

# ARTICLE IV: CONDUCT RESOLUTION PROCESS AND PROCEDURES

## Reporting Allegations of Prohibited Conduct

Subject to the provisions under the effectuating regulations of Title IX of the Education Amendments of 1972 34 CFR§106, any member of the University, department, organization, or entity may report an incident or file a complaint alleging a violation of the Student Code of Conduct against a student or recognized organization to the University. The person filing a complaint shall be referred to as the reporting party (or reporter). The student who is subject to the alleged behavior shall be referred to as the Complainant. The person alleged to have violated the Code of Conduct shall be referred to as the Respondent.

No report will be referred for disciplinary action unless there is reasonable cause to believe there has been a violation of policy. Reasonable cause is defined as reliable information to support each element of the violation, even if that information is merely a credible statement. The Director will assess the credibility of available information and determine if a report is wholly supported or unsupported by any such information.

The following procedures do not apply for alleged violations of the Academic Integrity Policy. Refer to the Academic Honesty policy found in the Academic Policies section within this handbook for information on those procedures. Information on how this process is modified for reports of sexual misconduct can be found in the Procedures for Responding to Sexual Violence, Sexual Harassment, and Related Offenses section within the Additional Provisions section of this Code of Conduct.

1. **Preliminary Review.** Upon receipt of a complaint, the Director shall conduct a preliminary review into the nature of the reported incident, complaint, or notice to determine if there is jurisdiction to adjudicate the complaint and to what extent. Within the University's discretion, a preliminary review may lead to:
  - a. A determination that there is insufficient information to initiate an investigation or the alleged misconduct, even if proven true, would not violate the Code of Conduct.
  - b. Referral to another office or external entity for the appropriate response or bypass the conduct process and recommend an alternative resolution such as mediation or educational conversation.
  - c. Deferral of the conduct process, with or without conditions; however, when cases involve a threat to personal or environmental safety, an interim or exclusionary action to adequately mitigate risk may be taken immediately during the pendency of an investigation and/or adjudication process.
  - d. Referral to the designated official within the appropriate jurisdiction for resolution through the conduct process when the alleged misconduct has met the threshold of a potential policy violation.
2. **Anonymous Reporting.** To the extent possible, Community Standards will maintain anonymity when reasonable or when there is fear of retribution or a true safety concern. Reporters should know that anonymity may impact Community Standards' ability to

investigate alleged misconduct and ensure appropriate outcomes. In some situations, anonymity may not be possible, and Community Standards may be required to investigate alleged misconduct, even against the wishes of the reporter. Community Standards staff members are not considered confidential resources and have a responsibility under applicable law(s) and university policy to report sex and gender-based misconduct, discrimination, and harassment to the Civil Rights and Equity Office.

3. **Timelines.** To promote timely and effective review, students who have been harmed by, witness to, or have knowledge of a potential violation of the Code of Conduct are encouraged to report as soon as possible. A delay or prolonged passage of time may impact the University's ability to gather relevant and reliable information, contact witnesses, investigate thoroughly, and respond meaningfully. Absent extraordinary circumstances, incidents reported later than twelve (12) months after the alleged occurrence are subject to dismissal for good cause shown. If the student accused of violating the Code of Conduct is no longer a student at the time the complaint was received, either because the student graduated or left the University permanently, the Director is unable to pursue resolution. The Director will assess whether any remedial steps can be taken to address any prohibited conduct or its effects on the university community. Generally, this time limitation does not apply to complaints of sexual misconduct or other protected class discrimination and harassment.
4. **Effect of a Pending Report of Violation or Charges.** A Respondent who is ineligible to register for or attend classes at any one USNH institution because of a pending student disciplinary charge shall be ineligible to register for or attend classes at any other USNH institution for as long as the charge remains pending.
  - a. If a respondent has withdrawn or withdraws after the initiation of charges, the University will either:
    - i. place a hold on the student's academic record and notify the student that disciplinary action may be initiated upon application for readmission; or
    - ii. proceed with disciplinary action and resolve the matter.

## Forums of Resolution and Procedures

The University is committed to the timely and fair resolution of disciplinary matters involving students and organizations accused of violating the Code of Conduct, within the principles of due process that do not undermine the integrity of the conduct process. Generally, the more serious the possible deprivation, the greater due process protections owed. Although the Code of Conduct affords significant procedural protections in the conduct process to ensure the parties involved a meaningful resolution, this does not include the right to confront accusers in a manner inconsistent with this Code or be represented by counsel. As such, the Director may make reasonable alterations to any of these procedures in the spirit of a prompt conclusion depending on the context of the situation.

5. **Resolution Agreement.** When UNH provides notice of an allegation to a Respondent, the Respondent may elect to participate in an expedited process by resolution agreement upon timely response to the notice of allegations and in lieu of a live disciplinary proceeding. The Respondent accepts responsibility for all pending charges, admits to the relevant allegations, agrees to specific sanctions, and waives the right to an appeal. The Respondent will be provided information regarding a meeting to review the terms of the agreement and any conditions, sanctions, and remedies implemented. Resolution Agreements are final upon signatures of the Respondent and the Director or Conduct Officer.

6. When the potential sanctions, as set forth in Article IV, are not likely to rise above Disciplinary or University Housing Probation, the case is referred to a **Conduct Conference**. The following procedures apply to resolve the alleged prohibited conduct:
- a. **Notice.** Respondents are notified through their UNH-issued email. The notice will include a summary of the allegations made against them, charges under consideration, proposed sanctions, and the resolution options available. The notice will also specify instructions on procedures for responding and deadlines, and the date, time, and location of the meeting. Requests to reschedule conduct meetings are typically only granted when there is an academic conflict.
    - i. **Conduct Conference.** The Respondent is denying responsibility for one or more of the charges under consideration and agrees to participate in a one-on-one fact-finding meeting with a Conduct Officer. This will allow for further exploration of other facts and circumstances of the alleged misconduct. The burden is on the respondent to prove that their position has merit. The Respondent will have an opportunity to share their perspective about the incident in question, clarify or correct any information submitted for review and answer questions specific to their alleged involvement.
  - b. **Decision.** Typically, the Conduct Officer will send the Respondent a written notice of the decision as to whether the charges have been substantiated or not, based upon preponderance as the standard of proof, the rationale for the determinations, and the assigned sanctions (if any) five (5) business days after the meeting or at the conclusion of the conduct process when such cases involve multiple respondents.
7. When the potential sanctions, as set forth in Article IV, either for a single incident of serious prohibited conduct or a persistent pattern of less severe prohibited conduct, could reasonably result in University Housing Removal (for a period of time or indefinitely), University Suspension, or University Dismissal, the case is referred to a **University Hearing**. The following procedures apply to resolve the alleged prohibited conduct:
- a. **Notice.** Respondents, and Complainants when applicable, are notified through their UNH-issued email. The notice will include a detailed summary of the allegations made against the respondent, charges under consideration, and the resolution options available. The notice will also specify deadlines and instructions on procedures for responding, the date, time, and location of the preliminary meeting, and relevant links or attachments where the Code of Conduct is located and can be accessed.
  - b. **Preliminary Meeting.** The preliminary meeting is likely to be the first time for the Respondent to review all relevant information that will be used to support the charges brought forth against them and to have the procedures to be followed at a live hearing explained. If the date, time, and location of the hearing have been confirmed and the names of the Panel or Hearing Officer are known, this information will also be shared at that time. Additionally, the Respondent should be prepared to identify the advisor (if any) that will support them for the duration of the conduct process, to discuss alternative resolutions of the matter without a hearing, and to resolve special considerations, answer other questions, and share information prior to the hearing.
 

Requests to reschedule preliminary meetings are typically only granted when there is an academic conflict.
  - c. **Additional Investigation.** If the Respondent does not accept responsibility for the charges and admit to the allegations, the Director may proceed with further investigation if necessary. The Respondent may provide a written response to the allegations within three (3) days of the preliminary meeting, with any relevant information, including supporting documentation, they want to be considered and the names and contact information for any witnesses they want to be interviewed. Reasonable attempts will be made to interview relevant witnesses and additional information, documentation, and witnesses from other sources may be explored. The Director will consider information that is relevant, material, and temporally proximate to the conduct at issue. As appropriate, the Director will provide both the Respondent (and any Complainants) with periodic status updates during the investigation. Any additional investigation will be completed expeditiously with a timeline of twenty (20) days; however, the actual duration of each investigation may vary commensurate with its complexity, the severity, and extent of the allegations, the number of witnesses, the need for language assistance or accommodation of disabilities, and the possibility of interruption by break periods. If the duration of an investigation substantially exceeds these estimates, the Director will notify the parties, in writing, of any such delay.
  - d. **Options for Resolution.**
    - i. **Administrative Hearing.** Respondents who accept responsibility for all charges but disagree with the proposed sanctions will have their case resolved by a single Hearing Officer. The Hearing Officer will not revisit the question of alleged prohibited conduct, but rather consider the Respondent's petition for a lesser consequence before imposing the appropriate sanction. The full range of sanctions is available for the Hearing Officer, including dismissal.
    - ii. **Panel Hearing.** Respondents who deny responsibility for one or more of the charges under consideration and contest the allegations will have their case adjudicated by a body of trained community members comprised of faculty, staff, and students.
  - e. **Pre-Hearing Submissions.** Community Standards reserves the right to verify the accuracy and authenticity of germane information shared prior to and during the hearing process, including witnesses, authors of letters or documentation submitted, and inspect documents in an effort to corroborate the account provided by the student. The Director, in consultation with the Chair, will establish a reasonable deadline for these submissions, typically no longer than five (5) business days. Formal rules of evidence do not apply, and the Chair shall make all determinations regarding the admissibility, probative value, prejudicial effect, repetitiveness, redundancy, relevancy, etc., of evidence presented. Evidence that was excluded or redacted from the record as impermissible will not be admissible at the hearing. Hearsay is admissible if the Chair finds that it is generally reliable, but any party may present reasons that admitted hearsay evidence is or is not sufficiently reliable to be the basis for a finding of responsibility.

Witnesses presented on behalf of the parties must have factual first-hand knowledge of the incident in question. In cases requiring special expertise, the University may appoint individuals with similar expertise to serve as consultants to the hearing body. The consultant may be present and provide information as called upon during the hearing. Expert Witness testimony is admissible only when the investigator determines that such testimony is potentially relevant to the investigation and where the investigator determines that the expert witness is qualified to provide such testimony. In order for expert witness testimony to be considered for purposes of adjudication, they must be available to attend the live hearing and must testify at the live hearing if called by the Panel. The expert witness must also submit to cross-examination. If an expert witness is not available to testify at the live hearing and/or does not testify when called at the live hearing, any prior statement, testimony, or written report submitted may not be considered to determine responsibility.

The parties may request extensions that may be granted, if reasonable, at the discretion of the Director. Extensions granted to one party will be granted to the other party. Delays simply to prolong the process will not be permitted, and failure to meet deadlines will generally result in forfeiture of a party's ability to participate in that aspect of the process. Subject to a demonstration of compelling circumstances, a party who declines or fails to participate in a meeting or interview, provide evidence, or suggest witnesses, waives their right to do so upon the issuance of the final report and/or record.

- f. **Notice of Hearing.** Hearings are scheduled as timely as possible. All efforts will be made to provide notice of hearing no less than three (3) days or no more than ten (10) days after a notice of allegations has been issued. The Respondent may waive the three-day notice. Time limits for scheduling meetings and hearings may be extended at the discretion of the Director. If the notice does not include the names of the decision-maker(s) slated for adjudication, the parties will be notified, in writing, at a later time, prior to the hearing. Hearings may take place in person or via video conference or other remote technology.

In matters where there is more than one Respondent arising from the same incident, the Chair in consultation with the Director and the parties may order a consolidated or severed hearing. Respondents may request that hearings be conducted separately. In the case of a consolidated hearing, the Chair may reasonably adjust timelines and procedures if doing so is likely to result in reliable and more efficient outcomes without causing prejudice to the parties involved or confusion for the fact finders. When a hearing occurs at the end of an academic semester, including, but not limited to reading days and final exams, and during the summer and winter breaks, the Director may assign cases to a single Hearing Officer.

- g. **Request to Delay.** The Respondent may request a postponement of no more than three (3) business days for reasonable cause. The Director will determine the validity of the request. Absent extenuating circumstances, a request for a postponement must be made in writing, include supporting rationale, and be received by the person sending the hearing notification at least two (2) business

days before the scheduled hearing. The University reserves the right to reschedule a hearing for the first appropriate available date.

Given the number of individuals involved in a hearing, and the attendant difficulty of scheduling and rescheduling them in a timely manner, it may not be possible to accommodate all scheduling requests. The Chair may postpone and reschedule a hearing, without a request by the parties, when the cause to do so arises.

- h. **Challenge for Impartiality.** The Respondent and Complainant have the right to a hearing by an unbiased decision-making body, and the right to challenge the body that is serving in such capacity and the Chair, on the grounds of bias or conflict of interest. The Director will determine the validity of the objection but shall not impair the independence of designated hearing body, though they may provide procedural advice at all times and exercise best judgment to avoid acting in dual roles in the same conduct case.

The provisions about bias and conflict of interests shall not be construed so widely as to eliminate broad categories of panelists and no panel member will be excused solely on the basis of a protected characteristic in accordance with the University's Statement of Nondiscrimination. Mere knowledge of the events at issues shall not disqualify a panel member. Where actual bias or conflict of interest is established, the Respondent or Complainant may request that a panel member be excused because of a proven conflict of interest as provided in the foregoing provisions assuming they have not already recused themselves, to ensure that the process is managed by individuals that eliminates the identified bias or conflict.

Actual bias is an articulated prejudice in favor of or against one party or position; it is not a generalized concern about the personal or professional backgrounds, positions, beliefs, or interests of the decision-makers in the process. Panel members should be alert to potential personal, economic, or legal conflicts of interest between themselves and the persons bringing matters to the Panel or the student against whom a matter has been brought.

Panel members having past or present ties of kinship, marriage, or other very close personal relationship to any of the parties involved in the matter should notify the Chair that a conflict of interest exists and be automatically excused from participation; the nature of the relationship need not be disclosed to the Chair. Panel members having some form of close professional relationship with one or more of the parties involved in the matter (e.g., collaboration or cooperation in research, writing, or teaching with a colleague or service as an ongoing academic adviser, athletic coach, employed in the same department or unit or instructor to the student in class that is smaller in size) should notify the Chair that a potential conflict of interest exists.

A Panel member should inform the Chair that the nature of the matter creates an occasion for a conflict of interest and may request to be excused from participation. Similarly, all issues relating to conflict of interest should be raised by the student and settled before the Panel begins consideration of the matter. Questions relating to conflict of interest may not be raised after the Panel has reached decisions, nor may they be grounds for appeal of the hearing results.

The foregoing provisions are intended not to be inclusive of all possible situations of conflict of interest, but rather to provide guidance. It is the intention of these provisions to enable the Panel to avoid both the appearance and the reality of conflict of interest so that the community will have confidence in the fairness of the proceedings. In case of doubt, the Chair and panel member should assume that a potential conflict of interest exists.

- i. **Advisor Assistance.** As an alternative or in addition to utilizing a university-trained advisor, the Respondent and Complainant have the right to be assisted by an advisor of their choosing during the conduct process and at the hearing. The role of the advisor is to provide support and assistance in understanding and navigating this process. To protect the privacy of those involved, all advisors not trained by Community Standards are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in the University's process. The University's duty is to the student, not the advisor. All communication is made directly with the student. The process will not be unreasonably delayed to accommodate the schedule of the advisor. An advisor must familiarize themselves with university policy and may be provided with written expectations in advance of participation in university proceedings. The advisor may not testify in or obstruct an interview, author-written submissions, create a recording or transcription of the meeting, bring electronic devices into the meeting, or disrupt the process. The Director has the right to determine what constitutes appropriate behavior of an advisor and take reasonable steps to ensure compliance with this policy.
- j. **Reasonable Accommodation.** A qualifying Respondent or Complainant has the right to reasonable accommodations to ensure the opportunity to participate fully in the conduct process. Student Accessibility Services (SAS) is committed to and responsible for assuring students with disabilities receive equitable, effective, and meaningful access to all campus programs, resources, and services. The student who wishes to request accommodation should adhere to the procedures and documentation guidelines established by SAS. Students should advise Community Standards, in writing, of their intention to request accommodation no later than two (2) days prior to the scheduled hearing in order to permit sufficient time to make any necessary arrangements.
- k. **Standard of Proof and Presumption of Non-Responsibility.** The University's prescribed standard of proof used to determine responsibility for policy violations is the preponderance of the evidence standard, when the information suggests that it is more likely than not that a violation occurred. Decision-making bodies shall make no assumptions or presumptions (including about the credibility or culpability of the parties to the proceeding or witnesses) and reach decisions as to whether the Respondent has violated university policy solely on the basis of the evidence and testimony presented to them. In incidents where the University is the Complainant, the Respondent will be presumed not responsible until the appropriate disciplinary authority, using the preponderance of evidence standard, determines that a policy violation has occurred. When participating in any of the University's conduct processes, neither the Respondent

nor Complainant bears the responsibility to prove or disprove allegations. It is the University's role to gather information and apply an unbiased and transparent process so that the appropriate decision-maker can determine the outcome.

- l. **Decision.** Following the conclusion of the hearing, the Respondent will be notified in writing of the hearing results outlining the findings of fact, rationale any determination whether the student is responsible for violating the Code of Conduct and the sanctions, if any. If sanctions are imposed, they will be issued in consideration of the specific circumstances of the case, institutional precedent, disciplinary history, aggravating and mitigating circumstances, and community impact. If the hearing results involve outcomes of Disciplinary Probation, University Housing Removal, University Suspension, or University Dismissal, a summary of the appeal procedures will be included.
  - m. **Disciplinary Proceedings Held in Absentia.** Students have a duty to cooperate with the university's conduct system and an obligation to provide truthful information. Because the most accurate and fair review and understanding of the facts of the incident at issue can best be accomplished when all parties are present, refusal to respond or participate will be considered a forfeiture of the party's right to address the allegations and denies the decision-making body from learning important information that could influence the outcome of the proceeding. Although no inference or adverse action may be drawn against a student for failing to participate in a Conduct Conference or University Hearing, the University reserves the right to proceed with the conduct process to its conclusion in the student's absence except when there are exigent circumstances. Any findings of responsibility or non-responsibility will be based on the information available, sanctions issued, and related deadlines will be documented in an outcome letter and sent to the applicable parties.
8. **Format and Order of Proceedings.** Disciplinary proceedings adjudicated by a panel will generally follow the outline described below:
- a. University Hearings are closed to the public. The only individuals who may be present are panel members, the Hearing Chairperson, the Complainant and Respondent (and their respective advisors), witnesses (when called), and necessary university personnel including observers.
  - b. Two members will constitute quorum. Hearing panels shall be composed of no more than three members: two members drawn from faculty and staff communities and a student. To the extent possible, the Panel shall include a student from the Graduate School when the Respondent is a graduate student. The Director has sole discretion to modify the composition of the Panel when good cause arises.
  - c. There shall be a single verbatim record (audio or video) of all hearings. The record shall be the property of the University. The Panel may consult the record during its deliberations. Unless ordered by the Director, recordings shall be destroyed after the appeal process has concluded. In order to protect the confidentiality of the process and the privacy of the individuals involved, no other participants are permitted to record the hearing.

- d. The Chair reminds those present that reasonable time limits may be set for any part of the proceeding and will use reasoned judgment to determine the relevance of, place restrictions on, or exclude any witnesses or information. The Chair will identify at least one break of no fewer than ten minutes for every two hours of the hearing. The parties involved may also request additional breaks as needed, provided the number of requests is not disruptive to the orderly conduct of the hearing. The Chair will decide whether to grant any such requests.
- e. After consultation with the other panel members, the Chair may adjourn the hearing, once commenced, and later reconvene the hearing for good cause, in consideration of factors including, but not limited to, the unavailability of a witness, party, panel member, or needed personnel; curtailed operations when the campus is expected to be closed or shift to non-face-to-face instruction due to inclement weather; late hour; or in order to make an evidentiary or procedural ruling. All parties shall be notified of the date, time, and location at least five business days in advance, but prior notification of possible continuance dates will satisfy this requirement.
- f. The Chair may issue a single, verbal warning and/or decide to move forward in the proceeding at any point if, in their judgment, anyone's actions cause undue delay. The Chair can require anyone to leave the proceeding who fails to respect the limitations of their role, engages in active advocacy, or harasses, abuses, or intimidates any participant in the proceeding. The proceeding will continue in their absence. The Chair will always also be mindful of the necessity of hearing reasonable and relevant points from participants, especially the complainant and the respondent.
- g. To ensure the integrity of the process, the parties involved are expected to maintain the confidentiality of the proceedings and information circulated in regard to those proceedings until the conclusion of the conduct process. All documents and other materials prepared for the hearing must be held in strict confidence. Students may not disclose hearing materials to anyone other than their advisor and confidential support persons. The University may take disciplinary action against a student who breaches confidentiality in order to retaliate against a person for cooperating with the University's conduct system. The assurance of confidentiality is not intended to imply or impose restrictions on a student sharing their own experience or seeking/obtaining evidence/information in support of their case. The University, including its agents, has a legal obligation under federal law to maintain the confidentiality of student education records, including records used in the disciplinary process that include identifiable student information, except as required by law, (e.g., as authorized by the student or compelled by a subpoena or court order). Although the parties involved, witnesses, and advisors are not bound by the federal law applicable to the University and its agents, they should recognize that confidentiality breaches erode the community's trust in the process and are encouraged to use good judgment when sharing information with third-parties, as some disclosures and related statements made outside of the proceedings may give rise to legal claims against them by persons who believe that the disclosures or statements are false, invade privacy rights or cause reputational damage.
9. **Hearing Agenda.** The following agenda is offered as a general guideline to facilitate a better understanding of the structure of a Panel Hearing:
- a. The Chair shall preside and exercise control over proceedings. The hearing will begin with the introduction of all parties present, a brief overview of the process, clarification of roles, and expectations of participants for the duration of the hearing.
  - b. The Chair restates that the purpose of the hearing is to vent fully all sides of the issues raised before the Panel to determine what happened, whether the Respondent engaged in prohibited conduct and if so, the nature of the sanction to be imposed. The Chair dismisses participating witnesses until their time to be recalled.
  - c. The Respondent responds to all, some, or none of the charges under review.
  - d. The Chair will normally invite each participating Complainant (if applicable) to make an opening statement to the Panel regarding the allegations. The Panel will then question the Complainant, after which the Respondent will have an opportunity to suggest questions to be posed to the Complainant.
  - e. The Chair will invite the Respondent to make an opening statement regarding the allegations. The Panel members will then question the Respondent, after which the Complainant will have an opportunity to suggest questions posed to the Respondent.
  - f. If the Panel determines it is necessary to do so, questions may be posed to the Investigator when applicable. The Complainant and Respondent will also be given an opportunity to propose questions.
  - g. The Chair will invite each participating witness into the hearing, one at a time, to answer questions from the Panel. For each witness, both the Respondent and any participating Complainants will have an opportunity to suggest questions to be posed by the Chair.
  - h. Only the Chair and Panel may ask questions of the Respondent, Complainant, and others who appear before the Panel; the parties involved may not cross-examine or otherwise directly engage one another or others, but may, at the discretion and direction of the Chair, suggest questions to be posed by the Panel. The Chair may revise or decline to ask any or all submitted questions if it has already been answered, is irrelevant, or is inappropriate. The Chair may also reword a relevant question that is asked in a manner that, in the Chair's opinion, is confusing or is intended to disparage, intimidate, or otherwise harass the individual being questioned.
  - i. The Chair normally gives the participating Complainant and Respondent the opportunity to make concluding remarks of a reasonable duration. The Chair will invite any participating Complainants to make a statement to the Panel regarding the impact of the Respondent's behavior. The Chair will invite the Respondent to make a statement to the Panel that would mitigate any sanctions if a finding of responsibility is determined.
  - j. At the completion of the proceeding, all parties will be excused, and the Panel will deliberate confidentially to consider the information obtained in the course of the proceeding and decide whether the Respondent violated the Code of Conduct and, if so, to issue the appropriate sanction. In making a determination, the Panel will apply a preponderance of evidence standard. Deliberations are not recorded. The Panel will determine whether the Respondent is responsible for violating the Code of Conduct by a majority vote. This means that to find the Respondent responsible for any prohibited conduct, a majority of the Panel must be satisfied, based upon the hearing record, that it is more likely than not

that the Respondent committed all elements of the alleged prohibited conduct. If after the Panel determines that exhaustive deliberations have occurred, and a majority decision is not reached the student will be found not responsible. The Director, in consultation with the Chair, will vote in the event of a tie.

- k. Upon completion of deliberations, the Panel will issue a written decision as expeditiously to the Director. The decision will include the specific prohibited conduct for which the Respondent was found responsible and not responsible, and the findings of fact and the rationale for the Panel's determinations regarding responsibility and recommended sanctions. The decision may incorporate and reference any portions of the proceedings, including the investigative record and report, as the Panel deems appropriate.

The Director shall review the decision and determine whether the findings and sanctions are consistent with the Code and sanction guidelines. It shall be approved if it is consistent and remanded to the Panel for additional consideration if it is not. The hearing decision becomes final upon the Director's approval and shall be issued electronically to the parties simultaneously and as soon as practicable. The decision will include instructions and time limits for appeals.

10. **Sanctions.** The aims of sanctioning are to protect the University community, deter future misconduct, promote individual accountability, and enhance ethical development. Reasonable efforts are made to educate and support students in reaching their academic and personal goals while fostering a climate of accountability and responsibility for one's actions.

Sanctions should be commensurate with the violations found to have occurred. In determining the sanction(s) to be imposed, the decision-making 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 failure to comply fully with previously assigned sanctions, the actual and potential harm caused by the violation, and the severity and pervasiveness of the prohibited conduct.

Ordinarily, the penalties for subsequent or repeated violations, whenever such violation(s) occur, should progress in severity. Further, certain types of violations are so fundamentally inconsistent with the University's educational mission that, absent unusual mitigating factors, will be considered for higher modes of discipline. Such violations include acts of violence or other violations that substantially threaten the University's educational mission or property, or the health or safety of university community members, misconduct motivated by bias for classes protected, other than constitutionally protected expression.

Where appropriate, the sanction shall include the period of duration, any conditions to be observed during that period, and the conditions for termination of the sanction. The following, individually or in combination, are authorized disciplinary sanctions:

- a. **Formal Warning.** An official written notification indicating that a student's behavior is inconsistent with established behavioral expectations for members of the university community. Unless otherwise specified, a University Warning will remain in effect for one academic year and would serve as a basis for progressive sanctioning should subsequent misconduct occur.
- b. **Disciplinary Probation.** A specified period of time for observation and review during which continued relationship with the

University is conditional and dependent upon demonstrated and sustained compliance with university policy, and the development of a plan for modified behavior. A probationary status may impact any merit-based scholarships, eligibility to participate in university organizations or activities, including study abroad or holding certain leadership positions. Failure to abide by the conditions of a probationary status or further misconduct will likely result in University Suspension or University Dismissal.

- c. **University Housing Probation.** Formal notice that the student is not in good standing with the Department of Residence Life and Housing. Housing probation is typically assigned in situations where behavior has been detrimental to the on-campus residential community for a period of time to allow residential students to reflect upon their actions and demonstrate the ability to abide by housing community standards and expectations. Additional residentially based violations while on a probationary status may impact a student's eligibility to participate in the housing lottery process, residential sponsored programs or services, serve in leadership positions or result in suspension from on-campus housing or permanent removal.
- d. **University Housing Suspension.** Separation of the respondent from the residence halls for a definite period of time, after which the student may be eligible to return. Conditions for readmission may be specified. Suspension from university housing occurs when conduct clearly demonstrates unwillingness or inability to function appropriately in the residential living and learning environment. Students suspended from the housing system may reapply for on-campus housing at the end of the housing suspension period; however, there is no guarantee that Residence Life and Housing will be able to provide on-campus housing in any future semester or academic year.
- e. **University Housing Dismissal.** Permanent separation from on-campus housing that terminates the student's ability to be around, live in, or visit any residence hall or apartment complex at UNH indefinitely.
- f. **University Suspension.** Separation from the University for a definite period of time that terminates the student's enrollment. Satisfactory completion of specified stipulations may be required for re-enrollment at the end of the suspension period. Under special circumstances, a suspension may be held in abeyance, which would allow for the student's continued enrollment so long as the student adheres to all stipulations, restrictions, or conditions imposed and is at the sole discretion of the Director. A student who has been 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 property, and 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 Dean of Students. Readmission to the University requires application and acceptance through the Office of Admissions. A student ineligible to register for or attend classes at any one USNH institution because of suspension shall be ineligible to register for or attend classes at any other USNH institution during the entire period of suspension. Students on suspension for any reason will not earn transfer credit for courses taken while on suspension for the first full semester of their suspension. The Director, in collaboration with the Registrar, will authorize the conferral of degree at the end of a period of suspension upon students who have completed their coursework and would graduate during a period of suspension.

- g. **University Dismissal.** Permanent separation from the institution that terminates a student's enrollment and all attendant privileges indefinitely. Students may conduct administrative business on campus with prior notice to University Police. A student ineligible to register for or attend classes at any one USNH institution because of University Dismissal shall be ineligible to register for or attend classes at any other USNH institution for a period of two (2) years following the date on which the student was permanently dismissed.
  - h. **Discretionary Assignments or Activities.** Specific academic work, community service for a specific number of hours, remedial education, or other appropriate reflective or restorative assignments, restitution, or fines.
  - i. **Loss of Privileges.** Exclusion from participation in designated privileges and activities for a specified period of time, participating in intercollegiate activities, including attendance at athletic events, serving in positions of trust and responsibility, using university facilities, such as libraries and gymnasiums, revocation of visitation rights at university housing, holding office or representing the University or denial of the use of a vehicle on campus.
  - i. **Deny the appeal.** Determine that the appeal lacks standing and is dismissed, in which case the original decision stands is final
  - ii. **Grant the appeal.** Determine that the appeal has standing and appoint the appropriate Appellate Body to review the record limited to the grounds identified by the filing party.
  - c. **Deadline.** No later than three (3) days from receipt of the disciplinary outcome, the appellant may submit a notice of appeal and all supporting documentation to Community Standards. Although rare, should a party intending to appeal believe they have inadequate time to prepare written documents, a request for extension of time and rationale supporting such a request must be submitted in writing to the Director. Requests will be considered on their merits and will not be granted automatically; any extension granted is at the discretion of the Director.
12. **Content of Appeal.** The Notice of Appeal must contain at least the following: (1) specific grounds for appeal; (2) specific outcome requested; and (3) the appellant's reasons in support of the grounds identified and outcome requested. The appellant must sign and submit the notice of appeal in writing, in the manner and method prescribed by Community Standards. Oral appeals, appeals authored by a third-party including advisors, and physical appeals mailed or submitted in person to Community Standards will not be accepted.
- a. **Sanctions Held in Abeyance Pending Appeal.** Any formal or educational sanctions imposed will be held in abeyance automatically during the period in which the appeal may be filed and, once an appeal is filed, until a decision on the appeal has been reached. Behavioral restrictions and/or administrative actions, however, remain in place pending the appeal.

## Appeals Process and Procedures

11. **Right to Appeal.** When the Respondent is found to have violated the Code of Conduct and is sanctioned with Disciplinary Probation, University Housing Removal, University Suspension, or University Dismissal, the Respondent has the right to request an appeal of the original decision. Appeals are documentary reviews, narrowly tailored to the specific grounds identified by the filing party, and not intended to rehear or reargue the same case. Appellants shall be limited to one appeal of a disciplinary outcome. Non-attendance by the parties may not be the sole grounds for an appeal nor is mere dissatisfaction with the decision grounds for appeal.
- a. **Grounds for Appeal.** An appeal may be based only upon one or more of the following grounds:
    - i. **Procedural Error.** A Procedural irregularity that significantly affected the outcome; deviations from the designated procedures will not be a basis for sustaining an appeal unless the error had a prejudicial effect on the hearing results.
    - ii. **Sufficiency of Evidence.** The finding did not meet the required standard of evidence and the decision rendered is clearly erroneous.
    - iii. **New Evidence.** Discovery of substantial new evidence that was not known nor available at the time of the hearing and that would, with high probability, have affected the outcome.
    - iv. **Disproportionate Sanction.** The sanctions or remedies imposed are substantially disproportionate to the violation(s) committed, considering the relevant aggravating and/or mitigating factors, or are otherwise manifestly unjust.
  - b. **Jurisdiction.** The Director accepts all appeal submissions except when any such petition is appealing an academic penalty assessed by a faculty member. The Director will evaluate the appeal request to determine whether it meets the stated criteria for convening a review. Key to this evaluation is whether the claims presented in the request for appeal individually or collectively were more likely than not to have had a bearing on the outcome. The Dean of Students or their designee will review an appeal for standing when the decision-maker is the Director. Upon receipt of the appeal request, the Director may do one of the following:
    - 13. **Authority of the Appellate Body.** The Appellate Body is responsible for determining if the procedures were followed to a fair result or to identify a clear error. In its review of the appellate documents, the Appellate Body may not substitute their judgment for that of the original decision-making body merely because they disagree with the findings or conclusion, nor will they make new findings of fact. Moreover, the Appellate Body may not substitute its opinion on credibility for the judgment of the review officer who saw and heard the witnesses and parties. Great deference is given to the original decision. The role of the Appellate Body is not to decide whether it would have reached the same factual conclusions as the conduct officer, but rather to decide whether a reasonable factfinder could have come to the same conclusion based on the facts in the record. If there is a conflict in the evidence and a reasonable fact-finder could have resolved the conflict either way, the Appellate Body will generally not reverse findings of fact by the original decision-making body.
    - 14. **Appeal Decision.** After the review process, the Appellate Body will do one of the following:
      - a. Affirm the findings of responsibility and sanctions imposed. The original decision stands.
      - b. Affirm the findings of responsibility and moderately adjust, but not eliminate the sanction, if the ground for appeal was disproportionate sanction.
      - c. Remand the case to the original decision-making body with recommendations if there were procedural errors.
      - d. Remand the case to the original decision-making body for clarification or reconsideration in light of new, relevant information that was not reasonably available prior to or during the hearing.

The Appellate Body's decision will be communicated in writing. The Appellate Body will review and respond to the appeal within five (5) business days of receipt of all documentation but may extend this time for specific reasons that will be communicated in writing to the appealing party. The Appellate Body's decision is final, binding, and non-reviewable.