



The University of Vermont

Policy V. 3.4.2.6

Responsible Official: Dean of Students

Effective Date: February 6, 2012

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# Code of Students Rights and Responsibilities

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## Policy Statement

By choosing to attend the University of Vermont, each student accepts responsibility for promoting the community's welfare by adhering to the Code of Student Rights and Responsibilities and all University Policies. Failure to do so may result in response from the University.

## Reason for the Policy

Some actions cannot be tolerated because they seriously interfere with the basic purposes and processes of an academic community or with the rights afforded other members of the community. By formulating a general code of rights and responsibilities, the University reaffirms the principle of student freedom coupled with personal responsibility and accountability for individual action and the consequences of that action.

## Strategic Direction

This policy supports the strategic goal of creating an environment that is consistent with and promotes the climate and community encompassed by "Our Common Ground" (<http://www.uvm.edu/~presdent/?Page=miscellaneous/commonground.html>). It helps to foster a culture of inclusion and openness and to promote positive changes in student culture and behavioral norms, both as expressed in the University's Strategic Action Plan.

## Applicability of the Policy

The Code of Student Rights and Responsibilities (the "Code") applies principally to conduct that occurs on University premises or at University-related activities or facilities including class sessions and all other educational activities. Likewise, conduct engaged in through electronic communication systems, including, but not limited to, social media, e-mail, and text messaging, is subject to the provisions herein. University premises means all land, buildings, facilities, and other property owned or leased by the University of Vermont. Off-campus behavior may also subject a student to the conduct process or other appropriate administrative action when it is reasonably perceived to pose an imminent threat of harm to the safety of the student or others or

reflects on a student's fitness to continue in the academic program in which the student is enrolled. In addition, the University may respond to other off-campus student conduct through non-disciplinary or administrative interventions. Repeated conduct of this kind may cumulatively form the basis for engaging the student conduct process. The behavioral expectations established by this Code apply to all students at the University. Procedures established by the College of Medicine will be followed to adjudicate violations of this Code for students enrolled in the College of Medicine.

## **Policy Elaboration**

### **Introductory Statement**

Students are not only members of the academic community but also members of the larger society. Thus they retain the rights, protection, guarantees, and responsibilities that are held by all citizens. A student is not immune to prosecution by local, state, or federal enforcement agencies, whether or not the University takes action on the violation.

### **A. Student Responsibilities**

Students, student organizations, and their respective guests are responsible for knowing and behaving consistently with this Code as well as federal, state, and local laws.

#### **1. General Provisions**

- a. Students who assist others in violating any provision of this Code may be charged with a Code violation to the same extent as those persons committing a violation.
- b. Students are responsible for the activities that occur in their residence hall rooms and the shared living space in suite style residence halls (Living/Learning suites, Wright Hall, Trinity and University Heights) where applicable. Therefore, students are expected to properly secure their living area(s) at all times. Students are also responsible for ensuring that all guests know and behave consistently with this Code while on campus. Any person involved in an incident who is not an assigned occupant of the room or suite where the incident occurred will be deemed a "guest" under this Code. All assigned occupants of a room or suite may be subject to the same sanctions under this Code as the actual violators.
- c. Attempts to violate this Code, including unsuccessful attempts, are prohibited and are subject to the same response under this Code as are actual violations.

#### **2. Prohibited Acts**

##### **a. Offenses Against Persons**

- 1) Threatening or causing physical harm or abuse to one's self or another person. Physical abuse includes, but is not limited to, personal injury, physical restraint against a person's will, and holding or transporting an individual against the individual's will.

2) Threatening or causing non-physical abuse of or abusive behavior toward another person, including, but not limited to, verbal or written statements that constitute a form of expression not protected by the First Amendment, such as obscenities, fighting words, or defamation. Non-physical abuse is defined as conduct that has the purpose or effect of creating an intimidating, hostile or demeaning environment that substantially interferes with another's ability to participate in or realize the intended benefits of educational or employment opportunities, peaceful enjoyment of residence, or physical security. Non-physical abuse shall be found where, in aggregate, the conduct is sufficiently pervasive, persistent or severe that a reasonable person would be adversely affected to such a degree.

3) Stalking, which is defined here as willfully, and repeatedly following, contacting, or harassing another person or series of people in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, harassed, or molested, despite indication that such behavior is unwanted.

#### b. Property Offenses

1) Destroying or vandalizing property, or intending to destroy or vandalize property, including, but not limited to, University owned or leased property, fire alarms, extinguishers, and other safety devices.

2) Trespassing upon, forcibly entering, or otherwise proceeding into unauthorized areas of University owned or leased buildings or facilities, their roofs, or the residential space of another without permission.

3) Unauthorized or inappropriate use of University property or the property of others.

4) Unauthorized or inappropriate use, duplication, or possession of keys, computer access codes, long distance caller identity codes, or other security mechanisms.

5) Theft or unauthorized possession of property or services.

6) Embezzling, defrauding, or using false pretenses to procure money, property, or services.

7) Knowingly purchasing or possessing stolen or embezzled property, money, or services.

8) Any willful or malicious burning of any property of another.

#### c. Public Order/University Order Offenses

1) Possessing or using weapons, ammunition, explosives, flammable substances, or other dangerous devices. "Weapons" means any object or substance designed or used to inflict a wound, cause injury, or incapacitate, including but not limited to all firearms, pellet guns, air pistols, air rifles, any dirk, bowie knife, switchblade knife, ballistic knife, or any other knife having a blade of three or more inches, black jacks, metal knuckles, nunchaku, fireworks,

explosives and biological agents. Replicas and facsimiles of weapons are also considered weapons and are therefore prohibited. The use of implements or substances not commonly used as a weapon or not expressly prohibited by this section may be a violation of this policy if used as a weapon. The use of a chemical irritant (e.g., pepper spray) will not be a violation of this policy if used solely for self-defense.

- 2) Creating a fire, safety, or health hazard.
- 3) Falsely reporting a fire or other emergency situation by actions such as activating a fire alarm or pre-alarm cover when there is no reasonably perceived emergency.
- 4) Impeding or obstructing an investigation, or failing to identify oneself or to comply with the directions of University officials, their authorized agents, or local police agencies acting in the performance and scope of their duties.
- 5) Operating a motorized vehicle in violation of traffic rules or so as to endanger people or property, or having a motorized vehicle on campus except as permitted by University policies and procedures.
- 6) Having an animal on campus, except as permitted by University policies and procedures.
- 7) Littering.
- 8) Causing any object to be ejected from windows, roofs, or balconies of University-owned or leased buildings.
- 9) Conveying information that the student knows or should know to be false, by actions such as lying or being dishonest, forging, altering, or causing any false information to be entered into a University record or to be presented at a University proceeding or to a University official.
- 10) Possessing, providing, distributing, selling, or manufacturing any form of false University, federal, or state-issued identification.
- 11) Impersonating any University official.
- 12) Elimination of bodily fluids or waste, such as urine, feces, vomit, or blood, in places or receptacles not designed for receipt of such substances.
- 13) Indecent exposure, including but not limited to “flashing.” Indecent exposure is defined as revealing one’s genitals under circumstances likely to offend or shock others or in a public place.
- 14) Tampering with or misuse of any fire safety equipment such as fire extinguishers, smoke detectors, carbon monoxide detectors, and fire alarms.
- 15) Failure to evacuate any building during a fire alarm.

16) Gambling, which includes bookmaking or pool setting for profit, promoting or setting up a lottery for money or property, or winning or losing money or other valuables by play or hazard at any game.

17) Using grills, barbecues, or other similar devices except as permitted in writing by University Dining Services.

d. Other Offenses

1) Violation of University policies. Students, student organizations, and their respective guests are prohibited from violating University policies. Some examples include but are not limited to the Alcohol and Other Drug- Student Policy (<http://www.uvm.edu/policies/student/drugandalco.pdf>); the Equal Opportunity in Educational Programs and Activities and Non-Harassment Policy (<http://www.uvm.edu/policies/student/equaledu.pdf>); the Weapons Policy ([http://www.uvm.edu/policies/general\\_html/firearms.pdf](http://www.uvm.edu/policies/general_html/firearms.pdf)); the Computer, Communication, and Network Technology Acceptable Use Policy (<http://www.uvm.edu/policies/cit/compuse.pdf>); the Student Sexual Harassment Policy (<http://www.uvm.edu/policies/student/sexharasststudent.pdf>); the Sexual Misconduct & Assault Policy ([http://www.uvm.edu/policies/general\\_html/sexassault.pdf](http://www.uvm.edu/policies/general_html/sexassault.pdf)); the Domestic Abuse and Violence Prevention and Response Policy ([http://www.uvm.edu/policies/general\\_html/domabuse.pdf](http://www.uvm.edu/policies/general_html/domabuse.pdf)); the Hazing Policy (<http://www.uvm.edu/policies/student/hazing.pdf>); and the Housing Contract Terms and Conditions ([http://reslife.uvm.edu/contract/reslife\\_contract.pdf](http://reslife.uvm.edu/contract/reslife_contract.pdf)). The University creates and modifies policies on a regular basis. Students are responsible for knowing and behaving consistently with all University policies, including any modifications thereof. Questions about University policies should be referred to the contact officials identified in those policies.

2) Violation of Law. A violation of any local, state, or federal civil or criminal law is a violation of this Code, even if the specific conduct prohibited by the law is not listed above. Violation of law conduct will be regarded as a violation of this Code regardless of whether the offense is prosecuted in a court of law. The University may inform law enforcement agencies of perceived violations and may elect to defer the conduct process until prosecution of the violation has been completed. In most cases, the University will proceed with the student conduct process, even if a criminal case is not wholly resolved. Intermediate administrative actions, such as interim suspension, may be imposed pending an investigation and/or prosecution. Exoneration from criminal charges will not result in immunity from University proceedings.

3) Classroom Disruption Offenses. Students who engage in behavior that disrupts a classroom, laboratory, or other environment in which educational or research activity takes place may be subject to action under this Code. Disruptive classroom conduct means engaging in behavior that substantially or repeatedly interrupts either the instructor's ability to teach or student learning. For purposes of this provision, the classroom extends to any setting where a student is involved in work toward academic credit or satisfaction of program-based requirements or related activities.

4) Academic Offenses. Please refer to the Code of Academic Integrity.

## **B. Student Rights**

The University of Vermont is an academic community in which all students, faculty, and staff share responsibility for both individual growth and the continued welfare of the community. As members of the University community, students can reasonably expect the following:

1. Students have the right to freedom from discrimination and harassment on the basis of race, color, religion, ancestry, national origin, sex, sexual orientation, disability, age, positive HIV-related blood test results, status as a disabled or Vietnam Era Veteran, military service, genetic information, or gender identity or expression.
2. Students shall have the opportunity to participate in the formulation of policy directly affecting students through membership on appropriate committees as determined by the President or other University recognized organizations or groups.
3. The University shall not interfere with the rights of students to join associations that promote their common interests as students.
4. Students should receive accurate and plainly stated information about acceptable academic standing, graduation requirements, and individual course objectives and requirements.
5. In keeping with the Family Educational Rights and Privacy Act (FERPA) of 1974 and its implementing regulations, students have the right to view their education records and to expect that those records will be protected from unauthorized disclosure.
6. In all instances of general discipline, academic discipline, and academic evaluation, students have the right to fair and impartial treatment.
7. The University of Vermont considers freedom of inquiry and discussion essential to a student's educational development. Thus, the University recognizes the right of all students to engage in discussion, to exchange thought and opinion, and to speak, write, or publish freely on any subject, in accordance with the guarantees of the United States and Vermont constitutions. This broad principle is the cornerstone of education in a democracy. Student groups may freely select persons they wish to invite as guest speakers or performers. There are no restrictions on the points of view expressed by speakers other than those imposed by federal or state law. The invitation to an outside speaker does not imply approval or sponsorship of the speaker's views by the University or by the group inviting that individual.
8. Students are free to engage in peaceful and orderly protest, demonstration, and picketing that does not disrupt functions of the University.
9. Students have the right to be free from illegal searches and seizures.
10. Students have the right to freely exercise their full rights as citizens. The University affirms

the right of students to exercise their freedoms without fear of University interference.

## Definitions

*Advisor:* A member of the University community (who is not a family member) chosen by a Complainant or Respondent to provide personal support through the student conduct process. An advisor must have no other role, such as a witness, and may not speak on behalf of, or otherwise represent their advisees. Advisors may not be lawyers, although the Center for Student Ethics and Standards (CSES) may permit a lawyer as an advisor when related criminal charges are filed and pending. If a Respondent is allowed to have a lawyer present as an advisor, a Complainant may also have a lawyer as an advisor if the Complainant chooses. Respondent and Complainant are responsible for any attorneys' fees incurred.

*Complainant:* A student who is alleging conduct by another student that violates this Code. Cases initiated by charges brought by a University official or University Police Services may not involve a Complainant. In rare instances, the University will serve as the Complainant for non-student victims.

*Educational Activities:* Any act or event sponsored or organized by the University, including its constituent administrative and academic units and recognized student organizations. Without limitation, "educational activities" shall include all intercollegiate and intramural athletic events, faculty, staff and student meetings, classes, presentations, lectures, conferences, field trips, retreats and all other acts or events for which the University of Vermont (including student organizations) pay expenses, or provide facilities, services, supplies or transportation.

*Hearing Officer:* A professional staff member designated by the Center for Student Ethics and Standards to hear a case or a Graduate Student who is trained and qualified to adjudicate undergraduate student cases under this Code.

*Respondent:* A student against whom charges are initiated for alleged violation(s) of this Code.

*Student:* Any person enrolled in or auditing any courses at the University of Vermont. Any course registration, whether in a non-degree or degree-granting program of undergraduate, graduate, or professional studies, characterizes the registrant as a "student" from the point of registration to the completion of the course of study. Persons who are not officially enrolled for a particular term but who have clearly manifested intent to attend, remain in attendance, or to return to the University of Vermont as students are considered "students." Examples include, but are not limited to, students who are enrolled but not taking classes due to an academic break, medical leave, suspension, or other personal leave; Respondents who have withdrawn from the University; students who were enrolled at the time of the incident; persons who demonstrate an intent to enroll by registering for courses; and students participating in study abroad programs.

*Student Conduct Associate:* A UVM student who is trained to participate in hearing evidence and determining a sanction. A Student Conduct Associate works alongside a trained Hearing Officer. The Hearing Officer will retain full authority to conduct the hearing and to prepare the written hearing decision.

**University Official:** Any person employed by the University and acting on behalf of the University.

**Witness:** Any person who has relevant knowledge of the alleged conduct. Character witnesses are considered irrelevant and are not permitted. A person who serves as a witness may not serve in any other capacity during the hearing (e.g., advisor). Witnesses shall be present only during their own testimony.

## **Procedures**

### **A. Reporting Violations**

Any student, UVM Police Services officer, or member of the University staff, faculty, or community may report any perceived violation of this Code to the Center for Student Ethics and Standards (CSES). Perceived criminal activity reported to UVM Police Services will be appropriately investigated and a report forwarded to CSES. CSES will wait for the outcome of any investigation and accompanying report, such as a police report or Affirmative Action investigation report, before proceeding with the conduct process. A staff member in CSES will be responsible for determining what response is most appropriate to address the alleged conduct. Upon receipt of a report from any source, CSES will evaluate the report and determine whether, if the facts as alleged were proven, the conduct would be a violation of this Code. CSES may decide, in its sole discretion and based on this review, whether to proceed with the conduct process by way of a formal conduct hearing or by way of an alternate process. In some cases an alternate process such as mediation, facilitated dialogue, conflict coaching, or restorative practices may be offered by mutual consent to the parties involved and on a basis acceptable to CSES or designee. A written summary of these agreements is provided to involved parties. These agreements are binding and once entered are not subject to appeal. Failure to abide to the agreements can result in the case being referred back to the formal student conduct process. When CSES or a Hearing Officer adjudicates an incident, they may do so by a pre-hearing waiver (see section D for details) with the Respondent or by adjudicating the matter through a more formal student conduct hearing. If a student charged with a violation of this Code does not accept responsibility for the conduct charged and/or does not accept sanctions, the case will proceed to a hearing.

### **B. Administrative Actions**

Administrative Actions are interventions imposed on a student by the Dean of Students or designee when there is a significant student behavioral or health and safety concern that requires immediate intervention to preserve and support the general welfare and academic experience of the student and/or University community.

Administrative actions are authorized at the discretion of the Dean of Students or designee. These actions are taken to:

- allow a student time and space to seek support,
- reduce tension,



- clarify expectations for future behavior to deescalate the situation, and
- allow University staff members to bring resolution to the matter.

The student will be contacted directly (generally via the student's university e-mail account) regarding the incident or concerning behavior and will be notified of a meeting to discuss the matter. The purpose of the meeting is to provide the student with an opportunity to respond to and be informed of any administrative action being considered. In some instances, more than one action and/or specific conditions may be imposed with a range of implications that can affect the student's academic, financial, and/or on-campus housing status. Actions taken may include, but not be limited to: Administrative Notice, No Contact Order, Revoked Admission, and Interim Suspension. The Dean of Students or designee may also recommend the student have a consultation with specific offices or services. Independent of the Dean of Students' administrative actions, other processes (e.g., criminal or civil court actions, restraining order, mandated counseling) may occur.

An administrative action does not presume there is a student conduct case pending nor does it bias the outcome of a student conduct case, should one occur.

A written letter will follow the meeting containing the imposed administrative action, conditions of the action, and/or recommendations. If the student does not attend the meeting, the administrative actions may be determined without a prior meeting with the student.

**Interim Suspension:** Generally, a student's status is not altered pending a hearing or an appeal, unless preliminary evidence demonstrates that a student's continued presence on campus would pose a threat to the student's health or safety or the health or safety of other persons within the University community. In that case, the student may be suspended on an interim basis. Except in an emergency situation, the Dean of Students or designee will communicate with the student before instituting the interim suspension. The Dean of Students or designee will state, in writing, the terms and conditions of the interim suspension.

Typically a student who is interinely suspended is withdrawn from currently registered courses and a hold is placed on their ability to register for future courses until the matter is resolved with the University. A notation of W will appear on the transcript. In cases where a student on interim suspension requests to postpone the resolution of the case more than one week beyond the scheduled hearing or in cases where an investigation and final reports are not complete, the student will be withdrawn from courses.

If the resolution of the incident does not result in a separation from the University, measures will be taken to assist the student in mitigating any negative academic impact resulting from being placed on interim suspension.

### **C. Correspondence from CSES**

All correspondence, including notice of the hearing date, time and location as well as decision letters and appeals correspondence shall be communicated via e-mail to each individual's official University e-mail address.

## **D. Notice of Charge(s)**

When CSES proceeds with charges on a reported violation, the Respondent will be notified of the alleged violation with a notice of charge(s) sent via the Respondent's University email account. The notice of charge(s) will state what University policy(ies) is/are alleged to have been violated. The Notice of Charge letter will include a date for a hearing and may also include a Pre- Hearing Waiver. In some cases, CSES may elect to resolve incidents without the use of a formal conduct hearing.

## **E. Pre-Hearing Disposition of a Charge**

The Notice of Charge may contain a "Pre-Hearing Waiver." The Pre-Hearing Waiver is a binding document that takes the place of a hearing between the Hearing Officer and Respondent in situations where the Respondent elects to accept responsibility for all policy violations and agrees to complete any assigned sanctions in lieu of proceeding to a formal student conduct hearing.

If a Respondent wishes to resolve the case through the Pre-Hearing Waiver process, the Respondent must sign the waiver and return it to the Hearing Officer who initiated the charge. In so doing, the Respondent will be accepting responsibility for the violation(s) listed in the charge and will be required to complete the sanctions as outlined in the waiver. Students who accept responsibility via the Pre- Hearing Waiver process waive the right to appeal.

If a Respondent does not accept responsibility for the charges by signing and returning the Pre-Hearing Waiver form by the deadline stated, or wishes to contest the charges, or does not accept the sanctions, the hearing will proceed as scheduled in the Notice of Charge.

## **F. Hearing Procedures for the Student Conduct Process**

### **1. Preliminary Provisions**

a. Hearing Officers. A charge is heard by one or more Hearing Officers.

Cases Involving a Respondent Only: When a case proceeds to a hearing, notice of the name(s) of the Hearing Officer(s), date, time and place of the hearing will be provided to the Respondent via the Notice of Charge.

The Hearing Officer(s) assigned to resolve a case may include one or more Student Conduct Associates to participate in the hearing. In such cases, the Hearing Officer(s) will retain full authority to conduct the hearing and to prepare the written hearing decision.

Cases Involving a Complainant and Respondent: When a case proceeds to a hearing, notice of the name(s) of the Hearing Officer(s), date, time and place of the hearing will be provided to the Complainant and Respondent via their university email account.

b. Impartiality.

Cases Involving a Respondent Only: Hearing Officers shall remove themselves from resolving a case if they believe that they cannot be impartial. A Respondent may seek the removal of a Hearing Officer as follows:

If the Respondent believes that any individual selected to hear the case cannot be impartial, the student must submit a written statement to the Director of CSES stating the specific reasons the student believes that the individual(s) cannot be impartial. This written statement must be submitted to the Director of CSES within 24 hours of receipt of the notice of individual(s) selected to hear the case. If the Director of CSES or designee determines that the challenged individual may not be impartial, that individual will be removed from the case. If at all feasible, the hearing date will not be changed.

Cases Involving a Complainant and Respondent: Same provisions apply for Complainants and Respondents.

c. Scheduling Hearings.

Cases Involving a Respondent Only: Hearings will be scheduled as expeditiously as possible and will attempt to schedule a hearing no later than 20 business days after the date the Notice of Charge is sent. If the Respondent wishes for the matter to be heard during a University vacation period or wishes for the hearing to take place more than 20 academic days after the Charge is sent, the student must submit to CSES, no later than 24 hours after receipt of notice that a hearing has been scheduled, a written request, including the reasons for the request. CSES may grant the request for good cause, but the request will not be granted if (1) an extension would make a hearing impractical, (2) the University's interest is deemed too great to postpone the hearing, or (3) the extension would be fundamentally unfair to any other party to the proceeding. The University may, due to an administrative need, extend the hearing date beyond twenty academic days or hold a hearing during a vacation period. A Respondent who subsequently withdraws from the University will be provided the opportunity to fully participate in the Student Conduct Hearing process. If the Respondent fails to attend the hearing, except when there are exigent circumstances, the hearing will proceed and a finding will be reached based upon available evidence. Failure of the Respondent to appear will not be considered evidence of responsibility.

Cases Involving a Complainant and Respondent: Same provisions apply for Complainants and Respondents.

d. Advisors.

Cases Involving a Respondent Only: The Respondent may bring an advisor to the hearing. The Respondent must notify the Hearing Officer(s) at least 24 hours in advance of the hearing of their intent to have an advisor and the advisor's name.

Cases Involving a Complainant and Respondent: The Respondent and Complainant may each

bring an advisor to the hearing. The Respondent and Complainant must notify the Hearing Officer(s) of their intent to have an advisor and the advisor's name no less than five business days prior to the hearing.

e. Documents to be Presented.

Cases Involving a Respondent Only: The Respondent may obtain copies of a police report, incident report, or other supporting documentation referring to their case prior to a hearing by contacting the Center for Student Ethics and Standards.

Hearing Officer Discretion: The determination of admission of any testimony or documents is reserved for the Hearing Officer(s). Upon review of the documents and summary of expected testimony, the Hearing Officer(s) may exclude any evidence deemed not relevant to a fair consideration of the charges. The Hearing Officer(s) may exclude any witness or document not submitted in accordance with the provisions of the paragraphs above. Such witnesses or documents will only be admitted upon a showing of good cause as to why they were not available for timely submission.

Cases Involving a Complainant and Respondent: The Complainant and Respondent must submit to the CSES a list of witnesses intended to be called at the hearing. The list must include each witness's name and a brief summary of what the witness's expected testimony will be. Both the Complainant and Respondent must also submit copies of any document intended to be introduced at the hearing. CSES shall make available copies of each party's witness list and documents to the other party prior to the hearing. CSES will also make available at that time any documents received from an independent source that will be considered as evidence, i.e., a police report, incident report, etc. A copy of any written communication by or on behalf of a Complainant or Respondent to the Hearing Officer(s) shall be provided to the other party along with the witness list and documents to be introduced at the hearing. The Respondent and Complainant are responsible for bringing their witnesses to the hearing at the specified place, date and time for the hearing. CSES may request the presence of any University Official to be present as a witness. If a University Official is requested to be present as a witness, the identity of the University Official shall be provided to the Complainant and Respondent with the witness list. Any and all additional documents to be presented during the hearing, including but not limited to names of witnesses (including a brief summary of their expected testimony), and the advisor's name (if bringing one) are due to CSES no less than five business days prior to the hearing.

Hearing Officer Discretion: Same as Cases Involving a Respondent Only.

f. Multiple Respondents.

Cases Involving a Respondent Only: If an incident results in more than one student being charged with violating the Code, the Hearing Officer(s) may request that the hearings be combined. A student may request a separate hearing, which will be granted for good cause shown.

Cases Involving a Complainant and Respondent: Same provisions apply for Complainants and Respondents.

g. Miscellaneous.

Cases Involving a Respondent Only: Notice of the hearing date, time and location and the identity of the Hearing Officer(s), as well as decision letters and appeals correspondence, shall be by e-mail to each individual's official University e-mail address. A Respondent may object to a Hearing Officer based on impartiality and may submit the required witness list and/or documents to the Hearing Officer(s) by e-mail. CSES and the Respondent must make every effort to comply with the time provisions in these procedures. The Director of CSES (or designee) may, in their sole discretion, modify any deadline for good cause.

Cases Involving a Complainant and Respondent: Same as Cases Involving a Respondent Only.

## **2. Hearing Procedures**

a. Closed Hearing. All proceedings are closed, except in cases where an alleged victim is not a student. In such cases the alleged victim can participate in the hearing. The Complainant, Respondent, and any non-student victim and their advisors may be present throughout the hearing. Witnesses shall be present only during their own testimony. See section d below.

b. Hearing Record. Hearings are not usually recorded, as the decision letter serves as documentation of the evidence presented and decision reached. A hearing may be audiotape recorded if CSES deems it appropriate. In those cases, the tape recording will remain on file in CSES until it is destroyed or discarded along with other disciplinary records as specified in the *Student Conduct Records* sections of this policy.

c. Maintaining Order. The Hearing Officer(s) are responsible for maintaining order during the hearing and may take all steps reasonably necessary to ensure an orderly hearing up to and including removal of disruptive individuals.

d. Presenting Evidence and Questioning Witnesses. The Respondent and Complainant will have an opportunity to present relevant information and witnesses in response to and in support of the Charge. The Respondent and Complainant will have the opportunity to examine or introduce all relevant information leading to the Charge and to respond to all witness testimony. The Hearing Officer(s) may question witnesses. Neither the Respondent nor the Complainant may question witnesses directly, but may submit questions to the Hearing Officer(s), who will decide which, if any, of the questions to ask witnesses.

e. Requesting Evidence. The Hearing Officer(s) may request the presence of relevant witnesses and may introduce relevant documents or reports.

f. Remote Testimony. A victim of an alleged sexual offense or other violent offense, including offenses involving threats of violence or non-physical abuse, may testify via an intercom or other remote audio or video device, so that they may testify without face-to-face contact with the

Respondent. The identity of all witnesses who testify must be made known to the Respondent. In no event may testimony via intercom or other remote device be used to keep the alleged victim's identity from the Respondent.

g. Anonymous Evidence and Evidence Received Outside the Hearing. The Hearing Officer(s) will not accept or hear any evidence coming from an anonymous source or evidence that is presented outside of the hearing.

h. Relevant Evidence. The Hearing Officer(s) will decide whether to admit evidence. The rules of evidence used in courts of law are not followed in this student conduct process. Generally, a Hearing Officer will agree to hear evidence that is relevant to the subject matter of the hearing and is fair and reliable under the circumstances of the case. Character evidence is generally not considered relevant.

i. Adjudicatory Standard. The Hearing Officer(s) will determine whether the Respondent is "responsible" or "not responsible" for the alleged violation. The Respondent will be presumed "not responsible" until proven otherwise by a preponderance of the evidence. A preponderance of the evidence is reached when the Hearing Officer(s) concludes that it is more likely than not that the Respondent violated this Code as alleged in the Charge.

j. Close of Hearing. After the Complainant and Respondent have had the opportunity to present evidence and witnesses and the Hearing Officer(s) has introduced any additional witnesses, documents, or evidence to be considered, the hearing will be considered closed. Further evidence will not be considered in the decision.

k. Written Hearing Decision. The Hearing Officer(s) will provide a written decision (sent via the Respondent's University email account) stating what evidence was considered and a rationale for the decision that was reached. If the Respondent is found responsible, the hearing decision will state what sanctions will be imposed. In cases involving a Complainant and Respondent and where the allegations include conduct that could constitute a crime of violence or a sex offense, the Complainant will be copied on the decision letter to the Respondent.

l. Notice of Appeal Right. The Respondent and Complainant will be notified upon receiving the hearing decision that they have a right to appeal that decision, as described below, to the Director of CSES or designee within five business days of the date the hearing decision was sent.

### **3. Appeal Procedures**

a. Bases for Appeal. The hearing decision may be appealed for the following reasons only: (1) a procedural error unfairly and materially affected the outcome of the case, (2) evidence has been discovered that was not reasonably available at the time of the hearing, or (3) there was a clear abuse of discretion on the part of the Hearing Officer(s).

b. Submitting an Appeal. To appeal, the Respondent or Complainant must submit a written statement to the Director of CSES or designee within five business days of the date of the hearing decision letter stating, as precisely as possible, the basis for the appeal. When submitting

an appeal, the appealing party must provide a rationale for the appeal and adequate information (including documentation) to support the appeal.

Upon receipt of the appeal, the Director of CSES (or designee) will determine whether the written appeal states one of the grounds for appeal. If the written appeal does not state one of the grounds for appeal, the parties will be notified that the appeal will not be processed for failure to state an acceptable ground for appeal. If an acceptable basis for appeal is stated, the Director of CSES or designee will forward the appeal to the Dean of Students or designee to determine the appeal.

When an appeal goes forward after the initial review from the Director of CSES (or designee), in cases involving a Respondent and Complainant, a copy of the written appeal and any supporting documentation will be sent to the other party by DOS (or designee). The other party may submit a written response on the appeal to DOS (or designee) within five business days of the date the appeal was sent by CSES. A copy of this response will be sent to the appealing party from the Dean of Students or designee.

c. Consideration of Appeal. If additional information/evidence is submitted on appeal, the appeal and any additional information/evidence will be forwarded to the other party for a response to the relevance and/or impact of the additional evidence. The other party has five days to provide a written response.

The Dean of Students or designee may elect to meet with the parties to discuss the appeal. If new evidence is presented (that was not reasonably available at the time of the hearing) that could change the outcome, this evidence will be referred back to the original hearing officer for review. The parties will be provided reasonable notice (generally at least two business days) of such a meeting, including notice of any additional evidence that will be considered. The appeal will be decided on the record established at the hearing. Additional evidence will not be considered unless the party seeking to introduce further evidence demonstrates good cause, to be determined solely by the Dean of Students or designee, why the evidence was not available at the time of the hearing. If such further evidence is to be considered on appeal, the other party shall be provided a reasonable opportunity (5 business days) to respond to the evidence, in writing, prior to a final written decision.

d. Written Appeal Decision. The Dean of Students or designee will render a written decision. The appeal decision may uphold the original hearing decision, modify the hearing decision, overturn the hearing decision, or refer the case back to the original hearing officer, as warranted. The appeal decision is the final action taken by the University.

#### **4. Post-Hearing Process**

If the Respondent fails to comply with the sanctions imposed, a Hearing Officer(s) may impose additional sanctions on the Respondent, up to and including dismissal from the University. In addition to the sanctions listed in the next section, the Hearing Officer(s) may place a hold on the student's future registration privileges with the University. Such a hold results in a cancellation of all pre-registered courses. The hold remains in effect until the outstanding student conduct

matter and sanctions have been resolved. Additionally, a student who fails to comply with sanctions imposed will be billed a \$100 non-compliance fee to the student's account.

## **G. Descriptions of Sanctions**

Hearing Officers will impose sanctions after determining that a Respondent has violated this Code.

When doing so, they may consider mitigating and aggravating circumstances. Factors that may be considered include the following:

- Present demeanor of the Respondent.
- Past student conduct history of the Respondent, including the completion of sanctions from past student conduct cases.
- Nature of the offense.
- Severity of the damage, injury, or harm resulting from the offense.
- Whether a Respondent promptly took responsibility for one's actions.
- The Respondent's honesty (or lack thereof) and cooperation with staff during any investigation and subsequent student conduct proceeding.
- Whether the violation involved an action directed at another based on their race, religion, ethnic origin, gender, age, physical ability, sexual orientation, gender identity, or gender expression.

All sanctions can be applied to individual students and/or student organizations. Students may also be subject to sanctions for the same conduct by their academic unit or student organization. Sanctions that may be imposed include, but are not limited to, the following:

**Disciplinary Warning:** An official written notification that a student's behavior is in violation of University regulations or standards, which clarifies expected behavior in the future. Further misconduct may result in more serious sanctions.

**Educational Sanctions:** The Hearing Officer(s) may require completion of a variety of educational sanctions, which may include but are not limited to:

- a formal apology, in writing or in person
- a public presentation
- reading books, watching videos, creating or attending a program
- a reflective essay or a research paper on a designated topic
- alcohol and other drug education or referral

The Respondent must pay all fines or fees associated with alcohol and other drug education consultations and classes, as well as those for sessions with a Certified Drug and Alcohol Counselor.

**Community Restitution:** The Hearing Officer(s) may also require performance of a specified number of community restitution hours. This sanction will be fulfilled either on or off campus, as specified. On campus service will take place in a specified department.



**Financial Restitution:** The Hearing Officer(s) may require proof of restitution for damage done or other payment for expenses incurred as a result of the Respondent's actions. Restitution may be required to the University, a specific department, or a specific individual, as designated by the Hearing Officer.

**Fines:** The Hearing Officer(s) may levy fines billed to the student's account.

**Suspension from Residence Halls:** This sanction prohibits the student from residing in any University operated residence hall on either a temporary or a permanent basis. The Respondent may reapply for housing after the stated period of suspension. Specific restrictions on access to residence halls during the period of suspension may also be imposed. Suspension usually includes forfeiture of any fee rebate for the remainder of the housing contract.

**Suspension from the University:** This sanction separates the student from the University for a specified period of time. This sanction prohibits attendance at any classes and participation in the University Study Abroad program during the suspension period. The terms of the suspension may restrict access to University grounds or buildings, as well as attendance at University-sponsored social events, or other functions, as deemed appropriate by the Dean of Students or designee. The student may not register or enroll until the stated period of suspension is completed and any requirements for the period of suspension are fulfilled.

**Dismissal:** This sanction separates the student permanently from the University of Vermont.

## **H. Student Conduct Records**

Records to be maintained under this policy will be maintained by CSES. Additionally, certain notice of charge letters, and incident reports will be forwarded to University Police Services to be maintained in compliance with the Jeanne Clery/Campus Security Act. Records of suspension or dismissal from the University are permanent. Records of warning, probation, or other sanctions will be destroyed upon the student's graduation. Student Conduct records of a student who has voluntarily withdrawn from the University will be destroyed after two consecutive years of withdrawal unless the records include sanctions of suspension or dismissal from the University. In that case, the records are permanent.

If a student withdraws or leaves the University prior to the resolution of an incident in which the student is involved, the disciplinary process will continue through final resolution in accordance with this Policy, and the student's conduct record will be maintained as described above.

Student conduct records are personal and confidential. Students may inspect their records at reasonable times. These records may also be shared with other University officials who have a legitimate educational interest in the information they contain, or with a Complainant in compliance with the Jeanne Clery/Campus Security Act. Under no circumstances will any personally identifiable information be released to any external individual, agency, or organization except with the prior written consent of the student or as otherwise required by law.

## **I. Parent/ Guardian Notification**

As allowed by the 1998 Higher Education Amendments, the University sends written notification to the parents or guardians of students who are under twenty-one years old at the time of the disclosure when they have been found responsible for violating the University's Alcohol and Other Drug policy. The letter does not include information from prior incidents or any case specifics. For detailed information to be shared with parents or guardians or any other third party outside the University, a signed waiver from the student is required.

## **Forms**

Incident Report Form

<http://www.uvm.edu/~cses/?Page=IncidentReport.php>

## **Contacts**

Questions related to the daily operational interpretation should be directed to:

Dean of Students

41 South Prospect Street

Burlington, Vermont 05405

(802) 656-3380

<http://www.uvm.edu/~dos/>

Director, Center for Student Ethics & Standards

41 South Prospect Street

Burlington, Vermont 05405

(802) 656-4360

<http://www.uvm.edu/cses/>

The University Official responsible for interpretation and administration of this policy is the Dean of Students.

## **Related Documents / Policies**

Code of Academic Integrity

<http://www.uvm.edu/~uvmppg/ppg/student/acadintegrity.pdf>

FERPA Rights Disclosure

<http://www.uvm.edu/~uvmppg/ppg/student/ferpa.pdf>

## **Effective Date**

Approved by the President on February 7, 2012