



University of the Incarnate Word Behavioral Misconduct Procedures

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CARDINAL PLEDGE



I WILL PURSUE ALL OF MY ENDEAVORS WITH HONOR AND INTEGRITY TO ADVANCE THE DISCOVERY OF TRUTH, MUTUAL UNDERSTANDING, SELF-REALIZATION AND THE COMMON GOOD. I WILL TAKE PERSONAL RESPONSIBILITY FOR MY ACTIONS AND STAND FOR WHAT IS RIGHT. I WILL RESPECT THE DIGNITY OF OTHERS, TREATING THEM WITH CIVILITY, COURTESY, AND COMPASSION AS I CARRY OUT THE UIW MISSION.

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Section 1: Introduction

Part of the educational process is learning how to live in harmony with community members and within a system of standards established for and by the community. Students are accountable to students and others in the community for these standards through the procedures outlined below. The behavioral misconduct process is not a legal process but, rather, an administrative hearing system. Principles of fairness govern all review bodies. All students who violate these standards will be held accountable for their behavior through a process that assures the rights of both the Complainant and the Respondent.

Section 2: Definitions

- a) The term “the University” refers to the University of the Incarnate Word.
- b) The term “student” includes all persons who have accepted admission to, enrolled at, are taking courses at, or have a continuing relationship with the University, including those who attend full- or part-time.
- c) The term “Complainant” refers to an individual who has filed a complaint in regards to behavior that may be in violation of University policy.
- d) The term “Respondent” refers to an individual who is responding to complaint in regards to behavior that allegedly committed which may be in violation of University policy.
- e) The term “faculty member” refers to any person employed by the University to conduct instructional activities.
- f) The term “University official” includes any person employed by the University that holds administrative or professional supervisory responsibilities.
- g) The term “member of the University community” refers to any person employed by, volunteering for or attending the University as a student, faculty member, administrator, staff member, intern, or volunteer.
- h) The term “University property” includes all land, buildings, facilities, and other property in the possession of, owned or controlled, whether leased or rented, by the University.
- i) The term “organization” refers to any fraternity, sorority, association, corporation, order, society, corps, club, or student government, a band or musical group or an academic, athletic, cheerleading, or dance team, including any group or team that participates in National Collegiate Athletic Association competition, or a service, social, or similar group, whose members are primarily students. Organizations also refers to University Sponsored Organizations (i.e., Resident Assistants, University Mission and Ministry Peer Ministers, Ambassadors, etc.)
- j) The term “advisor” refers to an individual selected by a Respondent or Complainant to assist during conduct proceedings, which includes but is not limited to, a parent, friend, faculty member, advocate, or legal counsel. Advisors may not directly participate, speak, comment, or make any type of representation or argument on behalf of a Complainant or Respondent in any aspect of the behavioral misconduct process. Advisors are typically only permitted during cases heard by a Hearing Panel, but a student may request an advisor for other conduct proceedings by petitioning the Director of Student Advocacy and Accountability. The availability of an advisor to attend shall not unreasonably interfere with or delay any conduct proceedings. Should a student wish to have legal counsel serve as an advisor, the student must provide notice to the Director of Student Advocacy and Accountability of a minimum of three (3) business days so that the UIW’s General Counsel can be consulted.
- k) The term “Hearing Officer” refers to any persons authorized to determine whether a student or student organization has violated the Student Code of Conduct and to impose sanctions. Staff members with the

Offices of Student Advocacy and Accountability and Residence Life and Housing Operations are the primary Hearing Officers for UIW.

- l) The term “Hearing Panel” refers to a group of at least three (3) individuals authorized by the Dean of Campus Life to determine whether a student or student organization has violated the Student Code of Conduct and to impose sanctions. A Hearing Panel will consist of an odd number of individuals, whenever possible.
- m) The term “Community Review Board” refers to any person or persons authorized by the Dean for Campus Life to consider an appeal of the determination of a Hearing Officer or Hearing Panel in regards to a violation of the Student Code of Conduct and/or sanctions imposed as a result.
- n) The term “illegal drug” is defined as a substance defined and regulated under the provisions of the Federal Controlled Substances Act and of Article 4476-14 or Article 4476-15 of Vernon’s Texas Civil Statutes, and including, but is not limited to: CNS depressants, CNS stimulants, hallucinogens, or other illegal drugs such as PCP, cocaine or crack.
- o) The term “use of drug” includes: the misuse of prescription medication; the possession or drug paraphernalia; and/or the use, possession, manufacture, sale or distribution of any one or more illegal drugs while on or off University property.
- p) The term “will” is used in the imperative sense.
- q) The term “may” is used in the permissive sense.
- r) The term “policy” is defined as the written rules of the University found in, but not limited to: the Student Code of Conduct, the Residence Life Handbook, the Student Handbook, and the Graduate and Undergraduate Bulletins.
- s) The term “day” refers to a regular business day when the University is in session.
- t) The term “Preponderance of the Evidence” is the standard of proof that applies to behavioral misconduct proceedings or determinations. It means that the evidence supports a conclusion that it is more likely than not that a policy violation occurred.

Section 3: Rights and Expectations

Rights in the Behavioral Misconduct Process

Should you be involved in the behavioral misconduct process, you have the following rights:

- The ability to review the Student Code of Conduct and Behavioral Misconduct Procedures;
- The ability to review the Residence Life Handbook;
- Ask any questions and to have them answered by a member of the Office of Student Advocacy and Accountability (OSAA) staff;
- Expect confidentiality to the extent permitted by the Family Educational Rights and Privacy Act (FERPA) and to waive that confidentiality in writing if you choose. (Please be advised that pursuant to FERPA exceptions, some confidential information may be disclosed without consent, e.g. in health or safety emergencies.);
- Have an advisor present with you during a Formal Hearing. The role of the advisor is to provide advice and support during the behavioral misconduct process. An advisor may not speak for you, or address any other participant in the conduct process;
- You may decline to answer questions or provide a statement during any meeting or hearing. Any statements you make may become part of your case file;
- You also understand that any information you provide could be subject to subpoena if you have a pending criminal case resulting from the same incident; however, the likelihood of this information being subpoenaed is extremely low;

- You may review the contents of your case by scheduling an appointment with an OSAA staff member;
- You may request an appeal of the decision **one time** within the established University process.

Expectations in the Behavioral Misconduct Process

The Office of Student Advocacy and Accountability has certain expectations for all members of the University community if they are participating in the behavioral misconduct process:

- Participants are to comply with all timelines as laid out in this document.
- All communication will primarily be initiated through UIW email. It is the responsibility of students to check their UIW email on a regular basis, and not checking email is not an excuse for missing a deadline or meeting.
- If participants fail to appear for a scheduled hearing, the hearing may be conducted without the participant(s), and a decision made based on the information that is available at the time of the hearing.
- All participants are expected to provide truthful and complete information to Hearing Officer(s) and Hearing Panel members. Knowingly providing false or misleading information may result in additional violations of the Student Code of Conduct.

Section 4: Reporting and Review Procedures

Filing a Complaint

Any member of the University community, visitors or guests may file a complaint against any student for misconduct via the following URL: <https://www.uiw.edu/report>.

Complaints are directed to the Director of Student Advocacy and Accountability (or designee) or to the Director of Title IX, when appropriate. All complaints should be submitted as soon as possible after the behavior occurs; however, the University may pursue a complaint at any point after the behavior occurs, at its discretion.

False Reports

UIW will not tolerate intentional false reporting of incidents. It is a violation of the Student Code of Conduct to make an intentionally false report of any policy violation and it may also violate state criminal statutes and civil defamation laws.

Attempted Violations

In most instances, UIW will treat attempts to commit any of the violations listed in the Student Code of Conduct as if those attempts had been completed.

University as Complainant

UIW reserves the right to initiate a complaint, to serve as Complainant, and to initiate conduct proceedings without a formal complaint by the victim of the alleged misconduct.

Misconduct Online

Students are cautioned that behavior conducted online, such as harassment or bullying via email, can subject them to University action. Students must also be aware that blogs, webpage entries on sites such as Facebook, Instagram, Snapchat, YouTube, Twitter, and other similar online postings are in the public sphere and are not private. These postings can subject a student to allegations of behavioral misconduct violations if evidence of such violations is posted online. The University does not regularly search for this information but may take action if and when such information is brought to the attention of University officials.

Review of Complaints

Once a complaint is received, the Office of Student Advocacy and Accountability may conduct a preliminary investigation into the complaint, which may include contacting relevant parties for additional information. After any preliminary investigation takes place, one of the following options will be selected:

- *No Action* – The report either does not provide enough information to make a preliminary determination as to a Respondent or provide enough information in order to support an allegation of misconduct. The report may be kept on file for informational purposes.
- *Educational Conversation* – While the report contains relevant information regarding a potential violation, the Office of Student Advocacy and Accountability may not have jurisdiction to bring formal charges. The Office of Student Advocacy and Accountability will bring in any Respondent to have a discussion about the concerning behavior and what may occur should future reports be brought to the attention of the University.
- *Mediation* – Based on the information on the report, mediation to resolve the complaint would be preferable to all parties involved instead of the behavioral misconduct process. If this is the case, the complaint will be referred to an appropriate party to begin mediation. All parties must agree to mediation and with any proposed outcome(s). Should mediation fail to come to an agreeable conclusion, the Office of Student Advocacy and Accountability reserves the right to initiate the behavioral misconduct process.
- *Initiation of Behavioral Misconduct Process* – There is reasonable cause to support an allegation of misconduct under the Student Code of Conduct. Notice will be served to the Respondent as soon as possible to schedule a meeting.

Once a complaint has been received, and a determination has been made to initiate the behavior misconduct process, the applicable allegations will be considered pending until the process is completed and a determination has been made regarding responsibility for those allegations.

Section 5: The Conduct Process

Notice

Whenever it is deemed that a meeting/hearing must take place, notice will be given to the Respondent in writing and may be delivered by one or more of the following methods:

- emailed to the student's University-issued email account;
- mailed to the local or permanent address of the student as indicated in official University records;
- delivered in person by the Director of Student Advocacy and Accountability (or designee).

Once emailed, mailed and/or received in-person, such notice will be presumptively delivered. For the initial notice of an allegation, the following information will be included:

- The alleged violation(s) and applicable section(s) of the Student Code of Conduct;
- Reference to the Behavioral Misconduct Procedures for applicable procedures that may be used in resolution of the complaint;
- A specified date and time for an Administrative Review with the assigned Hearing Officer to discuss the complaint, the applicable sections of the Student Code of Conduct, and resolution options.

When scheduling meetings, the Office of Student Advocacy and Accountability will refer to University provided class schedules in order to determine the best possible time to schedule a meeting and will give a minimum notice of three (3) business days prior to a meeting, unless otherwise specified in this document. Students are expected to treat notices from the Office of Student Advocacy and Accountability with the utmost priority and to communicate any potential conflicts as soon as possible. While requests to re-schedule a meeting can be made, they can be denied if deemed for an inadequate reason or deemed an attempt to delay/avoid addressing the allegations.

Administrative Review

During the administrative review, the Respondent will have the opportunity to review the following:

- their rights as part of the behavioral misconduct process;
- the complaint and any supporting documentation;
- the allegations and applicable sections of the Student Code of Conduct;
- the resolution options that the Respondent has.

Additionally, the Respondent will have the opportunity to ask questions of their Hearing Officer and have them answered. During this meeting, the Respondent must indicate, in writing, that they understand their rights in the behavioral misconduct process, their resolution options, and whether they admit or deny the allegations of the complaint.

Hearing Options & Preparation

The following sections describe UIW's behavioral misconduct hearing processes. Except in a complaint involving failure to obey the summons of the Director of Student Advocacy and Accountability (or designee), no student will be found to have violated the Student Code of Conduct solely due to the student's failure to appear for a hearing. In all such instances, behavioral misconduct hearings will proceed as scheduled and the information in support of the complaint will be presented to, and considered by, the Hearing Officer or Hearing Panel members presiding over the hearing. During the process of a hearing, if it is determined that additional violations of the Student Code of Conduct have occurred, additional charges and sanctions may be assigned at the time of the hearing.

Administrative (Informal) Hearing

Where the Respondent admits to violating University policy, or in instances where the Respondent denies violating University policy and the potential consequences do not include suspension or expulsion from the University, the assigned Hearing Officer may invoke informal resolution procedures to determine and administer appropriate sanctions without a Formal Hearing. This process is also known as an Administrative Hearing.

An Administrative Hearing takes place between the Respondent and a Hearing Officer and does not allow for the presentation of witnesses or additional information to be submitted by the Respondent prior to the meeting, although the Hearing Officer may follow up with other parties as necessary before making a decision. Administrative Hearings are not audio recorded and are closed to the public. Advisors are not permitted at Administrative Hearings except upon special application to the Director of Student Advocacy and Accountability (or designee).

An Administrative Hearing may occur concurrently with an Administrative Review or may be scheduled for a later date. Should a later date be chosen, every effort will be made to schedule an Administrative Hearing within five (5) business days of the Administrative Review. The Hearing Officer will then make a decision regarding responsibility and appropriate consequences for any violation(s) of University policy.

Formal Hearing

Where the Respondent denies violating the Student Code of Conduct, or in instances where the Respondent is facing a complaint for which the consequences may include suspension or expulsion from the University, a Formal Hearing will be conducted as befits the gravity of the alleged offense and the very serious nature of the consequences. At the discretion of the Director of Student Advocacy and Accountability (or designee), a request by the Respondent for an Administrative Hearing may be considered. Students who deny a violation for which a Formal Hearing will be held will be given a minimum of five (5) business days to prepare. Preparation for a Formal Hearing is summarized in the following guidelines:

- a) Notice of the time, date and location of the hearing will be in writing and will be delivered based on the previously established methods of notice. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.
- b) If there is an alleged victim of the conduct in question, the alleged victim may serve as the Complainant or may elect to have the University serve as Complainant. Where there is no alleged victim, the University will serve as Complainant.
- c) If a Respondent fails to respond to notice from the Director of Student Advocacy and Accountability (or designee), the Director of Student Advocacy and Accountability (or designee) may initiate a complaint against the student for failure to comply with the directives of a University official and give notice of this offense. Unless the Respondent responds to this notice within two (2) days by answering the original notice, an Administrative Hearing may be scheduled and held on the student's behalf and the student may have a disciplinary hold placed on their University account, deeming them ineligible to register for courses or University housing until such time as they respond to the initial complaint.
- d) At least three (3) days before any scheduled Formal Hearing, the following will occur:
 - The Respondent and/or Complainant will deliver a written response to the complaint to their assigned OSAA staff member;
 - The Respondent and/or Complainant will deliver a written list of all witnesses they want to appear on their behalf to their assigned OSAA staff member;
 - The Respondent and/or Complainant will deliver all items of physical information they intend to use or need to have present at the hearing and will indicate who has possession or custody of such information, if known; and
 - The Respondent and/or Complainant will notify their assigned OSAA staff member of the name of any advisor who may be accompanying the parties at the hearing.
- e) The Director of Student Advocacy and Accountability (or designee) will ensure that the hearing information and any other available written documentation is shared with the Respondent and/or Complainant at least one (1) day before any scheduled hearing. In addition, the parties will be given a list of the names of all the Hearing Panel members for the complaint. Should either party object to any member(s) of the panel, they must raise all objections, in writing, to the Director of Student Advocacy and Accountability immediately. Hearing Panel members will only be unseated if the Director of Student Advocacy and Accountability concludes that their bias precludes an impartial hearing of the complaint. Additionally, any Hearing Panel member or Hearing Officer who feels they cannot make an objective determination must recuse themselves from the proceedings.

Formal Hearing Procedures

The Complainant and Respondent have the right to be present at the hearing; however, they do not have the right to be present during deliberations. If a student cannot attend, it is that student's responsibility to notify the Director of Student Advocacy and Accountability no later than one (1) business day before the scheduled hearing to arrange for another date, time and location. Except in cases of grave or unforeseen circumstances, if the Respondent fails to appear, the hearing will proceed as scheduled. If the Complainant fails to appear, the complaint will be dropped unless the University chooses to pursue the allegation, as determined by the Director of Student Advocacy and Accountability.

Formal Hearings will be conducted according to the following guidelines:

1. Hearings will be closed to the public.
2. Admission to the hearing of persons other than the parties involved will be at the discretion of the Hearing Panel members and the Director of Student Advocacy and Accountability.
3. In hearings involving more than one Respondent, the standard procedure will be to hear the complaints jointly; however, the Director of Student Advocacy and Accountability may permit hearings for each Respondent be conducted separately. In joint hearings, separate determinations of responsibility will be made for each Respondent.
4. The Complainant and Respondent have the right to an advisor of their own choosing.
5. The Complainant, the Respondent, the Hearing Panel and the Director of Student Advocacy and Accountability (or designee) will have the privilege of presenting witnesses and questioning all parties and present witnesses. Unduly repetitive witnesses can be limited at the discretion of the Hearing Panel Chair or the Director of Student Advocacy and Accountability (or designee).
6. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the Hearing Panel and the Director of Student Advocacy and Accountability. Formal rules of evidence are not observed. The Director of Student Advocacy and Accountability may limit the number of character witnesses presented or may accept written affidavits of character instead.
7. All procedural questions are subject to the final decision of the Director of Student Advocacy and Accountability.
8. After a Formal Hearing, the Hearing Panel will deliberate and determine, by majority vote, whether it is more likely than not that the Respondent has violated the Student Code of Conduct. The Director of Student Advocacy and Accountability (or designee) will be present and available as a resource during all deliberations. When a finding is determined, if the finding is that of a violation, the Hearing Panel will determine an appropriate sanction(s). The Director of Student Advocacy and Accountability (or designee) is responsible for informing the Hearing Panel of applicable precedent and any previous violations by the Respondent. The Hearing Panel Chair will prepare a summary report, detailing the finding(s), the information cited by the Hearing Panel in support of its finding, and any information the Hearing Panel excluded from its consideration and why. This report should conclude with any recommended sanctions. This report will be submitted to the Director of Student Advocacy and Accountability no later than two (2) business days after deliberations.
9. The Director of Student Advocacy and Accountability reserves the right to make appropriate modifications to the Hearing Panel's report.
10. The Director of Student Advocacy and Accountability will then implement and inform the Respondent and Complainant (if applicable by law or University policy) of the final determination within five (5) business days of the hearing. Notification will be made in writing and will be delivered based on the

previously established methods of notice. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.

11. There will be a single verbatim record, such as a tape recording, for all Formal Hearings. Deliberations will not be recorded. The record will be the property of the University and maintained according to the University's record retention policy.

Decisions in Absentia

It is the goal for Respondents to have every opportunity to participate in the behavioral misconduct process to have their side of the story heard and considered when making decisions. In certain situations, the Office of Student Advocacy and Accountability reserves the right to instruct a Hearing Officer to make a decision without input from the Respondent. Such situations include, but are not limited to:

- Cases that would typically be handled via Administrative Hearing, where the Respondent has failed to appear for two scheduled Administrative Reviews.
- If an Administrative or Formal Hearing is scheduled, notice has been delivered, and the Respondent fails to appear without making an attempt to reschedule.

Students will not be able to appeal on the grounds that their failure to participate in the behavioral misconduct process created a situation where information was not able to be considered when making a decision regarding responsibility for violations of University policy.

Defenses

It is common for individuals accused of a policy violation to defend their actions with explanations such as, but not limited to, prescription drug interactions, self-defense and disability. The University's policy on defenses is that providing an explanation for a policy defense is equivalent to the admission of engaging in a policy violation. While explanations will not excuse an individual's commission of a policy violation, Hearing Officers and Hearing Panels will take the legitimacy of an individual's explanation into consideration in the determination of appropriate sanctioning.

Student Withdrawal Pending Disciplinary Charges

If a student withdraws from UIW with pending disciplinary charges that may result in the student becoming ineligible to reenroll (i.e., suspension, expulsion) for a reason other than academic or financial, UIW will not end the disciplinary process until a final determination of responsibility is made. If, as a result of the disciplinary process, the student is ineligible to reenroll, UIW shall include a notation stating such on the student's transcript.

Violations of the Law

Violations of federal, state and local laws are incorporated as offenses under the Student Code of Conduct. When an offense occurs over which the University has jurisdiction, the behavioral misconduct process will usually go forward notwithstanding any criminal complaint that may arise from the same incident. Should a student withdraw from the University when a criminal complaint is made, the University may pursue investigation and resolution of campus conduct matters, regardless of the fact that the student has withdrawn.

When a student is accused, arrested, charged, or indicted for a violent or drug-related off-campus crime, the University may elect to take action against that student for violation of the Student Code of Conduct, which incorporates violation of local, state and federal laws as code violations.

When it has reasonable cause to separate a student from the community, the University may suspend a student for a reasonable time pending the scheduling of a hearing for violation of the Student Code of Conduct. The University reserves the right to exercise its authority of interim suspension upon notification that a student is facing criminal investigation and/or complaint. The University will permit a student who receives an interim suspension to request a meeting with the Dean of Campus Life to show cause as to why an interim suspension is not merited. Regardless of the outcome of this meeting, the University may still proceed with the scheduling of a hearing.

When criminal charges are pending, the University may be delayed or prevented from conducting its own investigation and moving forward with a hearing. When this happens, the University will delay its hearing until such time as it can conduct an internal investigation or obtain sufficient information from law enforcement upon which to proceed.

It may be in the best interest of students accused of crimes to withdraw from the University, without penalty, until the criminal charges are resolved. The University has a procedure for voluntary withdrawal under the following conditions:

- a) If the alleged victim of the crime is a student, the alleged victim must approve of the withdrawal and delay of the hearing;
- b) The Respondent must comply with any and all campus efforts at investigation that will not prejudice their defense in the criminal trial; and
- c) The Respondent must agree that, in order to be reinstated to active student status, they must first be subject to, and fully cooperate with, a campus hearing and must comply with any and all sanctions that are administered.

Section 6: Responsible Action Protections

The University expects all community members to take reasonable and prudent actions to prevent or stop a violation and/or crime. Taking action may include direct intervention, calling law enforcement, or seeking assistance from a person in authority. Community members who choose to exercise this positive moral obligation will be supported by the University and protected from retaliation.

Good Samaritan/911 Lifeline Law (Medical Amnesty)

The welfare of students in our community is of paramount importance. At times, students on- and off campus may need assistance. The University of the Incarnate Word encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble. For example, a student who has been drinking underage might hesitate to call the Campus Police for emergency medical assistance in response to the possible alcohol overdose of a friend. UIW pursues a policy of limited immunity for students who offer help to others in need. While policy violations cannot be overlooked, the University will provide educational options, rather than punishment, to those who offer their assistance to others in need.

The Good Samaritan policy at UIW has been long-standing. In 2011, the 911 Lifeline Law was passed by the Texas Legislature, known as [S.B. 1331](#). This law states that: "A person under 21 won't be charged by the police for possessing or consuming alcohol if the person calls 911 because someone might have alcohol poisoning. This limited immunity applies only to the first person to call for medical assistance, only if the caller remains

on scene until medical assistance arrives and cooperates with EMS and law enforcement” (Texas Alcoholic Beverage Commission, 2011).

Immunity for Victims/Survivors

UIW encourages the reporting of conduct code violations and crimes by victims/survivors. Sometimes, victims/survivors are hesitant to report to University officials because they fear that they themselves may be accused of policy violations, such as underage drinking, at the time of the incident. It is in the best interest of this community that as many victims/survivors as possible choose to report to University officials. To encourage reporting, the University pursues a policy of offering victims/survivors of conduct code violations and crimes amnesty from policy violations related to the incident.

Section 7: Process Outcomes and Sanctions

Possible Outcomes

During the course of an investigation, information will be gathered regarding responsibility for violations of the Student Code of Conduct. A Hearing Officer will make a determination of “responsible” or “not responsible” for each alleged violation. In order for a Respondent to be found “responsible”, the Hearing Officer must determine that there is a preponderance of the evidence to support that decision.

Possible Sanctions

Sanctions are a method of accountability that are imposed as a result of a finding of responsibility for a violation of the Student Code of Conduct. As part of the investigation and/or hearing process, information will be gathered in order to assign appropriate sanctions. One or more sanctions may be imposed upon any student for a violation of the Student Code of Conduct, with factors such as precedent and previous violation history considered as part of the decision-making process. This list is non-exhaustive.

Status Sanctions

These sanctions reflect a Respondent’s standing with the University as it related to their conduct record.

1. **Disciplinary Warning:** A written notice will be sent to the student(s) who violated University policies. It specifies that inappropriate and unacceptable actions have occurred and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the University.
2. **Disciplinary Probation:** Indicates that further violations may result in suspension or expulsion. Students who are assessed this sanction will be removed from behavioral probation automatically upon expiration of the probationary period and completion of any additionally assigned sanctions.
3. **University Probated Suspension:** The student is suspended and deemed “not in disciplinary good standing” with the University for a specified period of time. During this time, the student is still permitted to attend classes, but additional violations of the Student Code of Conduct can lead to the immediate removal from courses. Specific limitations or exceptions may be granted by the Director of Student Advocacy and Accountability and terms of this conduct sanction may include, but are not limited to, the following:
 - Ineligibility to hold any office in any student organization recognized by the University or hold an elected or appointed office at the University; or
 - Ineligibility to represent the University to anyone outside the University community in any way including: participating in the study abroad program, attending conferences, or representing the

University at an official function, event or intercollegiate competition as a player, manager or student coach, etc.

4. **University Suspension:** The student is immediately separated from the University for a specified period of time, after which the student is eligible to return. If classes are currently in session, the student will be administratively withdrawn from all classes. A notation will be placed on the student's transcript. Conditions for readmission may be specified. The student is required to vacate University housing and/or campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life and the Director of Student Advocacy and Accountability. This sanction may be enforced with a trespass action as necessary.
5. **University Expulsion:** The student is immediately and permanently separated from the University. The student is barred from being on campus and the student's presence at any University sponsored activity or event is prohibited. If classes are currently in session, the student will be administratively withdrawn from all classes. A notation will be placed on the student's transcript. The student is required to vacate University housing and/or campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life and the Director of Student Advocacy and Accountability. This action may be enforced with a trespass action as necessary.

Housing Sanctions

These sanctions reflect a Respondent's standing with the University Housing as it related to their conduct record.

1. **University Housing Reassignment:** The student is reassigned to another University Housing structure. Residence Life personnel will decide on the structure to which the student will be reassigned.
2. **University Housing Warning:** A written notice will be sent to the student(s) who violated housing and/or University policies. It specifies that inappropriate and unacceptable actions have occurred and that more severe sanctions will result should the student be involved in other violations.
3. **University Housing Probation:** The student is put on official notice that, should further violations of Residence Life or University policies occur during a specified probationary period, the student may immediately be removed from University Housing.
4. **University Housing Suspension:** The student is removed from University Housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to University Housing may be specified. Under this sanction, a student is required to vacate University Housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for University Housing, the student must gain permission from the Director of Residence Life (or designee).
5. **University Housing Expulsion:** The student's privilege to live in, or visit, any University Housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary.

Educational Sanctions

These sanctions are designed to provide education on a specific topic or set of topics, and to encourage reflection on the actions taken.

1. **Educational Program:** Requirement to attend and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in

learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.

2. **Reflective Activities:** This includes required activities such as, but not limited to, writing a letter of apology, writing a reflection paper, etc.
3. **Referral to Campus and/or Community Resource(s):** This includes required activities such as, but not limited to, seeking academic or personal counseling, speaking with Campus Police, etc.
4. **Community/University Service Requirements:** For a student or organization to complete a specific supervised University service. This will not fulfill the University's community service requirement for graduation.

Restrictions

These sanctions are limitations placed on a student's ability to access specific buildings, offices, departments, services, or other designated entities as a result of their misconduct.

1. **No Contact Order:** Contact between students is limited. At the request of a student, and after investigation by the Director of Student Advocacy and Accountability or designee, a no contact order may be enforced between students. No contact means that while the accused student and/or the Complainant are on University property, or at any activity or event associated with the University, the accused may not attempt to communicate with the Complainant or vice versa. Distance requirements may also be imposed. Communication includes talking with, attempting to talk with, touching, staring at, writing to or about, attempting telephone or electronic contact (e.g., email, social media, fax, pager), enlisting a proxy (third-party) to make contact on your behalf, and/or any other form of contact or communication of any kind. Appropriate monitoring and notification provisions may be made to enable enforcement.
2. **Loss of Privileges:** The student will be denied specified privileges for a designated period of time. This may include access to specific buildings, offices, departments, services, or other designated entities.
3. **Restriction of Visitation Privileges:** May be levied against an individual or individuals residing in University housing. The parameters of the restriction will be specified.

Other Sanctions

1. **Fines:** Previously established and published fines may be imposed.
2. **Restitution:** Compensation for damage caused to the University or any person's property. This is not a fine but, rather, a repayment for property destroyed, damaged, consumed, or stolen.
3. **Confiscation of Prohibited Property:** Items whose presence is in violation of University policy will be confiscated and will become the property of the University. Prohibited items may be returned to the owner at the discretion of the Director of Student Advocacy and Accountability and/or Campus Police.
4. **Deferral of sanction:** A deferral of sanction (e.g., probation, suspension) may be imposed on a student for whom the specific sanction deferred is appropriate, but for whom there are mitigating circumstances as determined by Office of Student Advocacy and Accountability. If a student is found to have violated any rule of the University while the deferred sanction is in effect, the minimum sanction for such a violation will be the sanction that had been deferred.
5. **Group Sanctions:** The following sanctions may be imposed upon groups or organizations found to have violated the Student Code of Conduct:
 - One or more of the sanctions listed above, and/or
 - Deactivation, loss of all privileges (including University registration), for a specified or indefinite period of time.

Sanctions imposed will be implemented immediately unless the Director of Student Advocacy and Accountability delays their implementation in extraordinary circumstances, pending the outcome of the appeal.

Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Associate Provost for Academic Support Services, the Dean of Campus Life or the Director of Student Advocacy and Accountability.

Interim Actions

In some unique cases, interim actions may need to be put in place in order to preserve the safety/security of the University and/or members of the University community.

1. **No Contact Order:** Contact between students and/or other campus community members is limited. At the discretion of the Director of Student Advocacy and Accountability (or designee), and after investigation, a No Contact Order may be enforced between two or more students. No contact means that while the Complainant and Respondent are on University property or are at any activity or event associated with the University, the Complainant and Respondent may not attempt to communicate with one another. Distance restrictions may also be imposed. Communication includes: talking with; attempting to talk with; touching; staring at; writing to; attempting telephone or other electronic contact (e.g. email, Facebook, text); enlisting a proxy (third party) to make contact on one's behalf; or any other form of contact or attempted contact. Appropriate monitoring and notification of provisions may be made to enable enforcement.
2. **Interim Suspension:** Interim suspension may be imposed when necessary to protect the health and safety of a student or the community; preserve University property; pursue an investigation and/or hearing; prevent disruption of, or interference with, the normal operations of the University; or allow time for a behavioral mental health assessment or evaluation. Interim suspension will be used for the shortest period of time possible. During an interim suspension, a student will be denied access to University housing and/or University campuses. As determined appropriate by the Dean of Campus Life and/or the Director of Student Advocacy and Accountability, this restriction includes classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Director of Student Advocacy and Accountability, alternative coursework options may be pursued to ensure as minimal an impact as possible on the Respondent, pending approval of and collaboration with the appropriate Dean(s).

Section 8: Appeals

Ability to Appeal

Individuals who are dissatisfied with a decision of responsibility and/or assigned sanction(s) may file an appeal within five (5) business days of issuance of a written decision. This date is determined by the date on which a decision letter is sent to the Respondent, and not the date the letter is opened. Once the appeal window expires, it will not be re-opened.

Appeals are ordinarily submitted by the Respondent in response to the decision made by the Hearing Officer/Panel. In the event the charges against the Respondent would constitute a "crime of violence" as defined by the Family Educational Rights and Privacy Act (FERPA), the Complainant also has the right to file an appeal of the decision. (See section 9 for more information on what constitutes a "crime of violence".)

Grounds for Appeal

Appeals will only be considered for one or more of the following purposes:

1. To consider new information which was unavailable at the time of the original hearing and could be outcome-determinative;
2. To assess whether a material deviation from written procedures impacted the fairness or outcome of the hearing;
3. To decide if an assigned sanction(s) falls outside the range of sanctions the University has designated for this offense;
4. To determine that the finding does not accord with the information provided in the hearing; or
5. To assess whether bias on the part of a Hearing Officer or Hearing Panel member deprived the process of impartiality.

It is the responsibility of the Appellant to clearly illustrate how one or more of the following grounds is met in their appeal submission, as Appellants are not guaranteed the ability to speak before the body making the decision regarding their appeal.

Appeal Process

All appeals received within the stated appeal window will be initially reviewed by the Director of Student Advocacy and Accountability. If the Director of Student Advocacy and Accountability determines that an appeal does not meet any of the stated grounds above, the appeal may be summarily dismissed without further consideration. If an appeal is reviewed and deemed to warrant full consideration, the Director of Student Advocacy and Accountability will request all materials from the case, as well as a memorandum in response to the appeal from the Conduct Council who decided the case. Once all materials are gathered, the appeal will be referred to the appropriate decision-making body:

- Cases heard in an Administrative (Informal) Hearing will be decided upon by the Director of Student Advocacy and Accountability.
 - If the Director of Student Advocacy and Accountability was the Hearing Officer, the Dean of Campus Life (or designee) will be consulted.
- Cases heard in at a Formal Hearing will be decided upon by the Community Review Board.

The following outcomes are available as a result of an appeal:

1. Appeal of an Administrative Hearing:
 - a. The appeal is deemed to have merit and the Director of Student Advocacy and Accountability will refer the case to be re-heard by a new Hearing Officer.
 - b. The appeal is deemed to have merit and the Director of Student Advocacy and Accountability will modify any sanction(s) at their discretion.
 - c. The appeal does not create sufficient grounds to re-hear the case or modify sanctions and is denied.
2. Appeal of a Formal Hearing:
 - a. The appeal is deemed to have merit and the Community Review Board will refer the case to be re-heard by a new Hearing Officer or set of Hearing Panel members.
 - b. The appeal is deemed to have merit and the Community Review Board will modify any finding of responsibility and/or sanction at their discretion.
 - c. The appeal does not create sufficient grounds to re-hear the case or modify the findings/sanctions and is denied.

Please note: The review body will be deferential to the original Hearing Officer/Panel, assuming that decisions and processes were made in good faith. It is the responsibility of the Appellant to prove otherwise. Any decision made regarding an appeal is final and cannot be appealed further.

Community Review Board: Membership & Authority

The Community Review Board (CRB) is a group of students, faculty and administrators who serve as the final level of review of appeals in any behavioral misconduct matter. Membership in the CRB is as follows:

1. At least one (1) voting student representative, as appointed by the Student Government Association Executive Board;
2. One (1) voting faculty representative as appointed by the Faculty Senate; and
3. One (1) voting representative from the University administration, appointed by the Dean of Campus Life.

The Dean of Campus Life (or designee) will serve as the CRB's non-voting advisor. A chairperson, either a faculty or administration representative, will be determined prior to the start of each hearing by a consensus of the CRB. In the event of a member's resignation, the group from which the representative came is responsible for providing a replacement as soon as possible. CRB members will be instructed/trained by the Director of Student Advocacy and Accountability and/or Dean of Campus Life prior to participating in any reviews and all members of the CRB, or approved substitutes, must be present in order for a review hearing to proceed.

The original CRB may support or change a decision and/or increase, decrease or modify a sanction. The CRB will be deferential to the original Hearing Officer/Panel, making changes to (1) the finding only where there is clear error, (2) to a sanction only if a compelling justification to do so exists, and (3) only when a majority decision is reached.

Except as required to explain the basis of new information unavailable at the time of a hearing, review of a Formal Hearing will be limited to the verbatim record of the initial hearing and all supporting documents.

Section 9: Records

Holds

In order to ensure that students participate in the behavioral misconduct process and are accountable for their decisions, the Office of Student Advocacy and Accountability reserves the right to place administrative holds on student accounts in order to ensure that students act in a responsible manner.

Failure to Appear for Meetings

All students, as members of the University community, are expected to comply with requests from a Hearing Officer. For all cases where University Suspension, University Expulsion, Housing Suspension, and Housing Expulsion are possible outcomes, the increased impact of such sanctions necessitates that a conversation with the student takes place. Should a student fail to attend two scheduled Administrative Reviews, an administrative hold will be placed on the student's University account until the student responds to and attends a meeting to discuss their case.

Failure to Complete Sanctions

All students, as members of the University community, are expected to comply with sanctions within the time frame specified by the Hearing Officer or Hearing Panel. Failure to follow through on sanctions by the date

specified, whether by refusal, neglect or any other reason, an administrative hold will be placed on the student's University account until the student completes the required sanctions. A hold will only be lifted when compliance with sanctions is satisfactorily achieved. This determination will be made by the Director of Student Advocacy and Accountability (or designee).

Maintenance of Disciplinary Records

Disciplinary records are maintained by the University for seven (7) full conduct years from the time of the completion of the conduct process for a student's most recent offense. Disciplinary records older than seven (7) full conduct years will be destroyed on an annual basis, with the exception of records that indicate a University expulsion or University housing expulsion was imposed. Records that indicate such impositions will be maintained indefinitely. For the purposes of this section, a conduct year is defined as starting August 1 and ending on July 31 of the subsequent calendar year.

Notification of Outcomes

The outcome of a campus hearing is part of the educational record of the Respondent and is protected from release under the Family Educational Rights and Privacy Act (FERPA), except under certain conditions. In accordance with FERPA, when a student is accused of a policy violation that would constitute a "crime of violence" or sex offense, the University will inform the alleged victim's Complainant in writing of the final results of a hearing, "regardless of whether the University concludes that a violation was committed" (Family Educational Rights and Privacy Act, 2009). Such release of information may only include the Respondent's name, the violation committed, and the sanctions assigned (if applicable), though in cases of sex offenses, the rationale for the outcome will also be shared with all parties to the complaint.

In cases where the University concludes that a student violated a policy that would constitute a "crime of violence" or sex offense, the University may also release the above information publicly and/or to any third party. FERPA lists "crimes of violence" as:

- | | |
|---|---|
| a) Arson | e) Burglary |
| b) Assault offenses | f) Destruction/damage/vandalism of property |
| c) Criminal homicide—manslaughter by negligence | g) Kidnapping/abduction |
| d) Criminal homicide—murder and nonnegligent manslaughter | h) Robbery |
| | i) Sex offenses, forcible |
| | j) Sex offenses, non-forcible |

Section 10: Parental Notification

Parental Notification

The University of the Incarnate Word reserves the right to notify parents/guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under the age of 21 of alcohol and/or other drug violations. The University of the Incarnate Word will attempt to contact the parents/guardians of a student to inform them of situations in which there is a health and/or safety risk. The University of the Incarnate Word also reserves the right to designate which University employees have a legitimate need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA) and will share information accordingly.