

# UNIVERSITY OF BALTIMORE

## Discipline Procedures

*Approved: Fall 2013*

*Reviewed: October 2016*

### Administration

Authority over student Academic Integrity and Code of Conduct adjudication has been delegated to the Dean of Students. The Dean of Students may appoint university officials to serve as adjudicators and to provide supervision and support for the conduct process. The Office of Community Life oversees all student conduct proceedings.

The conduct process is administrative rather than legal and, as such, is not subject to formal rules of evidence or legal procedures. Decisions are made using the preponderance of the evidence standard to determine if the respondent is or is not responsible for the violation.

The adjudicator is responsible for maintaining order during the investigation and conduct proceedings. All relevant, reasonably available information and documentation presented in accordance with established procedures will be considered before making a determination. The adjudicator has the right to remove any participant from a conduct proceeding after giving a warning that the behavior is unacceptable. Continued disruptive behavior may result in additional disciplinary action.

### Addressing Conduct Violations during Pending Legal Proceedings

The university, at its sole discretion, may pursue conduct charges against a respondent while the respondent is also subject to criminal and/or civil proceedings or wait until the proceedings have concluded. The university reserves this right to charge a respondent with a violation even if legal charges are pending, reduced, or dismissed.

### Communications

University of Baltimore email is the official communication method of the conduct process. It is the responsibility of students to check their accounts a minimum of every other day. In limited circumstance, when necessary to communicate via postal mail, communications will be sent to the local address listed on the student's MyUB account.

The University will make a reasonable effort to deliver written communication however, participants cannot frustrate this process by not checking their email account, not keeping their local address on file current, moving or failing to accept mail.

### Respondent Rights within the Conduct Process

The following rights are guaranteed to a respondent in the university conduct process:

1. The right to be notified of the charge(s) brought against them.

2. The right to share their understanding of the situation and present relevant information and documentation for consideration in accordance with established procedures before a final decision is rendered.
3. The right to bring one person for support to a conduct proceeding.
4. The right to review relevant information that has been presented for consideration in the adjudication process in accordance with established procedures.
5. The right to have the decision made using a preponderance of the evidence.
6. The right to be informed of the final outcome and adjudication decision.
7. The right to appeal the adjudication decision in accordance with the established procedures for appeal.

### Community Standards Representatives (CSR's)

Community Standards Representatives (CSR's) are appointed through recommendations, nominations and/or an application process to serve as adjudicators for board hearing panels. Individuals chosen to serve in this capacity represent a diverse group of individuals from across the institution. UB community members interested in serving in this capacity should contact the Office of Community Life for more information.

### Support through the Conduct Process

A student going through the university conduct process may have a non-attorney support person with them during any conduct proceeding. Individuals brought for support may not participate in the conduct proceeding. Conduct proceedings will not be changed or delayed as a result of a support person's availability or failure to attend. Advanced notice is required to allow a support person's participation in a conduct process. A support person may not be permitted to attend the proceeding if advance notice has not been given.

An adjudicator may dismiss a support person from a proceeding if they cause a disruption in any way. The proceeding will continue in light of a support person dismissal. Individuals whose support person has been dismissed may choose an alternate individual to serve as support for future proceedings.

### Legal Representation

Legal counsel is not permitted to serve as support in any conduct proceeding unless there is reason to believe the student may face criminal charges stemming from the same incident. If counsel is permitted to serve as support, they are required to follow the same expectations as non-attorney support. The role of counsel is only to safeguard the student's rights in the criminal proceeding, not to affect the outcome of the conduct proceeding. Counsel's principal functions are to advise the respondent whether to answer questions and what to say in order to avoid self-incrimination. Counsel may speak to and advise their client, but may not take part in any of the proceedings and may not address the adjudicator. The adjudicator may dismiss counsel support from a proceeding if these expectations are violated in any way.

The Office of Community Life must receive written notice of the intent to bring counsel support

at least four (4) business days prior to the proceeding. This notice must also include a justification to support the need for counsel to serve in this role. Counsel will not be permitted to attend a conduct proceeding without prior notice. The inclusion of a respondent's counsel support will likely necessitate the presence of university counsel. Decisions to allow counsel as support is at the sole discretion on the adjudicator.

The university reserves the right to include their counsel during any conduct proceeding.

## **ADDRESSING CONCERNS OF MISCONDUCT**

A university official and/or UB community member who receives notice, otherwise becomes aware of, or has good reason to suspect that a student has violated the Academic Integrity and/or Code of Conduct policy must address the concern in accordance with the established process in the *Student Rights and Responsibilities Guide*. In the event that the university official is a student employee, that employee will notify their staff or faculty supervisor who is responsible for determining how best to address the concern. UB students and outside community members with concerns may report the information directly to the Office of Community Life.

Any concern involving violence, abuse and/or issues that present a threat to the safety and/or welfare of an individual, the university, and/or the community must be reported to the Office of Community Life immediately. A representative from the office will work in conjunction with the complainant to determine how best to proceed.

### Options for Resolving a Violation

The University of Baltimore resolves student Academic Integrity and Code of Conduct policy violations using one or more of the resolution processes below:

- *Resolution through Agreement* – A voluntary pre-adjudication resolution option that allows a university official to offer an agreement in writing to a respondent for an Academic Integrity and/or a Code of Conduct policy violation. The respondent has the opportunity to accept the agreement or decline the agreement and have the concern adjudicated through the conduct process. Sanctions that can be assigned by a university official as part of a resolution through agreement include: reprimand, temporary loss of privilege, reflection experience, and Academic Integrity level I sanctions.
- *Administrative Review* – Review and adjudication of a possible policy violation by a Hearing Officer. After review of the concern, the Hearing Officer will determine if they will render a decision or refer the concern to a hearing. If a decision of responsibility is rendered, the Hearing Officer can assign any sanctions listed in the *Student Rights and Responsibilities Guide* with the exception of suspension, dismissal, and expulsion.

- *Administrative Hearing* – Adjudication of a possible policy violation by a Senior Hearing Officer. After review of the charges, the Senior Hearing Officer will determine if they will render a decision or refer the concern to a board hearing. If a decision of responsibility is rendered, the Senior Hearing Officer can assign any sanction in the *Student Rights and Responsibilities Guide* with the exception of expulsion.
- *Board Hearing* – Adjudication of a possible policy violation by a panel of five (5) Student Rights and Responsibilities Representatives. The Board will determine responsibility and may choose to recommend sanctions to the presiding Senior Hearing Officer for consideration. The Senior Hearing Officer can assign any sanctions listed in the *Student Rights and Responsibilities Guide* to a student who is found responsible by the panel.

### Resolution through Agreement

Resolution through Agreement is a voluntary, pre-adjudication resolution option that allows a university official to offer an agreement in writing to a student for an Academic Integrity and/or a Code of Conduct policy violation.

When a university official has good reason to believe that an Academic Integrity and/or a Code of Conduct policy violation has occurred, they may choose whether to attempt to resolve the matter directly with the student or refer the concern to the conduct process. If the university official decides to attempt resolution with the student, they should contact the student, inform them of their concerns, and give them the opportunity to respond. If after receiving the response, the university official believes that a violation occurred, they can offer an agreement in writing, allowing the student to accept responsibility and the sanction(s) they believe are appropriate in light of the violation. Sanctions that can be assigned by a university official as part of a Resolution through Agreement include: reprimand, temporary loss of privilege, reflection experience, and Academic Integrity level I sanctions. Sanctions given as part of the agreement must be overseen by the university official. If after receiving the response, the university official does not believe that a violation occurred, no further action is to be taken.

Neither the university official nor the student is required to resolve a complaint using the Resolution through Agreement process. At any time, the university official and/or the student can submit the concern to the conduct process for review.

If the university official attempts to resolve the concern directly with the student through an agreement and they (1) fail to respond to the university official's attempted contact within five (5) business days, (2) decline to offer a response to the university official, or (3) agrees to offer a response, but subsequently fails to do so, the concern should be referred to the conduct process.

Concerns not eligible for resolution through agreement include:

- concerns where the student is not willing to accept responsibility for the violation
- concerns where the student is not willing to accept the university officials' assigned

sanction(s)

- the student has prior agreements/ has been found responsible for prior violations
- repeat concerns
- violence, abuse and/or issues that present a threat to the safety and/or welfare of an individual, the university, and/or the community
- concern is severe and/or had a substantial impact on other individuals, the university and/or the community

Information regarding these types of concerns must be referred directly to the conduct process.

If an agreement is offered by the university official and the student is willing to accept the agreement as offered, the agreement is to be documented in writing and submitted with any relevant documentation to the Office of Community Life to be placed on file.

If, after review of the agreement by the Office of Community Life, it is found the complaint for which the agreement was made was not eligible for resolution through this process as described above, the agreement will be void and the concern will be adjudicated through the conduct process.

Upon graduation, if there have been no additional violations, a student may request to have the agreement and relevant documentation expunged from their conduct record. Requests for expungement may not be submitted earlier than degree completion. All requests must be in writing to the Office of Community Life. All decisions regarding expungement are the sole discretion of the Dean of Students or their designee.

### [Reporting Concerns to the Conduct Process](#)

Any person may file a concern against a student or student group for a violation of the Academic Integrity or Code of Conduct Policy. Complaints are submitted to the Office of Community Life for review. All concerns should be submitted as soon as possible after the event takes place however, there is no time limit on filing a complaint.

Individuals with concerns are encouraged to have a conversation with the student prior to submitting the complaint for review. This discussion allows the complainant the opportunity to better understand what occurred and determine if they believe an Academic Integrity and/or Code of Conduct policy violation has occurred.

Any concern involving violence, abuse and/or issues that present a threat to the safety and/or welfare of an individual, the university, and/or the community must be reported to the Office of Community Life immediately. A representative from the office will work in conjunction with the complainant to determine how best to proceed.

### [Review of a Complaint](#)

Complaints received will be reviewed by a Hearing Officer to determine if sufficient information

has been presented to proceed with the adjudication process.

If based on the review, there is not sufficient information to substantiate the concern, it will be dismissed. The complainant will be noticed of this decision. The decision to dismiss a concern can be appealed to the assigned Senior Hearing Officer. This appeal must be made in writing to the Office of Community Life within five (5) business days from the date of the dismissal notification.

If the Senior Hearing Officer determines there is sufficient information to substantiate the complaint, the student will be notified and the adjudication process will begin.

A Senior Hearing Officer's decision to move forward with the adjudication process after a Hearing Officer dismissed the complaint, does not indicate responsibility for the concern in question.

If the Senior Hearing Officer determines there is insufficient information to substantiate the complaint, the concern will be permanently dismissed and no action will be taken against the student. A decision made by a Senior Hearing Officer regarding the acceptance or dismissal of a complaint is final.

### Consideration of Previous Information and Violations

The adjudicator may consider previous information about past concerns and/or previous violations when reviewing a complaint/charge. Information about past concerns/violations will not be used to support the preponderance standard when determining responsibility for a concern but may be considered when assigning sanctions.

### Administrative Review

When a concern is referred to the Office of Community Life, a Hearing Officer will review the information/documentation submitted by the complainant to determine if there is sufficient information to proceed with an investigation of the concern. If there is sufficient information presented, the respondent will be notified and be required to schedule an administrative conference with the Hearing Officer. If the respondent does not schedule the conference, the review will move forward with or without the student's participation and additional charges may be filed.

During the Administrative Hearing, the Hearing Officer will review the conduct process, discuss information relevant to the complaint, and allow the respondent the opportunity to respond to the concern. When necessary, follow-up meetings with the respondent or other involved individuals may be required. At the Hearing Officer's discretion, the complainant and/or other relevant individuals may be included in any meeting with the respondent. Administrative Review meetings are closed to the public.

After consideration of all available relevant information, the Officer will determine if they will render a final decision or refer the case to an Administrative or Board Hearing. The Hearing

Officer cannot make a decision on a concern that may be a subsequent offense in violation of the policy or is significantly severe. The right to render a decision or refer the concern to hearing is the sole discretion of the Hearing Officer. The decision to refer a concern to a hearing cannot be appealed.

If the Officer decides to render a decision, they will determine if the respondent is responsible or not for the violation and if responsible, assign sanctions. A respondent cannot be sanctioned with suspension, dismissal, or expulsion as a result of an investigation and a decision made through Administrative Review. Differed sanctions involving separation may be assigned.

Both the complainant and respondent will be notified of the decision. Appeals of Administrative Review decisions are made to a Senior Hearing Officer using the process outlined in the section *Appeal of an Administrative Review Decision* in the *Student Rights and Responsibilities Guide*.

Records regarding concerns where the final decision is made through the Administrative Review process are eligible for expungement if there have been no additional violations during the student's remaining time at the University. Requests for expungement may not be submitted earlier than degree completion. All requests must be in writing to the Office of Community Life. All decisions regarding expungement are the sole discretion of the Dean of Students or their designee.

### [Appeal of an Administrative Review Decision](#)

The respondent may choose to appeal a final decision of an Administrative Review. An appeal must be made in writing to the Office of Community Life within five (5) business days of the date of the written decision. A request submitted after the five (5) day limit will not be considered.

A decision may be appealed for one of the following reasons:

1. The decision was unsupported by substantial evidence in the view of the entire record.
2. There was a substantial departure from, or denial of, rights or provisions as outlined in the *Student Rights and Responsibilities Guide* which would substantially alter the decision as to the responsibility of the respondent or to the sanction(s) imposed.
3. There is new evidence previously unavailable which, if proven accurate, could substantially alter the decision as to the responsibility of the respondent or to the sanction(s) imposed.
4. There is a reasonable claim that the sanction(s) imposed is disproportionate to the gravity of the conduct.

A copy of the appeal and the student's conduct record(s) will be submitted to a Senior Hearing Officer who will serve as the Appeal Officer to review the decision.

The Appeal Officer can decide to uphold, modify, or reverse the decision and/or sanctions in

light of the information provided in the appeal. All appeals are reviewed in writing unless the Appeal Officer believes that there are extenuating circumstances that require direct information from one or more of the participants. It is the sole discretion of the Appeal Officer to determine if an in-person meeting with any participant is necessary. The Appeal Officer can alter the decision and assign any sanction listed in the *Student Rights and Responsibilities Guide*.

All appeal decisions are final.

### Administrative Hearings

Administrative Hearings are used to adjudicate concerns that are referred by a Hearing Officer. During the hearing, the Senior Hearing Officer will meet with the respondent and the Hearing Officer to discuss information presented by the complainant, allow the respondent the opportunity to respond and review any information/documentation provided. When necessary, the Senior Officer may also include the complainant and other relevant individuals in the hearing. They may also do follow-up with the respondent or others as necessary before rendering a decision.

During the hearing, the respondent and if present, the complainant, is permitted to bring one person for support. This person may consult only with the individual who brought them and is not permitted to address the adjudicator or speak on that individual's behalf. Administrative Hearings are closed to the public.

The respondent will be notified of their Administrative Hearing date, time, and location no less than two (2) business days prior to the hearing. If the respondent, after receiving appropriate notification of the Administrative Hearing, fails or refuses to attend, the hearing will proceed in their absence.

An audio recording will be made of the Administrative Hearing proceeding.

During the hearing, the respondent, the complaint and the referring Hearing Officer are able to submit relevant supporting documentation for consideration. Documentation must be submitted in advance of the hearing as outlined in the hearing notice; documents submitted will be shared with all relevant parties as identified by the Senior Hearing Officer. Documentation may also be shared with the complainant even if they are not attending the hearing.

After consideration of all relevant information, the Senior Hearing Officer will determine if they will render a final decision or refer the case to a Board Hearing. The right to render a decision or refer the concern to Board Hearing is the sole discretion of the Senior Hearing Officer. The decision to refer a concern to a Board Hearing cannot be appealed.

If the Senior Hearing Officer decides to render a decision, they will determine if the respondent is responsible or not for the violation and if found responsible, assign sanctions. Senior Hearing Officers can assign any sanction listed in the *Student Rights and Responsibilities Guide* except

expulsion.

The respondent and the complainant will be notified of the Senior Hearing Officer's decision. Appeals of Administrative Hearing decisions can be made as outlined in the section *Appeals of Hearing Decisions* in the *Student Rights and Responsibilities Guide*.

In cases where the respondent is found responsible, records regarding the concern are kept on record for a minimum of seven years after the respondent completes their degree or is no longer actively able to enroll. In cases where the student is suspended or dismissed, the audio is kept on file permanently. In cases where the student is found not responsible, the record is kept on file for a period of one year however, the information is considered not reportable.

### Board Hearings

Board Hearings are used to adjudicate concerns that are referred by a Hearing Officer or Senior Hearing Officer and used to adjudicate significant concerns and/or repeat offenses.

Each board will consist of four (4) Community Standard Representatives (CSR) and a Senior Hearing Officer. Three of the five members constitute a quorum and a hearing can proceed.

During the hearing, the board and the Senior Hearing Officer will review information relevant to the concern and allow the respondent and the Hearing Officer to share information. Other relevant parties as deemed appropriate by the Senior Hearing Officer or board will also be heard. The board and/or Senior Hearing Officer may also follow-up with the respondent, the complainant and/or others as necessary before rendering a decision.

After a review of the information, the board will determine if the respondent is responsible or not for the violation. Board decisions are made by a majority vote. If the respondent is found responsible, the Senior Hearing Officer will assign sanction(s) with consideration of any past conduct records.

The respondent will receive notice of the hearing date, time and location at least five (5) business days prior to the board hearing. The respondent may challenge up to two CSR members of the board. The Senior Hearing Officer may not be challenged. The challenge must be submitted to the presiding Senior Hearing Officer in writing at least three (3) business days before the hearing. The challenge must include the name of the individual(s) being challenged and the reason for the challenge. The Senior Hearing Officer is responsible for approving challenges. If approved, an attempt will be made to arrange for alternate board members to replace those challenged. If no replacements can be found, the hearing will take place with the remaining original CSR members. Alternate board members cannot be challenged.

An audio recording will be made of the board hearing proceedings but will not include the deliberations.

The respondent, the complaint and the referring Hearing Officer(s) will be provided the opportunity to submit relevant supporting documentation for consideration by the board and

Senior Hearing Officer. Documentation must be submitted in advance of the hearing as outlined in the hearing notice; documents submitted may be shared with all hearing participants. Documentation may also be shared with the complainant even if they are not attending the hearing.

If the respondent, after receiving appropriate notification of a board hearing, fails or refuses to attend, the hearing will proceed and a decision will be made with consideration of the information available.

During the hearing, the respondent and, if present, the complainant are permitted to bring one person for support. This person may consult only with the individual who brought them and is not permitted to address the board or speak on that individual's behalf. Board hearings are closed to the public.

In cases where the respondent is found responsible, records will be kept on record for a minimum of seven years after the respondent completes their degree or is no longer actively able to enroll. In cases where the respondent is suspended, dismissed, or expelled the record will be kept permanently. In cases where the student is found not responsible, the record is kept on file for a period of one year however, the information is considered not reportable.

### [Procedures for Board Hearings](#)

The Senior Hearing Officer will be responsible for facilitating the hearing and maintaining order over the process to avoid needless consumption of time.

The (Senior) Hearing Officer(s) who brought the charge(s) will present an overview of the concern and the respondent will be permitted to share their perspective on the information. If more than one Hearing Officer or Senior Hearing Officer has been involved in the current case or as part of a previous concern, they may present the charge(s) jointly. If present, the complainant will also be given the opportunity to share information. At the option of the board and/or Senior Hearing Officer, other relevant individuals may also be asked to share information about the concern, but may be excluded from portions of the proceedings.

The board members may ask questions to any hearing participant, but it is the hearing participant's choice to answer. A decision not to answer a question by a respondent will not be considered an admission of responsibility. The board may request the Senior Hearing Officer provide information or other documentation that is available to the University which they believe would be relevant to the concern. The respondent, the Hearing Officer(s) would be given an opportunity respond to any information or documentation. Additionally, as appropriate, other relevant individuals as determined by the board and/or Senior Hearing Officer would be given an opportunity respond to any information or documentation introduced by request of the board.

The complainant, respondent, charging Hearing Officer(s), and other individuals will be excluded during board deliberations.

The Senior Hearing Officer will submit a written report for inclusion in the official conduct record. This report will include:

- the charge(s) considered
- the findings of the board
- If applicable, the sanction(s)

If the respondent has been found responsible, the Senior Hearing Officer will assign sanctions appropriate in light of the violation. The Senior Hearing Officer will consider past conduct violations, sanctions recommended by the board, the charging Hearing Officer(s), the respondent, and if applicable the complainant. The respondent, the complainant and the charging Hearing Officer will be notified of the final hearing decision. This notification makes the decision final and sanction(s) become effective unless the respondent chooses to appeal.

The respondent can appeal a board hearing decision within five (5) business days as outlined in the section *Appeals of Hearing Decisions* of the *Student Rights and Responsibilities Guide*.

### [Appeals of Hearing Decisions](#)

The respondent may choose to appeal a final decision of an administrative or board hearing. An appeal request must be made in writing to the Senior Hearing Officer within five (5) business days of the date of the hearing decision. A request submitted after the five (5) day limit will not be considered. A decision can be appealed for one of the following reasons:

1. The decision was unsupported by substantial evidence in the view of the entire record.
2. There was a substantial departure from, or denial of, rights or provisions as outlined in the *Student Rights and Responsibilities Guide* which would substantially alter the decision as to the responsibility of the respondent or to the sanction(s) imposed.
3. There is new evidence previously unavailable which, if proven accurate, could substantially alter the decision as to the responsibility of the respondent or to the sanction(s) imposed.
4. There is a reasonable claim that the sanction(s) imposed is disproportionate to the gravity of the conduct.

A copy of the request and the conduct record(s) will be submitted to an Appeal Officer for review. Academic Integrity appeals are reviewed by a representative of the Office of the Provost or a designee; Code of Conduct appeals are reviewed by a representative of the Office of the Vice President for Student Affairs or a designee.

The Appeal Officer may decide to uphold, modify, or reverse the decision and/or sanctions in light of the information provided in the appeal. All appeals are reviewed in writing unless the Appeal Officer believes that there are extenuating circumstances that require direct information from one or more of the participants. It is the sole discretion of the Appeal Officer to determine if an in-person meeting with any participant is necessary. The Appeal Officer can

alter the decision and assign any sanction listed in the *Student Rights and Responsibilities Guide*.

All appeal decisions are final.