

(AS OF January 3, 2008)

Chapter 3335-23

CODE OF STUDENT CONDUCT

3335-23-01 Introduction and purpose.

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

3335-23-02 Jurisdiction.

The code applies to the on-campus conduct of all students and registered student organizations. The code also applies to the off-campus conduct of students and registered student organizations in direct connection with:

- (A) ~~A professional practice assignment;~~
- (~~B~~A) Academic course requirements or any credit bearing experiences, such as internships, field trips, study abroad or student teaching;
- (~~C~~B) Any activity supporting pursuit of a degree, such as research at another institution or a professional practice assignment;
- (~~D~~C) Any activity sponsored, conducted, or authorized by the university or by registered student organizations;
- (~~E~~D) Any activity that causes substantial destruction of property belonging to the university or members of the university community or causes serious harm to the health or safety of members of the university community; or
- (~~F~~E) Any activity in which a police report has been filed, a summons or indictment has been issued, or an arrest has occurred for a crime of violence.

The code governs all campuses of the university, however, students attending at regional campuses and the agricultural technical institute are advised to consult their local campus publications for additional information or rules pertaining to those campuses, which may create hearing boards or processes for the campus, consistent with these rules.

The university reserves the right to administer the code and proceed with the hearing process even if the student withdraws from the university, is no longer enrolled in classes, or subsequently fails to meet the definition of a student while a disciplinary matter is pending.

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

3335-23-03 Definitions.

As used in the code, the term "university premises" means all lands, buildings, and facilities owned, leased, or operated by the university. The term "student" means an individual who has paid an acceptance fee, registered for classes, or otherwise entered into any other contractual

relationship with the university to take instruction. It further includes persons who are eligible to receive any of the rights and privileges afforded a person who is enrolled at the university, including, but not limited to, those individuals admitted to the University and attending orientation programs. Student status lasts until an individual graduates, is dismissed, or is not in attendance for two complete, consecutive quarters. The term "student" also includes registered student organizations. The term "members of the university community" includes, but is not limited to, students, faculty, staff, and visitors to the campus. The term "complaint" means a written statement, ~~on appropriate university-prescribed forms,~~ alleging a violation of the code of student conduct or other published rule applicable to students at the university, provided to an authorized university official, per section 3335-23-05 A. Information submitted by other means will be reviewed and may, at the university's discretion, be acted upon but will not be treated as a formal complaint. The term "crime of violence" means the following offenses as stated in division (A)(9) of section 2921.01 of the Revised Code in effect on the date this rule is adopted: aggravated murder; murder; voluntary manslaughter; involuntary manslaughter; felonious assault; aggravated assault; assault; aggravated menacing; menacing by stalking; kidnapping; abduction; extortion; rape; sexual battery; gross sexual imposition; aggravated arson; arson; aggravated robbery; robbery; aggravated burglary; inciting to violence; aggravated riot; inducing panic; domestic violence; intimidation; intimidation of an attorney, victim, or witness in a criminal case; escape; improperly discharging a firearm at or into a habitation or school; burglary; felonious sexual penetration; or conspiracy or attempt to commit or complicity in committing any of the foregoing offenses. Crime of violence also means offenses under the laws of another jurisdiction that are substantially equivalent to the offenses listed in this division.

3335-23-04 Prohibited conduct.

Any student found to have engaged, or attempted to engage, in the following conduct while within the university's jurisdiction, as set forth in rule 3335-23-02 of the Administrative Code, will be subject to disciplinary action by the university. For the purposes of this section, attempt shall be defined as conduct that, if successful, would constitute or result in the prohibited conduct. Any student who abandons an attempt or prevents the prohibited conduct from occurring under circumstances that demonstrate a complete and voluntary renunciation of the prohibited conduct will not be subject to disciplinary action by the university.

(A) Academic misconduct.

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

- (1) Violation of course rules as contained in the course syllabus or other information provided to the student; violation of program regulations as established by departmental committees and made available to students;
- (2) Knowingly providing or receiving information during examinations such as course examinations and candidacy examinations; or the possession and/or use of unauthorized materials during those examinations;
- (3) Knowingly providing or using assistance in the laboratory, on field work, in scholarship or on a course assignment;
- (4) Submitting plagiarized work for an academic requirement. Plagiarism is the representation of another's work or ideas as one's own; it includes the unacknowledged word-for-word use and/or paraphrasing of another person's work, and/or the inappropriate unacknowledged use of another person's ideas;
- (5) Submitting substantially the same work to satisfy requirements for one course or academic requirement that has been submitted in satisfaction of requirements for another course or academic requirement, without permission of the instructor of the

course for which the work is being submitted or supervising authority for the academic requirement;

- (6) Falsification, fabrication, or dishonesty in creating or reporting laboratory results, research results, and/or any other assignment;
- (7) Serving as, or enlisting the assistance of a substitute for a student in the taking of examinations;
- (8) Alteration of grades or marks by the student in an effort to change the earned grade or credit;
- (9) Alteration of academically-related university forms or records, or unauthorized use of those forms or records; and
- (10) Engaging in activities that unfairly place other students at a disadvantage, such as taking, hiding or altering resource material, or manipulating a grading system.

(B) Endangering health or safety.

~~Taking or threatening action that threatens or endangers the safety, physical or mental health, or life of any person, whether intentionally or as a result of recklessness or gross negligence.~~

(1) Endangering Behavior Taking or threatening action that endangers the safety, physical or mental health, or life of any person, or creates a reasonable fear of such action, whether intentionally or as a result of recklessness or gross negligence.

(2) Stalking Engaging in a pattern of unwanted conduct directed at another person that threatens or endangers the safety, physical or mental health, or life or property of that person, or creates a reasonable fear of such a threat or action.

(C) Sexual misconduct.

~~Physical contact or other non-physical conduct of a sexual nature in the absence of clear, knowing and voluntary consent. For the purposes of this rule, consent shall be defined as the act of knowingly and voluntarily agreeing verbally or non-verbally to engage in sexual activity. An individual cannot consent who is obviously incapacitated by any drug or intoxicant; or who has been purposely compelled by force, threat of force, or deception; or who is unaware that the act is being committed; or whose ability to consent or resist is obviously impaired because of a mental or physical condition; or who is coerced by supervisory or disciplinary authority.~~

Physical contact or other non-physical conduct of a sexual nature in the absence of clear, knowing and voluntary consent, including but not limited to:

(1) Non-consensual sexual intercourse, defined as any sexual penetration (anal, oral, or vaginal), however slight, with any body part or object, by any person upon any person without consent.

(2) Non-consensual sexual contact, defined as any intentional sexual touching, with any body part or object, by any person upon any person without consent .

(3) Sexual exploitation, defined as taking non-consensual, unjust or abusive sexual advantage of another. Examples include, but are not limited to, prostituting another student, non-consensual video or audio-taping of sexual activity, going beyond the boundaries of consent (such as knowingly allowing another to surreptitiously watch otherwise consensual sexual activity), engaging in non-consensual voyeurism, and knowingly transmitting or exposing an STD or HIV to another student without the knowledge of the student.

(4) Sexual harassment, as defined in applicable University Policy.

(5) Indecent exposure, defined as the exposure of the private or intimate parts of the body, in a lewd manner, in public or in private premises, when the accused may be readily observed.

For the purposes of this rule, consent shall be defined as the act of knowingly and voluntarily agreeing verbally or non-verbally to engage in sexual activity. An individual cannot consent who is obviously substantially impaired by any drug or intoxicant; or who has been purposely compelled by force, threat of force, or deception; or who is unaware that the act is being committed; or whose ability to consent or resist is obviously impaired because of a mental or physical condition; or who is coerced by supervisory or disciplinary authority.

(D) Destruction of property.

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

(E) Dangerous weapons or devices.

Use, storage, or possession of dangerous weapons or devices including, but not limited to, firearms, ammunition or ~~and~~ fireworks, unless authorized by an appropriate university official or permitted by a university policy, even if otherwise permitted by law.

(F) Dishonest conduct.

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

(G) Theft/unauthorized use of property.

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

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

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

(I) Drugs.

Use, production, distribution, sale, or possession of drugs in a manner prohibited under law.

(J) Alcohol.

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

(K) Unauthorized presence.

Unauthorized entrance to or presence in or on university premises.

(L) Disorderly or disruptive conduct.

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

(M) Hazing.

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

(N) Judicial system abuse.

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

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

(O) Violation of university rules.

Violation of other published university regulations, policies, or rules, or violations of federal, state, or local law. These university regulations, policies, or rules include, but are not limited to, those which prohibit the misuse of computing resources, sexual harassment, rules for student groups or organizations, and residence hall rules and regulations.

(P) Riotous behavior.

- (1) Participation in a disturbance with the purpose to commit or incite any action that presents a clear and present danger to others, causes physical harm to others, or damages property.
- (2) Proscribed behavior in the context of a riot includes, but is not limited to:
 - (a) Knowingly engaging in conduct designed to incite another to engage in riotous behavior; and
 - (b) Actual or threatened damage to or destruction of university property or property of others, whether done intentionally or with reckless disregard; and

- (c) Failing to comply with a directive to disperse by university officials, law enforcement or emergency personnel; and
 - (d) Intimidating, impeding, hindering or obstructing a university official, law enforcement or emergency personnel in the performance of their duties.
- (3) This rule shall not be interpreted as proscribing peaceful demonstrations, peaceful picketing, a call for a peaceful boycott, or other forms of peaceful dissent. (B/T 7/11/2003, B/T 7/7/2006)

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

JUDICIAL PROCEDURES

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

(A) Initiation.

Person(s) witnessing or experiencing what they believe to be a possible code violation should provide an authorized university official with the information. Information and/or complaints about possible code violations occurring in residence halls should be provided to the residence hall director. Information and/or complaints about possible non-residence hall related code violations should be provided to the director of student judicial affairs, or chief judicial officer for the regional campuses. Information and/or complaints regarding academic misconduct should be referred to the coordinator of the committee on academic misconduct. In cases where the alleged activity may involve a violation of criminal law in addition to a violation of the code, information and/or complaints should be provided to the Ohio state university police or other appropriate law enforcement agency. The university will review all information and/or complaints received and may conduct a preliminary investigation of the alleged violation.

(B) Investigation.

The Ohio state university police or other appropriate law enforcement agency shall have primary responsibility for the investigation of acts that involve suspected violation of federal, state, local laws or applicable university policies. Residence hall directors, assistant hall directors, the director of student judicial affairs, the chief judicial officer for the regional campuses, and other designated university personnel are authorized to investigate alleged violations other than those involving academic misconduct. The coordinator of the committee on academic misconduct is authorized to investigate allegations involving academic misconduct. During the investigation, the student allegedly involved in misconduct may be sent a letter describing the alleged violation, requesting the student to make an appointment to discuss the matter, and specifying a date by which the appointment must be made. Any person believed to have information relevant to an investigation may also be contacted and requested to make an appointment to discuss the matter. Failure to comply with such a request to make and keep such an appointment may result in a disciplinary hold being placed on a student's registration and records and/or the initiation of charges for judicial system abuse. Upon completion of an investigation, the investigator will decide upon an appropriate course of action, which may include, but is not limited to, taking no further action, deferring further action with or without conditions, or initiating charges with the appropriate university judicial body.

3335-23-06 Filing of complaint and initiation of charges.

A written complaint alleging a violation of the code of student conduct must be filed with the university ~~within six months of the identification by a university official of the student allegedly committing the violation~~ as soon as practicable following the discovery of the alleged violation. Absent extraordinary circumstances, the written complaint must be filed within six (6) months for cases of non-academic misconduct (3335-23-04 (B-Q)), and one (1) month for academic misconduct (3335-23-04 (A)), from the date upon which a university official becomes aware of the alleged violation and identifies the student(s) who allegedly committed the violation. Absent extraordinary circumstances, the university must initiate charges, if any, within one year of the filing of the complaint.

3335-23-07 Notice of charges.

Students shall be notified of university charges in writing, unless a more effective form of notification is deemed appropriate. Charges may be presented in person, by placement in a student's residence hall mailbox, by email to the accused student's official university email address, which will direct the student to view the notice on a secure website, or by mail to the accused student's local or permanent address on file in the office of the university registrar. All students are required to maintain an accurate and current local and permanent address with the university registrar.

Following notification of charges, students are strongly encouraged to and shall be afforded the opportunity to meet with a university official for the purpose of explaining the university judicial process and discussion of the charges. Failure of the accused student to respond to the initiation of charges or schedule a preliminary meeting shall in no way prevent the university from scheduling and conducting a hearing in the absence of the accused student.

3335-23-08 Administrative decision.

In all cases, a student charged with one or more violations of the student code has the right to a hearing. However, in a case where a charged student admits such violations in writing, the student may request in writing to have a decision as to appropriate action made administratively by a hearing officer rather than have the charges referred to a hearing officer, panel or ~~commission board~~ for a hearing. In such situations, the student waives the right to a hearing and the related procedural guarantees provided by a hearing officer, panel or ~~commission board~~ hearing. Administrative decisions involving graduate students are to be made in consultation with the graduate school. Following an administrative decision, the student retains the right to request an appeal of the original decision, but may do so only upon the ground that the sanction is grossly disproportionate to the offense committed. (B/T 7/7/2006)

3335-23-09 Notice of hearing.

If a hearing is to be held, written notification will be provided. The notice may be hand delivered, placed into a student's residence hall mailbox, sent by email to the accused student's official university email address, which will direct the student to view the notice on a secure website, or mailed to the last known address of the student, either by certified mail or first class mail, no fewer than ten (10) calendar days prior to the hearing. Unless already provided to the student, the notification will include the charge(s), date, time, and location of the hearing, the designated hearing officer or panel, a statement of the student's rights, and information on the hearing procedures. The accused student may request a postponement for reasonable cause or a hearing separate from other accused persons. A request for a postponement for reasonable cause must be made in writing, include supporting rationale and be received by the person sending the hearing notification at least two (2) business days before the scheduled hearing.

3335-23-10 Hearing procedures.

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

- (A) Attendance at hearings is limited to those directly involved or those requested by the hearing officer or panel to attend. The hearing officer or panel will take reasonable measures to assure an orderly hearing, including removal of persons who impede or disrupt proceedings.
- (B) The accused student may have an advisor throughout the hearing. The advisor may only counsel the student and may not actively participate in the hearing, unless clarification is needed as determined by the hearing officer or panel.
- (C) The accused may submit a written statement, may invite relevant factual witnesses to attend, may invite character witnesses to submit written statements, may as approved in advance by the hearing officer invite character witnesses to testify in person, may ask questions of witnesses called by others, and will be notified of potential witnesses to be called. The accused must also submit a list of potential witnesses, and identify those who are character witnesses only, to the hearing officer at least two (2) business days prior to the hearing. The university may present witnesses as well as question those presented by the accused.
- (D) Written statements may be used for a fact witness (i.e., not a character witness) if, for good reason, a fact witness cannot attend the hearing. ~~Written statements must be notarized, absent other clear evidence of authenticity.~~
- (E) In cases requiring special expertise, the panel coordinator may appoint individuals with appropriate expertise to serve as consultants to the panel. The consultants may be present and provide information as called upon during the hearing but will not vote.
- (F) Students are entitled to a presumption of innocence. Therefore, a student will not be found in violation unless a preponderance of evidence supports the charge(s). In the event of a tie, the panel will continue to deliberate. If after the panel determines that exhaustive deliberations have occurred and a majority decision is not reached the student will be found not in violation. (B/T 7/11/2003)
 - ~~(1) In cases of academic misconduct (paragraph (A) of rule 3335-23-04 of the Administrative Code) a preponderance of the evidence supports the charge(s).~~
 - ~~(2) In all other cases of prohibited behavior (paragraphs (B) through (O) of rule 3335-23-04 of the Administrative Code) clear and convincing evidence supports the charge(s).~~
 - ~~(3) In the event of a tie, the panel will continue to deliberate. If after the panel determines that exhaustive deliberations have occurred and a majority decision is not reached the student will be found not in violation. (B/T 7/11/2003)~~
- (G) In cases where prompt review is essential (e.g. when graduation or the end of the academic year is imminent) the accused may be offered the option of an expedited administrative review consisting of an administrative decision or administrative hearing. The accused student may decline such expedited review without the expectation that the process can be completed on an expedited timeline.

3335-23-11 Attendance.

Because the most accurate and fair review of the facts can best be accomplished when all parties are present, the accused is expected to attend and participate. If an individual does not choose to attend a hearing, the charges will be reviewed as scheduled on the basis of the information available, and a decision will be made. Although no inference may be drawn against a student for failing to attend a hearing or remaining silent, the hearing will proceed and the conclusion will

be based on the evidence presented. No decision shall be based solely on the failure of the accused student to attend the hearing or answer the charges.

3335-23-12 Record of proceedings.

A single record consisting of written notes, tape recording, or other method selected by the hearing panel or officer, will be made of all hearings. Such record will remain the property of the university but will be made available to the accused for review during the appeal period. A written notice of the decision and, if found in violation, information regarding appeal procedures will be provided to the accused student.

3335-23-13 Hearing bodies.

In addition to the committee on academic misconduct, ~~residence hall living units commissions~~ student conduct boards for university housing, and the university judicial panel, the director of student judicial affairs, hearing officers within the office of student judicial affairs, the coordinator of the committee on academic misconduct, and ~~residence hall~~ university housing professional staff are to be considered as official university hearing officers, and may hear cases of alleged violations of the code affording accused students the same procedural guarantees as provided in hearings by a panel, committee, or ~~commission~~ board. Absent special circumstances, students will be afforded the right to choose an administrative or panel hearing. When necessary to ensure a fair and just process, the hearing officer may determine the appropriate hearing venue. The accused student has the right to accept responsibility for the charges, which will result in an administrative decision, or choose to have a hearing. Students will generally be afforded the right to choose an administrative or panel hearing, except under special circumstances where, in order to ensure a fair and just process, the hearing officer may determine the appropriate hearing venue.

3335-23-14 Committee on academic misconduct.

- (A) The coordinator for the committee shall investigate or establish procedures for investigation of all reported cases of student academic misconduct that fall under the committee's jurisdiction. The committee does not hear cases involving academic misconduct in professional colleges having a published honor code. These colleges shall follow their own codes and procedures which can be obtained in their respective central offices. Some allegations against graduate students that fall under the committee's jurisdiction may also implicate the university's interim policy and procedures concerning misconduct in research or scholarly activities and/or the graduate school's "Guidelines for the Review and Investigation of Allegations of Scholarly Misconduct by Graduate Students." Upon receipt of such an allegation, the coordinator shall meet with the dean of the graduate school or designee, and/or the senior vice president for research or designee, and these parties shall mutually agree on the appropriate procedure for adjudicating the case. Notice of this decision and a description of the procedure to be used shall promptly be given to the student who has been charged. The coordinator or committee may refer complaints to the office of student judicial affairs if it is determined that the academic misconduct allegation is incidental to some other misconduct.
- (B) The committee on academic misconduct is constituted according to rule 3335-5-48.7 of the Administrative Code.
- (C) All complaints of academic misconduct shall be reported to the coordinator of the committee.
- (D) Students have an obligation to report suspected misconduct.
- (E) A quorum for a hearing shall be no fewer than four voting members of the committee which shall include no fewer than one student member and two faculty members.

For cases involving graduate students, reasonable efforts will be made to have graduate students serve as the student members of the hearing committee. (B/T 7/7/2006)

3335-23-15 ~~Residence hall living unit commissions~~ Student Conduct Boards for University Housing.

The ~~commissions boards~~ may only hear only those cases, referred by a residence hall hearing officer, that involve code violations that occur within the residence halls/university housing, whether committed by residents or nonresidents. The ~~commissions boards~~ are composed of students ~~from each living unit~~ living in university housing, and may initiate any sanction with the exception of suspension or dismissal. If it appears during the hearing, to the ~~commission board~~ or to the commission advisor, that the violation may be serious enough to warrant suspension or dismissal, the ~~commission board~~ will adjourn and refer the case back to the hearing officer for referral to the office of student judicial affairs.

3335-23-16 University judicial panel.

The university judicial panel is responsible for adjudicating allegations of non-academic misconduct referred by the director of student judicial affairs, except for cases involving violations of professional college codes. The panel consists of:

- (A) Fifteen faculty and/or administrative members recommended by the director of student judicial affairs to the vice president for student affairs for three-year terms which begin with the autumn quarter;
- (B) Twelve undergraduate student members, appointed by ~~the vice president of the~~ undergraduate student government;
- (C) Six graduate student members, appointed by ~~the president of the~~ council of graduate students;
- (D) Two professional student members, appointed by ~~the president of the~~ inter-professional council; and
- (E) The director of student judicial affairs or designee shall serve as panel coordinator ex-officio without vote.
- (F) A quorum for a hearing shall be no fewer than four voting members of the panel which shall include no fewer than two student members.

All student appointments shall be for ~~one~~ two-year terms, staggered, beginning ~~with in~~ in the autumn quarter. Six (6) of the undergraduate student members, three (3) of the graduate student members, and one (1) of the professional student members shall be appointed in odd-numbered years, with the remainder appointed in even-numbered years. To be eligible for appointment, a student must possess a minimum 2.5 cumulative grade point average and be under no current disciplinary sanction from the university. The director of student judicial affairs may remove university judicial panel members for cause, including but not limited to, not attending training, repeated absences, violating the code of student conduct or other applicable laws or policies, or not responding to repeated attempts at communication. Notification shall be made in writing to the university judicial panel member prior to removal, whenever possible.

UNIVERSITY SANCTIONS

3335-23-17 General guidelines for sanctions.

Sanctions should be commensurate with the violation(s) found to have occurred. In determining the sanction(s) to be imposed, the hearing officer or panel should take into account any mitigating

circumstances and any aggravating factors including, but not limited to, any provocation by the subject of the conduct that constituted the violation, any past misconduct by the student, any failure of the student to comply fully with previous sanctions, the actual and potential harm caused by the violation, the degree of intent and motivation of the student in committing the violation, and the severity and pervasiveness of the conduct that constituted the violation. Misconduct, other than constitutionally protected expression, motivated by bias based on age, color, disability, gender identity or expression, national origin, race, religion, sex, sexual orientation, or veteran status may be considered an aggravating factor for sanctioning. Impairment resulting from voluntary use of alcohol or drugs (i.e., other than medically necessary) will also be considered an aggravating, and not a mitigating, factor. In determining the sanctions to be imposed on graduate students who have violated the code, the hearing officer or panel should be guided by the "Graduate Student Code of Research and Scholarly Conduct." One or more of the following courses of action may be taken when a student has been found to have violated the code of student conduct.

(A) Informal admonition.

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

(B) Disciplinary sanctions.

(1) Formal reprimand.

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

~~(2) Conduct probation.~~

~~This probationary condition is for a specified period of time but without loss of privileges. Further violation of university policies during the probationary period will be viewed not only as the act itself, but also as a violation of the probation, which could result in disciplinary probation, suspension or dismissal.~~

~~(3) Disciplinary probation.~~

~~This probationary condition is in effect for a specified period of time and may involve the loss of specified privileges. Further violation of university policies during the probationary period will be viewed not only as a violation based upon the act itself but also as a violation of the probation, which shall result in further action up to and including suspension or dismissal.~~

~~(4) Suspension.~~

~~Suspension is a sanction that terminates the student's enrollment at the university for a specified period of time. Satisfactory completion of specified stipulations may be required for readmission at the end of the suspension period.~~

~~(5) Dismissal.~~

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

(C) Conditions of suspension and dismissal.

A student who has been dismissed or suspended from the university shall be denied all privileges afforded a student and shall be required to vacate campus at a time determined by the hearing officer or panel. In addition, after vacating campus property, a suspended or dismissed student may not enter upon campus and/or other university property at any time, for any purpose, in the absence of express written permission from the vice president for student affairs or designee. To seek such permission, a suspended or dismissed student must file a written petition to the vice president for student affairs for entrance to the campus for a limited, specified purpose or to have the terms of this condition modified or reduced.

(D) Failing or lowered grades.

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

(E) Other sanctions.

Other appropriate sanctions may be imposed by a hearing officer or panel singularly or in combination with any of the above-listed sanctions. Examples include, but are not limited to, making restitution for property damage or misappropriation of university property or services, or the property of any person, residence hall contract termination or reassignment to another room, restriction of access to specified campus facilities and/or property, research assignments, community service projects, special workshop participation, and/or referral to medical resources or counseling personnel. (B/T 7/7/2006)

APPEAL PROCESS

3335-23-18 Appellate process.

(A) Right to appeal.

A student found to have violated this code has the right to appeal the original decision. An appeal of a decision must be submitted in writing and postmarked or hand delivered to the appropriate appeal officer, as provided below, within ten calendar days after the date on which written notice of the decision is sent to the student. Each student shall be limited to one appeal. The decision of the appeal officer is final.

(B) Grounds for appeal.

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

(1) Procedural error;

(2) Misapplication or misinterpretation of the rule alleged to have been violated;

(3) Findings of facts not supported by a preponderance of evidence;

~~(a) A preponderance of evidence in cases of academic misconduct (paragraph (A) of rule 3335-23-04 of the Administrative Code).~~

~~(b) Clear and convincing evidence in all other instances of prohibited behavior (paragraphs (B) through (C) of rule 3335-23-04 of the Administrative Code).~~

(4) Discovery of substantial new facts that were unavailable at the time of the hearing; and

(5) That the disciplinary sanction imposed is grossly disproportionate to the violation committed.

(C) Appropriate appeal officers.

(1) Appeals from residence hall hearings:

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

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

(2) Appeals from a judicial affairs hearing officer's decision or from the university judicial panel's decision will be submitted for decision to the vice president for student affairs or designee.

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

(D) Appeal proceedings.

(1) The appeal officer shall dismiss the appeal if the appeal is not based upon one or more of the grounds set forth in paragraph (B) of this rule.

(2) The appeal officer may decide the appeal based upon a review of the record.

(3) The appeal officer may request additional written information or an oral presentation from any relevant person(s) and then decide the appeal based upon the enhanced record.

(E) Possible dispositions by the appeal officer.

The appeal officer may, after a review of the record, uphold the original sanction, dismiss the original sanction, or impose a lesser sanction. An appeal officer may also remand the case to the original hearing body or refer the case to a new hearing officer or panel to be reheard. If possible, a new hearing officer or panel should be different from the one that originally decided the case. If a case is reheard by a hearing officer or panel, the sanction imposed can be greater than that imposed at the original hearing.

3335-23-19 Minor deviations from procedure.

A student and hearing officer may agree in advance to minor deviations from procedure. Such deviations are not then subject to appeal. Other minor deviations are acceptable as long as such deviations are not found upon appeal to be unreasonably harmful to the student.

3335-23-20 Interim suspension.

When the vice president for student affairs or designee has reasonable cause to believe that the student's presence on university premises or at a university-related or registered student organization activity poses a significant risk of substantial harm to the health or safety of others or to property, the student may be immediately suspended from all or any portion of university premises, university-related activities or registered student organization activities, and is not permitted to participate in, or complete academic coursework. This temporary suspension will be confirmed by a written statement and shall remain in effect until the conclusion of a full hearing or administrative decision, without undue delay, in accordance with the rules of the Ohio state university. The student may, within three working days of the imposition of the suspension, petition the vice president for student affairs for reinstatement. The petition must be in writing, and must include supporting documentation or evidence that the student does not pose, or no longer poses, a significant risk of substantial harm to the health or safety of others or to property. A hearing on such petition will be conducted without undue delay by the vice president for student affairs or designee. (B/T 7/11/2003)

3335-23-21 Administrative disenrollment and other restrictions.

(A) A student may be disenrolled from the university; prohibited from all or any portion of university premises, university-related activities or registered student organization activities; and/or permitted to remain only under specified conditions when the vice president for student affairs or designee finds that there is clear and convincing evidence that:

- (1) The student's continued presence poses a significant risk of substantial harm to the health or safety of themselves, others, or to property; or
- (2) The student, as a direct result of an apparent health condition, is engaged in substantial, continuing disruption of teaching, learning, research, administration or other university-related activities.

Before making such a determination, the vice president for student affairs or designee shall notify the student in writing of the reasons that disenrollment or other action is being considered, provide the student with an opportunity to respond, and consult with appropriate university personnel. The vice president for student affairs or designee may also consult with any other persons whom the vice president for student affairs or designee deems appropriate under the circumstances.

(B) In those cases under paragraph (A)(1) of this rule in which it appears that the risk posed by the student is a result of a health condition or a disability as defined by the Americans with Disabilities Act, and in all cases under paragraph (A)(2) of this rule, the vice president for student affairs or designee shall also determine whether the risk or disruption can be eliminated or sufficiently reduced through reasonable accommodation and, if so, shall take appropriate steps to ensure that accommodation is made. The vice president for student affairs or designee may request the student to undergo an appropriate examination, as specified by the vice president for student affairs or designee, to determine whether any such condition exists and whether any such accommodation is possible. If the student fails to undergo such an examination, and if the other available evidence supports a finding under either paragraph (A)(1) or (A)(2) of this rule, the vice president for student affairs or designee shall, to the extent reasonably possible, take the least restrictive measure or combination of measures necessary to resolve the risk or disruption.

(C) A student who has been disenrolled; prohibited from university premises, university-related activities or registered student organization activities; or permitted to remain only under specified conditions may petition the vice president for student affairs for revision of that status. The petition must include supporting documentation or evidence that:

- (1) The conditions found to have existed under paragraph (A)(1) or (A)(2) of this rule no longer exist and will not recur, and
- (2) The student meets all normal and appropriate standards for admission and enrollment in any academic unit in which the student seeks to re-enroll.

Upon receipt of such a petition, the vice president for student affairs or designee shall evaluate the evidence and may consult with the student, any appropriate university personnel, and any other persons whom the vice president for student affairs or designee deems appropriate. The vice president for student affairs or designee may deny the petition, grant the petition in whole or in part under specified conditions, or grant the petition in whole or in part without condition. In the event of a negative determination by the vice president of student affairs, the student may request to have the decision reviewed by the executive vice president and provost. (B/T 12/6/2001)

3335-23-22 Authority section.

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

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

The Ohio state university code of student conduct is an official publication of the university board of trustees. All petitions for revision and amendment of this code of student conduct should be submitted through the office of the vice president for student affairs. Proposed revisions to the code shall be reviewed, in draft form, by the office of the president, the office of academic affairs, and the steering committee of the university senate before being presented for approval to the university senate by the council on student affairs. No revision shall become effective unless approved by the university board of trustees and until printed notice of such revisions is made available to students.