providing or receiving information during examinations such as course examinations and candidacy examinations; or the possession and/or use of unauthorized materials during those examinations;
- (3) Knowingly providing or using unauthorized assistance in the laboratory, on field work, in scholarship or on a course assignment;
- (4) Submitting plagiarized work for an academic requirement. Plagiarism is the representation of another's work or ideas as one's own; it includes the unacknowledged word-for-word use and/or paraphrasing of another person's work, and/or the inappropriate unacknowledged use of another person's ideas;
- (5) Submitting substantially the same work to satisfy requirements for one course or academic requirement that has been submitted in satisfaction of requirements for another course or academic requirement, without permission of the instructor of the course for which the work is being submitted or supervising authority for the academic requirement. This includes submitting the same work for courses that the student is retaking pursuant to the university's grade forgiveness rule;
- (6) Falsification, fabrication, or dishonesty in creating or reporting laboratory results, research results, and/or any other assignments;
- (7) Serving as, or enlisting the assistance of, a substitute for a student in any graded assignments;
- (8) Alteration of grades or marks by the student in an effort to change the earned grade or credit;
- (9) Alteration of academically-related university forms or records, or unauthorized use of those forms or records;
- (10) Engaging in activities that unfairly place other students at a disadvantage, such as taking, hiding or altering resource material, or manipulating a grading system;
- (11) Violation of program regulations as established by departmental committees and made available to students; and,
- (12) Providing falsified materials, documents, or records to a university official in order to meet academic qualifications, criteria, or requirements, including but not limited to submitting falsified doctor's notes and/or falsified transcripts.

(B) Endangering health or safety.

- (1) Endangering behavior: Taking or threatening action that endangers the safety, physical or mental health, or life of any person, or creates a reasonable fear of such action.

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- (2) Stalking: Engaging in a pattern of unwanted conduct directed at another person that threatens or endangers the safety, physical or mental health, or life or property of that person, or creates a reasonable fear of such a threat or action. When stalking is sex- or gender-based, it falls under sexual misconduct, [university policy 1.15](#).
- (3) Operating a vehicle while impaired by alcohol or drugs in a manner that endangers the safety of the university community.

~~(C) Sexual misconduct.~~

~~Sexual misconduct in any form is never acceptable. Students are responsible to know and adhere to the sexual misconduct policy which can be found at <http://hr.osu.edu/public/documents/policy/policy115.pdf>.~~

(D) Destruction of property.

Actual or threatened damage to or destruction of university property or property of others, whether done intentionally or with reckless disregard.

(E) Dangerous weapons or devices.

Storage or possession of dangerous weapons, devices, or substances including, but not limited to, firearms, ammunition, or fireworks, unless authorized by an appropriate university official or permitted by a university policy, even if otherwise permitted by law. Use or misuse of weapons, devices, or substances in a manner that causes or threatens serious harm to the safety or security of others. As required by Ohio Revised Code Section 2923.1210, this section does not prohibit a student who has been issued a valid concealed handgun license from transporting or storing a firearm or ammunition when both of the following conditions are met:

- (1) Each firearm and all of the ammunition remains inside the person's privately owned motor vehicle while the person is physically present inside the motor vehicle. or each firearm and all of the ammunition is locked within the trunk, glove box, or other enclosed compartment or container within or on the person's privately owned motor vehicle;
- (2) The vehicle is in a location where it is otherwise permitted to be.

(F) Dishonest conduct.

Dishonest conduct, including, but not limited to, knowingly reporting a false emergency; knowingly making false accusation of misconduct; misuse or falsification of university or related documents by actions such as forgery, alteration, or improper transfer; possession, use or manufacturing of a false identification document; submission of information known by the submitter to be false to a university official.

(G) Theft or unauthorized use of property.

Theft or the unauthorized use or possession of university property, services, resources, or the property of others.

(H) Failure to comply with university or civil authority.

Failure to comply with legitimate directives of authorized university officials, law enforcement or emergency personnel, identified as such, in the performance of their duties, including failure to identify oneself when so requested; or violation of the terms of a disciplinary sanction.

(I) Drugs.

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Use, being under the influence of, production, distribution, sale, or possession of drugs and/or drug paraphernalia in a manner prohibited under law or applicable university policy or facility policy. This includes, but is not limited to, the misuse of prescription drugs.

(J) Alcohol.

Use, underage intoxication, production, distribution, sale, or possession of alcohol in a manner prohibited under law or applicable university policy or facility policy.

(K) Unauthorized presence.

Unauthorized entrance to or presence in or on university premises.

(L) Disorderly or disruptive conduct.

Disorderly or disruptive conduct that unreasonably interferes with university activities or with the legitimate activities of any member of the university community.

(M) Hazing.

Doing, requiring or encouraging any act, whether or not the act is voluntarily agreed upon, in conjunction with initiation, continued membership, or participation in any group, that causes or creates a substantial risk of causing mental or physical harm or humiliation. Such acts may include, but are not limited to, use of alcohol, creation of excessive fatigue, and paddling, punching or kicking in any form. Failure to intervene, prevent, or report acts of hazing may constitute a violation of this section.

(N) Student conduct system abuse.

Abuse of any university student conduct system, including but not limited to:

- (1) Failure to obey the summons or directives of a student conduct body or university official;
- (2) Falsification, distortion, or misrepresentation of information before a student conduct body;
- (3) Disruption or interference with the orderly conduct of a student conduct proceeding;
- (4) Knowingly instituting of a student conduct proceeding without cause;
- (5) Discouraging an individual's proper participation in, or use of, a university student conduct system;
- (6) Influencing the impartiality of a member of a student conduct body prior to, and/or during the course of a student conduct proceeding;
- (7) Harassment and/or intimidation of a member of a student conduct body prior to, during, and/or after a student conduct proceeding;
- (8) Failure to comply with one or more sanctions imposed under the code of student conduct; and
- (9) Influencing another person to commit an abuse of a university student conduct system.

(O) Violation of university rules or federal, state, and local laws.

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Violation of other published university rules, policies, standards, and/or guidelines, or behavior that could violate federal, state, or local law. These university rules, policies, standards, or guidelines include, but are not limited to, those which prohibit the misuse of computing resources, rules for student groups or organizations, and residence hall rules and regulations.

(P) Riotous behavior.

- (1) Participation in a disturbance with the purpose to commit or incite any action that presents a clear and present danger to others, causes physical harm to others, or damages property.
- (2) Proscribed behavior in the context of a riot includes, but is not limited to:
 - (a) Knowingly engaging in conduct designed to incite another to engage in riotous behavior; and
 - (b) Actual or threatened damage to or destruction of university property or property of others, whether done intentionally or with reckless disregard; and
 - (c) Failing to comply with a directive to disperse by university officials, law enforcement, or emergency personnel; and
 - (d) Making explicit or implied threats in a manner that causes a reasonable fear of harm in another; and
 - (e) Impeding, hindering or obstructing a university official, law enforcement, or emergency personnel in the performance of their duties.
- (3) This rule shall not be interpreted as proscribing peaceful demonstrations, peaceful picketing, a call for a peaceful boycott, or other forms of peaceful dissent.

(Q) Recording or distribution without knowledge.

Using electronic or other means to make or distribute a video, audio, or photographic record of any person in a location where there is a reasonable expectation of privacy without the person's prior knowledge, when such a recording is likely to cause injury, distress, or damage to reputation. This includes, but is not limited to, taking video, audio, or photographic records in shower/locker rooms, residence hall rooms, and restrooms. The storing, sharing, and/or distributing of such unauthorized records by any means is also prohibited.

(R) Public urination or defecation.

Urination or defecation in a place such as a sidewalk, street, park, alley or yard, residence hall space, or on any other place or physical property that is not intended for use as a restroom.

(S) Retaliation.

Any intentional adverse action against any individual who makes an allegation, files a report, serves as a witness, assists a complainant or respondent, or participates in any university investigation or proceeding.

(Board approval dates: 3/2/2001, 7/11/2003, 7/7/2006, 12/7/2007, 4/6/2012, 4/8/2016, 9/2/2016)

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Student Conduct Procedures

3335-23-05 Initiation, inquiry and investigation of code violations.

(A) Initiation.

Person(s) ~~witnessing or experiencing~~ who witness, experience, or become aware of what they believe to be a possible code violation should provide ~~an authorized university official with the~~ information to the following officials or offices.

- (1) Complaints about possible code violations occurring in residence halls should be ~~provided~~ reported to the residence hall director;
- (2) Complaints about possible non-residence hall related code violations should be ~~provided~~ reported to the ~~director office~~ of student conduct, or chief student conduct officer for the regional campuses;
- (3) Complaints about possible sexual misconduct should be reported pursuant to the sexual misconduct policy, university policy 1.15;
- (4) Complaints about possible protected class discrimination or harassment should be reported pursuant to university policy 1.10;
- (5) ~~(3)~~ Complaints regarding academic misconduct should be ~~referred to the coordinator of~~ reported to the committee on academic misconduct; and
- (6) ~~(4)~~ In cases when the alleged activity may involve a violation of criminal law in addition to a violation of the code, complaints should be ~~provided~~ reported to the ~~Ohio state~~ university police division or other appropriate law enforcement agency. ~~The university will review all complaints received and may conduct a preliminary investigation of the alleged violation.~~

(B) Preliminary inquiry.

The university conducts a preliminary inquiry into the nature of the incident, complaint or notice, jurisdiction, the information available, and the parties involved. Within the university's discretion, the preliminary inquiry may lead to:

- (1) A determination that there is insufficient information to pursue the investigation, or the behavior alleged, even if proven, would not violate the code of student conduct;
- (2) An informal resolution such as an educational discussion or mediation. An educational discussion is a discussion about the student's behavior and its impact. Informal resolution is not available in cases of academic misconduct.
- (3) An investigation and/or initiation of charges.

Typically, an informal resolution will end the conduct process, but if more information is shared in the course of an educational discussion or informal resolution that warrants additional inquiry, an investigation may be initiated.

~~(B)~~ (C) Investigation.

- (1) Role of the university.

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~~The Ohio state university police or other appropriate law enforcement agency shall have primary responsibility for the investigation of acts that involve suspected criminal violation of federal, state, or local laws;~~

- (a) ~~Residence hall directors, assistant hall directors, the~~ The director of student conduct, the chief conduct officer for the regional campuses, residence hall directors, assistant hall directors, and other designated university personnel are authorized to investigate alleged violations other than those involving subsections ~~(b) and (c)~~ and (d) of this paragraph;
 - (b) The coordinator of the committee on academic misconduct is authorized to investigate allegations involving academic misconduct;
 - (c) Only those personnel designated by the sexual misconduct policy, university policy 1.15, shall investigate charges involving sexual misconduct, sexual harassment, and relationship violence.
 - (d) Only those personnel designated by university policy 1.10, shall investigate charges involving protected class discrimination or harassment.
 - (e) The Ohio state university police or other appropriate law enforcement agency shall have primary responsibility for the criminal investigation of acts that involve suspected criminal violation of federal, state, or local laws. Such investigation does not replace any other university investigation.
 - (f) The university may conduct concurrent investigations regarding potential violations of institutional policy or federal, state, and local law.
- (2) Role of ~~other~~ participants.
- (a) During the investigation, the student allegedly involved in misconduct may be:
 - i. Notified of the alleged violation;
 - ii. Requested to make an appointment to discuss the matter; and
 - iii. Provided a date by which the appointment must be made.
 - (b) Any person believed to have information relevant to an investigation may also be contacted and requested to make an appointment to discuss the matter.
- (3) Failure to comply with a request to make and keep an appointment relevant to an investigation may result in a disciplinary hold being placed on a respondent's registration and records and/or the initiation of charges for student conduct system abuse.
- (4) Upon completion of an investigation, the investigator will decide upon an appropriate course of action, which may include, but is not limited to:
- (a) ~~(a)~~ Taking no further action and closing the case,
 - (b) ~~(b)~~ Deferring further action initiation of charges with or without conditions, or
 - ~~(c) Initiating charges with the appropriate university student conduct body.~~
 - (c) Seeking informal resolution; or

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- (d) Initiating charges by the appropriate university official, when a finding of jurisdiction has been made and there is reasonable cause to believe that a violation of the code may have occurred. Reasonable cause is defined as some credible information to support each element of the violation, even if that information is merely a credible witness or a victim's statement. Charges will not be issued where a complaint is unsupported by any credible information or does not meet the elements of a code violation.

(Board approval dates: ~~3/2/2011~~, 12/7/2007, 3/2/2011, 4/6/2012, 4/8/2016, 9/2/2016)

3335-23-06 Amnesty

At the university's discretion, amnesty may be extended to students who may be hesitant to report a violation of the code to university officials because they fear that they themselves may be accused of minor policy violations, including but not limited to underage drinking, at the time of the incident. If a student is granted amnesty, an educational discussion or other informal resolution may be considered, but no university conduct proceedings under this code will result.

At the university's discretion, amnesty may also be extended on a case-by-case basis for minor policy violations when students request assistance for others in need, including the person receiving assistance. If a student is granted amnesty, an educational discussion or other informal resolution may be considered, but no university conduct proceedings under this code will result. In cases of academic misconduct, need does not include the inability of a student to complete an assignment without assistance.

3335-23-07 Filing of complaint and initiation of charges.

A complaint alleging a violation of the code of student conduct should be ~~filed with~~ made to the university as soon as practicable ~~following the discovery of the alleged violation in accordance with paragraph (A) of Rule 3335-23-05 of the Administrative Code.~~ Absent extraordinary circumstances, the ~~complaint must be filed within~~ university will not take action on complaints filed more than six months ~~for cases from the discovery~~ of non-academic misconduct (paragraphs (B) to ~~(RS)~~ of rule 3335-23-04 of the Administrative Code), ~~and~~ or one month for academic misconduct (paragraph (A) of rule 3335-23-04 ~~(A)~~ of the Administrative Code), ~~from the date upon which a university official becomes aware of the alleged violation and identifies the student(s) who allegedly committed the violation.~~ These time limitations do not apply to complaints of sexual misconduct or other protected class discrimination and harassment.

Absent extraordinary circumstances, the university must initiate charges, if any, within one year of the filing of the complaint. This time limitation does not apply to complaints of sexual misconduct or other protected class discrimination and harassment. In all cases, a student charged with one or more violations of the code of student conduct has the right to be heard, subject to the student conduct procedures.

(Board approval dates: 3/2/2001, 12/7/2007, 4/6/2012, 4/8/2016)

~~3335-23-07~~ 3335-23-08 Notice of charges and options for resolution.

(A) Notification.

Students shall be notified of university charges in writing, ~~unless a more effective form of notification is deemed appropriate.~~ Charges ~~Written charges~~ may be presented in person, by placement in the respondent's residence hall mailbox, by email to the respondent's official university email address (which may direct the student to view the notice on a secure website), by text message, by other form of electronic communication specific to the student on file with the university registrar, or by mail to the respondent's local or permanent address on file in the office of the university registrar.

(B) Current address.

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All students are required to maintain an accurate and current local ~~and~~ permanent address, and phone number with the university registrar.

- (C) Meeting with university official.

Following notification of charges, respondents are strongly encouraged to and shall be afforded the opportunity to meet with a university official for the purpose of explaining the university student conduct process and discussion of the charges.

- (D) Options for resolution.

Charges may be resolved by administrative decision pursuant to 3335-23-09 or a hearing pursuant to 3335-23-10.

- (E) ~~(D)~~ Failure to respond.

Failure of the respondent to respond to the initiation of charges or schedule a preliminary meeting within the deadlines provided by the university shall in no way prevent the university from scheduling and conducting a hearing in the absence of the respondent.

(Board approval dates: 3/2/2001, 12/7/2007, 4/6/2012, 4/8/2016)

~~3335-23-08~~ 3335-23-09 **Administrative decision.**

In a case where a respondent admits to a violation(s) in writing, the student may request in writing to have a decision as to appropriate sanction made administratively by a hearing officer rather than have the charges referred to a hearing body. In such situations, the student waives the right to a hearing and the related procedural guarantees provided by a hearing body. Administrative decisions in academic misconduct cases involving graduate students ~~are to may~~ be made in consultation with the graduate school. Following an administrative decision, the student retains the right to request an appeal (see Administrative Code Section 3335-23-18) of the original decision, but may do so only upon the ground that the sanction is grossly disproportionate to the violation committed.

When a respondent fails to respond to the initiation of charges and information exists to support finding a violation, the hearing officer may issue an administrative decision so long as sanctions do not include suspension or dismissal. In this circumstance, the respondent retains the right to request an appeal of the decision under all grounds found in Administrative Code Section 3335-23-18. If the respondent is suspended or dismissed in a subsequent case, the respondent may appeal both the outcome in the subsequent case and an administrative decision issued due to a failure to respond.

(Board approval dates: 3/2/2001, 7/7/2006, 12/7/2007, 4/6/2012, 4/8/2016)

3335-23-10 Hearing bodies.

- (A) The respondent has the right to accept responsibility for the charges, which will result in an administrative decision, or choose to have a hearing.

- (B) In addition to the committee on academic misconduct and the university conduct board, the following university employees/officials are considered official university hearing bodies and may conduct administrative hearings of alleged violations of the code affording the respondent the same procedural guarantees as provided in the hearings conducted by a committee or board:

- (1) The director of student conduct, or designee;
- (2) The coordinator of the committee on academic misconduct, or designee;

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(3) University housing professional staff; and.

(4) The chief conduct officer for the regional campuses...

(C) Students will be afforded the right to request a separate hearing and choose an administrative or board hearing, except under special circumstances when, in order to ensure a fair and just process, the hearing officer may determine the appropriate hearing body. Special circumstances include but are not limited to situations when multiple respondents are charged out of the same factual circumstances or in multiple incidents involving the same respondent. The university reserves the right to combine hearings for respondents.

(Board approval dates: 3/2/2001, 12/7/2007, 4/6/2012, 4/8/2016, 9/2/2016)

~~3335-23-09~~ 3335-23-11 **Notice of hearing and request for postponement.**

(A) Notice.

If a hearing is to be held, written notification will be provided to the respondent, ~~and in charges involving sexual misconduct to the complainant.~~ The notice may be hand delivered, placed into a student's residence hall mailbox, sent by email to the student's official university email address or text message, which may direct the student to view the notice on a secure website, or mailed to the last known address of the student, by first class mail, no fewer than ten calendar days prior to the hearing. Unless already provided to the student, the notification will include the charge(s), date, time, and location of the hearing, the designated hearing body, a statement of the student's rights, and information on the hearing procedures.

(B) Postponement.

The respondent ~~and the complainant~~ may request a postponement for reasonable cause ~~or a separate hearing from other respondents, which may be granted at the discretion of the university.~~ A request for a postponement for reasonable cause must be made in writing, include supporting rationale and be received by the person sending the hearing notification at least two business days before the scheduled hearing. The university reserves the right to reschedule a hearing for the first appropriate available date.

(Board approval dates: 3/2/2001, 12/7/2007, 4/6/2012, 4/8/2016)

~~3335-23-10~~ 3335-23-12 **Hearing procedures.**

Although the procedural requirements are not as formal as those existing in criminal or civil courts of law, to ensure fairness, the following procedures will apply and, unless already provided to the student, be included within the hearing notice:

(A) Attendance.

Attendance at hearings is limited to those directly involved or those requested by the hearing body to attend. The hearing body will take reasonable measures to assure an orderly hearing, including removal of persons who impede or disrupt proceedings.

(B) Timelines.

Except as expressly provided by this code, the university may set deadlines related to the investigation and hearing process. Absent extraordinary circumstances, respondents must submit all witness names and evidence for submission at least two business days prior to a scheduled hearing.

~~(B)~~ (C) Advisor.

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The respondent ~~and the complainant~~ may ~~have~~ choose to bring an advisor for support throughout the disciplinary process. The advisor (i.e., support person) may be any person other than a witness. The advisor may only counsel the student and may not actively participate in the disciplinary process, unless clarification is needed as determined by the hearing body.

~~(C) Written statements and witnesses.~~

(D) Witnesses.

(1) The respondent ~~and the complainant, in charges involving sexual misconduct, may submit a written statement, may~~ invite relevant factual witnesses to attend, ~~invite character witnesses to submit written statements,~~ ask questions of witnesses called by others, and will be notified of potential witnesses to be called. ~~The respondent and the complainant must submit a list of potential witnesses to the hearing body at least two business days prior to the hearing.~~

(2) The university may present witnesses as well as question those presented by the respondent and ~~the complainant.~~will notify the respondent of invited witnesses.

(3) Respondents may also invite up to three character witnesses to submit written statements for the hearing body's review. A character witness is considered to be a person who attests to another's moral conduct and reputation. Character witness statements will only be considered during sanctioning process if a violation is found.

~~(D) Witness absence.~~

~~The hearing body may allow written statements if, for good reason, a fact witness cannot attend the hearing.~~

~~(E) Consultants.~~

(4) Expert witnesses are not permitted. In cases requiring special expertise, the hearing body may appoint individuals with appropriate expertise to serve as consultants to the hearing body. The ~~consultants~~ consultant may be present and provide information as called upon during the hearing, but will not vote.

~~(F)~~ (E) Standard of evidence.

A student will only be found in violation if a preponderance of evidence supports the charges.

(F) Majority Vote Required.

A student will not be found in violation unless a majority of the hearing body finds the student in violation. In the event of a tie, the ~~board~~ hearing body will continue to deliberate. If after the ~~board~~ hearing body determines that exhaustive deliberations have occurred and a majority decision is not reached the student will be found not in violation.

(G) In cases where prompt review is essential (e.g., when graduation or the end of the academic year is imminent) the ~~accused~~ respondent may be offered the option of an ~~expedited~~ administrative review consisting of an administrative decision or administrative hearing. The ~~accused student~~ respondent may decline such expedited review without the expectation that the process can be completed on an expedited timeline.

(Board approval dates: 3/2/2001, 7/11/2003, 12/7/2007, 4/6/2012, 4/8/2016, 9/2/2016)

~~3335-23-11~~ 3335-23-13 **Attendance.**

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Because the most accurate and fair review of the facts can best be accomplished when all parties are present, the respondent and ~~complainant~~ invited witnesses are strongly encouraged to attend and participate. If an individual does not choose to attend a hearing, the charges will be reviewed as scheduled on the basis of the information available, and a decision will be made. Although no inference may be drawn against a student for failing to attend a hearing or remaining silent, the hearing will proceed and the conclusion will be based on the evidence presented. No decision shall be based solely on the failure of the respondent ~~or the complainant~~ to attend the hearing or answer the charges. In special circumstances, written statements may be considered by the hearing body when a respondent or witness does not attend or fully participate in a hearing.

(Board approval dates: 3/2/2001, 4/8/2016)

~~3335-23-12~~ 3335-23-14 Record of proceedings.

A single record consisting of written notes, tape audio recording, or other method selected by the hearing body, will be made of all hearings. Such record will remain the property of the university but will be made available to the respondent, ~~and the complainant in charges involving sexual misconduct,~~ for review during the appeal period. A written notice of the decision will be provided to the respondent ~~and the complainant, where privacy laws allow.~~ If the respondent is found in violation, information regarding appeal procedures will be provided to the respondent ~~and complainant in cases involving sexual misconduct.~~

(Board approval dates: 3/2/2001, 4/6/2012, 4/8/2016)

~~3335-23-13~~ Hearing bodies.

- ~~(A) — In addition to the committee on academic misconduct, the university conduct board, the director of student conduct, hearing officers within the student conduct system, the coordinator of the committee on academic misconduct, university housing professional staff are to be considered as official university hearing bodies, and may hear cases of alleged violations of the code affording the respondent the same procedural guarantees as provided in hearings by a committee or board.~~
- ~~(B) — The respondent has the right to accept responsibility for the charges, which will result in an administrative decision, or choose to have a hearing.~~
- ~~(C) — Students will generally be afforded the right to choose an administrative or board hearing, except under special circumstances when, in order to ensure a fair and just process, the hearing officer may determine the appropriate hearing venue.~~

~~(Board approval dates: 3/2/2001, 12/7/2007, 4/6/2012, 4/8/2016, 9/2/2016)~~

~~3335-23-14~~ 3335-23-15 Committee on academic misconduct.

- (A) On behalf of the committee, the coordinator may investigate and resolve all reported cases of student academic misconduct that fall under the committee's jurisdiction. The coordinator and chair shall establish procedure for the investigation and resolution of cases. The committee does not hear cases involving academic misconduct in professional colleges having a published honor code. These colleges shall follow their own codes and procedures, which can be obtained in their respective central offices. Some allegations against graduate students that fall under the committee's jurisdiction may also implicate the university policy and procedures concerning research misconduct and/or graduate school policy on the investigation of allegations of research misconduct by a graduate student. Upon receipt of such an allegation, the coordinator shall meet with the dean of the graduate school or designee, and/or the senior vice president for research or designee, and these parties shall mutually agree on the appropriate procedure for adjudicating the case. Notice of this decision and a description of the procedure to be used shall promptly be given to the student who has been charged. The coordinator or chair may refer complaints to the student conduct system if it is determined that the academic misconduct allegation is incidental to some other misconduct.

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- (B) The committee on academic misconduct is constituted according to rule 3335-5-48.7 of the Administrative Code.
- (C) All complaints of academic misconduct shall be reported to the coordinator of the committee.
- (D) Students have an obligation to report suspected misconduct.
- (E) A quorum for a hearing shall be no fewer than four voting members of the committee which shall include no fewer than one student member and two faculty members. For cases involving graduate students, reasonable efforts will be made to have graduate students serve as the student members of the hearing committee.

(Board approval dates: 3/2/2001, 7/7/2006, 4/6/2012, 4/8/2016)

3335-23-16 University conduct board.

- (A) Membership.

The respondent may elect for the university conduct board to adjudicate charges involving prohibited behaviors listed in 3335-23-04 of the Administrative Code, except paragraphs (A) academic misconduct ~~and (C) sexual misconduct. For charges involving sexual misconduct to be heard by the board, there shall be no student membership. For charges involving prohibited behaviors listed in 3335-23-04 of the Administrative Code, except paragraphs (A) academic misconduct and (C) sexual misconduct, the board consists of:~~ The director of Student Conduct will recommend members for approval as follows:

- (1) Fifteen faculty and/or administrative staff members ~~recommended by the director of student conduct to the~~ appointed by vice president ~~for of~~ student life for three-year terms ~~which begin with the autumn term;~~
- (2) ~~(2)Twelve~~ Fifteen undergraduate student members, appointed by undergraduate student government for two year terms;
- (3) ~~(3)~~ Six graduate student members, appointed by the council of graduate students for two year terms;
- (4) ~~Two~~ Four professional student members, appointed by the inter-professional council, for two year terms; and
- (5) The director of student conduct or designee shall serve as board coordinator ex-officio without vote.

- (B) Quorum.

A quorum for a hearing shall be no fewer than four voting members of the board, which shall include no fewer than two student members, except for charges involving sexual misconduct when there shall be no unless the respondent elects not to include student members. A hearing board shall consist of no more than eight voting members.

~~(C) Appointment.~~

(C) Eligibility and Alternates

~~All student appointments shall be for staggered two-year terms beginning in the autumn term. Six of the undergraduate student members, three of the graduate student members, and one of the professional student members shall be appointed in odd-numbered years, with the remainder appointed in even-numbered years.~~

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- (1) ~~(1)~~ To be eligible for appointment or service, a student must possess a minimum 2.5 cumulative grade point average and not be under current disciplinary sanction from the university
- (2) ~~(2)~~ Additional alternate members may be appointed as needed.
- (3) ~~(D)~~ Removal.

The director of student conduct may remove university conduct board members ~~for cause~~ under certain circumstances, including but not limited to, not attending training, falling below the minimum grade point average, repeated absences, violating the code of student conduct or other applicable laws or rules, policies, standards, or guidelines, or not responding to repeated attempts at communication. ~~Notification-Whenever possible, notification~~ shall be made in writing to the university conduct board member prior to removal, ~~whenever possible~~.

(Board approval dates: 3/2/2001, 12/7/2007, 4/6/2012, 4/8/2016, 9/2/2016)

University Sanctions

3335-23-17 General guidelines for sanctions.

~~Sanctions~~ If a student is found to be in violation of the code, sanctions should be commensurate with the violations found to have occurred. In determining the sanction(s) to be imposed, the hearing body should take into account any mitigating circumstances and any aggravating factors including, but not limited to, any provocation by the subject of the conduct that constituted the violation, any past misconduct by the student, any failure of the student to comply fully with previous sanctions, the actual and potential harm caused by the violation, the degree of intent and motivation of the student in committing the violation, and the severity and pervasiveness of the conduct that constituted the violation. Misconduct motivated by bias for classes protected by university policy, other than constitutionally protected expression, ~~motivated by bias based on age, ancestry, color, disability, gender identity or expression, genetic information, HIV/AIDS status, military status, national origin, race, religion, sex, sexual orientation, or veteran status~~ may be considered an aggravating factor for sanctioning. Impairment resulting from voluntary use of alcohol or drugs (i.e., other than medically necessary) will also be considered an aggravating, and not a mitigating, factor. One or more of the following courses of action may be taken when a student has been found to have violated the code of student conduct.

~~(A)~~ Informal admonition.

~~An oral or written admonition issued by a hearing officer or residence hall advisor resulting from the student's misconduct. No formal charges are required before the issuance of an informal admonition. However, following issuance of an informal admonition, the student shall be entitled to a hearing upon written request, under the procedures provided in the code of student conduct. A written request for such a hearing must be filed with the university official who administered the informal admonition, within five working days of the student's receipt of the informal admonition. An informal admonition shall not be considered a disciplinary sanction, but may be considered in any subsequent hearings.~~

~~(B)~~ (A) Disciplinary sanctions.

- (1) Formal reprimand.

A written letter of reprimand resulting from a student's misconduct.

- (2) Disciplinary probation.

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This probationary condition is in effect for a specified period of time and may involve the loss of specified privileges. Further violation of university rules, policies, standards, or guidelines during the probationary period will additionally be viewed as a violation of the probation, which shall result in further action up to and including suspension or dismissal.

(3) Suspension.

Suspension is a sanction that terminates the student's enrollment at the university for a specified period of time. Satisfactory completion of specified stipulations may be required for ~~readmission~~ reenrollment at the end of the suspension period. Under special circumstances, the hearing body may hold the imposition of suspension in abeyance, which would allow for the students continued enrollment so long as the student adheres to all stipulations, restrictions, or conditions imposed by the hearing body.

(4) Dismissal.

Dismissal is a sanction, which permanently separates a student from the university without opportunity to re-enroll in the future.

~~(C)~~(B) Conditions of suspension and dismissal.

Unless a student is otherwise notified in writing, a suspension or dismissal will not take effect until after the appeal period. A student who has been dismissed or suspended from the university shall be denied all privileges afforded a student (including, but not limited to participation in university sponsored or sanctioned events and activities) and shall be required to vacate campus ~~at a time as~~ determined by the hearing body. In addition, after vacating campus property, a suspended or dismissed student may not enter upon campus and/or other university property at any time, for any purpose, in the absence of expressed written permission from the vice president for student life or designee. To seek such permission, a suspended or dismissed student must file a written petition to the vice president for student life for entrance to the campus for a limited, specified purpose or to have the terms of this condition modified or reduced.

~~(D)~~(C) Failing or lowered grades.

In cases of academic misconduct, a hearing body may authorize the instructor to award a failing or lowered grade in the course, ~~and~~ a loss of credit on the graded coursework, ~~and impose any of the above-listed sanctions including suspension or dismissal from the university.~~

~~(E)~~(D) Other sanctions.

Other appropriate sanctions may be imposed by a hearing body singularly or in combination with any of the above-listed sanctions. Examples include, but are not limited to, making restitution for property damage or misappropriation of university property or services, or the property of any person, residence hall contract termination or reassignment to another room, restriction of access to specified campus facilities and/or property, research assignments, community service projects, special workshop participation, ~~and/or~~ referral to medical resources or counseling personnel, and/or other educational sanctions.

(Board approval dates: 3/2/2001, 7/7/2006, 12/7/2007, 5/14/2010, 4/6/2012, 4/8/2016)

Appeal Process

3335-23-18 Appellate process.

(A) Right to appeal.

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(1) A student found to have violated the code of student conduct has the right to appeal the original decision. The appeal is not intended to re-hear or re-argue the same case and is limited to the specific grounds outlined below. The appeal must state the specific grounds for the appeal and should include all supporting documentation. The appeal must be postmarked or hand delivered to the appropriate appeal officer, or sent via email, as provided below, within five working days after the date on which notice of the decision is sent to the student. Each student shall be limited to one appeal of a decision of a hearing body. The decision of the appeal officer is final.

~~(2) In cases involving charges involving sexual misconduct as defined by applicable university policy, the complainant may appeal the original decision in accordance with the appeals procedures provided in this section.~~

(2) Any extensions to the appeal date may be made in the discretion of the director of student conduct, residence life, or the office of academic affairs or their designee.

~~(3)~~(4) A student who has accepted responsibility for violating the code of student conduct waives the right to appeal, except on the basis that the disciplinary sanction is grossly disproportionate to the violation(s) committed.

~~(4)~~(5) ~~Each party~~When found in violation of the code of student conduct, a respondent shall be limited to one appeal. The decision of the appeal officer is final.

(B) Grounds for appeal.

(1) An appeal may be based only upon one or more of the following grounds:

~~(1)~~(a) Procedural error that resulted in material harm or prejudice to the student (i.e. by preventing a fair, impartial, or proper hearing). Deviations from the designated procedures will not be a basis for sustaining an appeal unless material harm or prejudice results;

~~(2)~~(b) Discovery of substantial new evidence that was unavailable at the time of the hearing and which reasonably could have affected the decision of the hearing body; or

~~(3)~~(c) Disciplinary sanction imposed is grossly disproportionate to the violation(s) committed, considering the relevant aggravating and/or mitigating factors.

(2) Non-attendance by the respondent ~~or the complainant~~ may not be the sole grounds for an appeal.

(C) Appropriate appeal officers.

(1) Appeals from residence hall hearings:

(a) All appeals from residence hall hearings, other than contract terminations, shall be submitted to the director of residence life or designee.

(b) All appeals when the sanction imposed by the residence hall hearing is contract termination shall be submitted to the director of student conduct or designee.

(2) ~~(2)~~ Appeals of a decision of a hearing body, other than those described in the previous section, will be submitted for decision to the vice president for student life or designee.

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~~(3) (2)~~ Appeals of decisions of the committee on academic misconduct or its coordinator will be submitted for decision to the executive vice president and provost or designee.

(D) Appeal proceedings.

- (1) The appeal officer will dismiss the appeal if the appeal is not based upon one or more of the grounds set forth in paragraph (B) of this rule.
- (2) The appeal officer will decide the appeal based upon a review of the record and supporting documents (e.g. prior disciplinary history).

~~(3) The appeal officer may consider additional relevant information from any party to the proceeding and then decide the appeal based upon the enhanced record.~~

(E) Possible dispositions by the appeal officer.

The appeal officer may, after a review of the record:

- (1) Uphold the original decision and/or sanction(s);
- (2) Dismiss the case or individual charge(s) against the student and vacate any portion or all of the sanction(s);
- (3) Modify or reduce the sanction(s); ~~or in cases involving charges relating to sexual misconduct as defined by applicable university policy, enhance the sanction; or~~
- (4) Remand the case to the original hearing body to consider a specific issue as directed by the appeal officer or refer the case to a new hearing body to be reheard. If possible, a new hearing body should be different from the one that originally decided the case. If a case is reheard by a hearing body, the sanction imposed can be greater than that imposed at the original hearing.

(Board approval dates: 3/2/2001, 12/7/2007, 5/14/2010, 4/6/2012, 4/8/2016, 9/2/2016)

~~3335-23-19 Minor deviations from procedure~~ Deviations and other procedures.

A student and hearing officer may agree in advance to ~~minor~~ deviations from procedure. Such deviations are not then subject to appeal. Other ~~minor~~ deviations are acceptable as long as such deviations are not found upon appeal to be materially harmful to the respondent ~~or the complainant~~. The office of student life student conduct and the committee on academic misconduct may create additional procedures in alignment with this code.

(Board approval dates: 3/2/2001, 4/6/2012, 4/8/2016)

3335-23-20 Interim suspension.

(A) When the vice president for student life or designee has reasonable cause to believe that the student's presence on university premises or at a university-related or registered student organization activity poses a significant risk of substantial harm to the safety or security of themselves, others, or to property, the student may be immediately suspended from all or any portion of university premises, university-related activities or registered student organization activities. ~~This temporary~~ The interim suspension will be confirmed by a written statement ~~and shall remain in effect until the conclusion of a full hearing or administrative decision, without undue delay, in accordance with the rules of the Ohio state university. The student may, within three working days of the imposition of the suspension, petition the vice president for student life for reinstatement. The petition must be in writing,~~

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(B) The interim suspension shall remain in effect until:

- (1) The conclusion of the student conduct process, including any appeal;
- (2) The vice president for student life or designee terminates the interim suspension in writing; or.
- (3) The vice president for student life or designee terminates the interim suspension upon written request by the student where a determination is made that reasonable cause for the interim suspension no longer exists.
 - (a) The request from the student must be in writing and must include supporting documentation or evidence that the student does not pose, or no longer poses, a significant risk of substantial harm to the safety or security of themselves, others, or to property. ~~A decision on such petition will be made without undue delay by the vice president for student life or designee.~~
 - (b) A decision on such request will be made without undue delay by the vice president for student life or designee.

(Board approval dates: 3/2/2001, 7/11/2003, 5/14/2010, 4/6/2012, 4/8/2016)

3335-23-21 Administrative disenrollment and other restrictions.

- (A) A student may be ~~dis~~enrolled from the university; prohibited from all or any portion of university premises, university-related activities or registered student organization activities; and/or ~~per~~mitted to remain only under specified conditions when the vice president for student life or designee finds that there is clear and convincing evidence that the student's continued presence poses a significant risk of substantial harm to the health or safety of themselves, others, or to property.
- (B) In those cases under paragraph (A) of this rule in which it appears that the risk posed by the student is a result of a health condition or a disability as defined by the Americans with Disabilities Act, the vice president for student life or designee shall also determine whether the risk or disruption can be eliminated or sufficiently reduced through reasonable accommodation and, if so, shall take appropriate steps to ensure that accommodation is made. The vice president for student life or designee may request the student to undergo an appropriate examination, as specified by the vice president for student life or designee, to determine whether any such condition exists and whether any such accommodation is possible. If the student fails to undergo such an examination, and if the other available evidence supports a finding under paragraph (A) of this rule, the vice president for student life or designee shall, to the extent reasonably possible, take the least restrictive measure or combination of measures necessary to resolve the risk or disruption.
- (C) A student who has been disenrolled; prohibited from university premises, university-related activities or registered student organization activities; or permitted to remain only under specified conditions may petition the vice president for student life for revision of that status. The petition must include supporting documentation or evidence that:
 - (1) The conditions found to have existed under paragraph (A) of this rule no longer exist and will not recur, and
 - (2) The student meets all normal and appropriate standards for admission and enrollment in any academic unit in which the student seeks to re-enroll. Upon receipt of such a petition, the

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vice president for student life or designee shall evaluate the evidence and may consult with the student, any appropriate university personnel, and any other persons whom the vice president for student life or designee deems appropriate. The vice president for student life or designee may deny the petition, grant the petition in whole or in part under specified conditions, or grant the petition in whole or in part without condition.

(Board approval dates: 3/2/2001, 12/6/2001, 5/14/2010, 4/6/2012)

3335-23-22 Authority.

The bylaws of the university board of trustees and rules of the university faculty provide that the university president shall have the final responsibility and authority for the discipline of all students of the university (see paragraph (A) of rule 3335-11-01 of the Administrative Code). This responsibility and authority has been delegated by the president to the vice president for student life, whose office is also charged with responsibility for promulgation of rules governing student conduct (see paragraph (H) of rule 3335-1-03 of the Administrative Code).

The deans of colleges and of the graduate school, the directors of schools, and the chairpersons of departments, respectively, are responsible to the president through regular disciplinary channels for the discipline of all students in the activities of their respective colleges, schools, and departments (see paragraph (B) of rule 3335-11-01 of the Administrative Code). Likewise, the deans and directors of the regional campuses are responsible to the president through the executive vice president and provost for the discipline of all students in the activities of their respective campuses.

The Ohio state university code of student conduct is an official publication of the university board of trustees. All petitions for revision and amendment of this code of student conduct should be submitted through the office of the vice president for student life. The code shall remain consistent with ~~the sexual misconduct university policy 1.10 and policy 1.15~~; any code of student conduct changes related to ~~that policy these policies~~ shall be done in consultation with ~~the Title IX coordinator~~ appropriate official designated under policy 1.10 and policy 1.15. Proposed revisions to the code shall be reviewed, in draft form, by the office of the president, the office of academic affairs, and the steering committee of the university senate before being presented for approval to the university senate by the council on student affairs. No revision shall become effective unless approved by the university board of trustees and until printed notice of such revisions is made available to students.

This Code shall take effect upon approval by the board of trustees. It shall govern all procedures in matters brought after it first takes effect and also all further procedures in matters then pending, except to the extent that in the discretion of the university the application in a particular action pending would not be feasible, in which event the former version of this Code shall be used. The definitions of prohibited conduct used in a particular matter will be the definitions found in the version of section 3335-23-04 in effect at the time the alleged conduct occurred.

(Board approval dates: 3/2/2001, 5/14/2010, 4/6/2012, 4/8/2016, 9/2/2016)