

**IDAHO STATE UNIVERSITY
POLICIES AND PROCEDURES (ISUPP)
STUDENT CONDUCT SYSTEM
(Policy #5000)**

POLICY INFORMATION

Major Functional Area (MFA): Office of the Vice President for Student Affairs

Policy Title: Student Conduct System

Responsible Executive (RE): Vice President for Student Affairs

Sponsoring Organization (SO): Office of the Vice President for Student Affairs

Dates: Effective Date: *August 26, 2013*

Annual Review: *August 26, 2013*

I. INTRODUCTION

The Student Conduct System is a policy of behavioral standards and responsibilities (Student Conduct Code) for ISU students (as defined by the policy) and includes the University conduct process and procedural rights.

II. POLICY STATEMENT

The Student Conduct System is an expression of behavioral standards, process and procedures that are intended to allow students and others at ISU to live, work, study, recreate and pursue their educational goals in a safe and secure environment. The Student Conduct System policy applies to all admitted and enrolled ISU students, along with other individuals as defined in Article I: Definitions of the Student Conduct Code, contained in this policy.

III. AUTHORITY AND RESPONSIBILITIES

- A. The Director of Student Life serves as the University Conduct Administrator and oversees the implementation and process of the Student Conduct System.
- B. The Student Conduct Board is comprised of a group of students, faculty and/or staff who receive training and support in their role as officials of the Student Conduct System.
- C. Other University officials from the Division of Student Affairs, such as ISU Housing, serve as Student Conduct Administrators and report to the University Student Conduct Administrator on related matters.

- D. The policies and procedures listed in Article III: Academic Affairs Conduct Policies include Academic Dishonesty and Disruptive Behavior in Classrooms and Laboratories. These conduct-related policies are under the authority and responsibility of Academic Affairs and the Office of the Provost and Vice President for Academic Affairs and are included in the Student Conduct System in their currently approved form. The University Conduct Administrator and the Office of the Vice President for Student Affairs provides consultation and support on behalf of these conduct-related policies.

IV. DEFINITIONS

See Article I: Definitions of the Student Conduct Code listed under V. Student Conduct System: Code, Process and Procedures in this policy document.

V. STUDENT CONDUCT SYSTEM: CODE, PROCESS AND PROCEDURES

Idaho State University Student Conduct Code*

Preamble

ISU's Student Conduct System is predicated on the premise that communities have the authority and the responsibility to establish standards and expectations for the behavior of its members. The late Dr. Ernest Boyer, President of the Carnegie Foundation for the Advancement of Teaching, identified six principles of community that provide the foundation for ISU's *Student Conduct Code*:

Purposeful

A college is an educationally *purposeful* community, a place where faculty and students share academic goals and work together to strengthen teaching and learning on the campus.

Open

A college is an *open* community, a place where freedom of expression is uncompromisingly protected and where civility is powerfully affirmed.

Just

A college is a *just* community, a place where the sacredness of the person is honored and where diversity is aggressively pursued.

Disciplined

A college is a *disciplined* community, a place where individuals accept their obligations to the group and where well-defined governance procedures guide behavior for the common good.

Caring

A college is a *caring* community, a place where the well-being of each member is sensitively supported and where service to others is encouraged.

Celebrative

A college is a *celebrative* community, one in which the heritage of the institution is remembered and where rituals affirming both tradition and change are widely shared.

Campus Life: In Search of Community (1990). The Carnegie Foundation for the Advancement of Teaching. Ernest L. Boyer (frwd); Princeton, NJ.

*ISU gratefully acknowledges that this *Student Conduct Code* is based on:

“Navigating Past the ‘Spirit of Insubordination’: A Twenty-First Century Model *Student Conduct Code* with a Model Hearing Script” (Stoner, E.N. and Lowery, J.W, (2004). In the *Journal of College and University Law* (Vol. 31, No. 1, pp. 1-78); and NCHERM Group: The 2012 ATIXA Campus Title IX Coordinator and Administrator Training & Certification Course Materials (September 11 – 14, 2012): Lewis, W. S., Schuster, S. K., Sokolow, B. A., and Swinton, D. C.

The *Student Conduct Code* (Code) is an expression of behavioral standards that are intended to allow students and others at Idaho State University to live, work, study, recreate, and pursue their educational goals in a safe and secure environment. The Code is crafted to reflect expectations based on values essential to such an environment and to a flourishing academic community, such as honesty, integrity, respect, civility and fairness. The standards are higher than the general law, as our expectations for ISU students, as future alumni and citizen-leaders, are considerable. That said, we strive to recognize and honor core tenets of our society and our academic legacy, such as free speech and expression.

Therefore, much expression that may be offensive or unpopular may not be actionable under this *Code*. Further, those who administer the *Code* attempt to craft both hearings and sanctions in a manner that takes into account the developmental issues and educational needs of students.

Students are not only members of the academic community, but they are also citizens of the larger society. As citizens, they retain those rights, protections and guarantees of fair treatment that are held by all citizens. In addition, students are subject to the reasonable and basic standards of the University regarding discipline and maintenance of an educational atmosphere. The enforcement of the student's duties to the larger society is, however, the responsibility of the legal and judicial authorities duly established for that purpose.

Student Conduct Code

Article I: Definitions

- A. “*Academic*” as used in this policy is synonymous with “scholastic” and refers to school-related endeavors, whether the school is academic, professional and/or technical.
- B. “*Accused*” means any student accused of violating this *Student Conduct Code*.
- C. “*Address of record*” is the student’s ISU email address and/or the official local address on file with the Office of the Registrar. Notice is considered to have been received if sent to either of these addresses.
- D. “*Complainant*” means any person who submits a complaint alleging that a student violated this *Student Conduct Code*. However, when a student believes that she/he has

been a victim of another student's misconduct, that student will have the same rights under this *Student Conduct Code* as are provided to the complainant, even if another member of the University community submitted the complaint.

- E. "*Faculty member*" as used in this policy is defined as a person who is responsible for the teaching of a class or laboratory or other instruction. These terms include professors regardless of rank, instructional staff, graduate assistants, visiting lecturers, and adjunct or visiting faculty.
- F. "*Idaho State University premises*" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by ISU (including adjacent streets and sidewalks).
- G. "*May*" is used in the permissive sense.
- H. "*Member of the Idaho State University community*" includes any person who is a student, faculty member, staff member, Idaho State University official or any other person employed by Idaho State University. A person's status in a particular situation shall be determined by the University Student Conduct Administrator, in conjunction with the Vice President for Student Affairs.
- I. "*Policy*" means the written regulations of the University as found in, but not limited to, the *Student Conduct Code*, Standards of Residence, the Idaho State University web pages and Information Technology Acceptable Use policy, and the University Graduate/Undergraduate Catalogs.
- J. "*Shall*" is used in the imperative sense.
- K. "*Student*" includes all persons taking courses at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies, whether degree or non-degree seeking, and continuing education classes or special programs. Persons who withdraw after allegedly violating the *Student Conduct Code*, who are not officially enrolled for a particular term but have a continuing relationship with the University or who have been notified of their acceptance for admission are considered students, as are persons who are living in University Housing, although not enrolled in this institution.
- L. "*Student Conduct Board*" means any group of persons authorized by the University Student Conduct Administrator to determine whether a student has violated the *Student Conduct Code* and to recommend sanctions that may be imposed when a rules violation has been committed.
- M. "*Student Conduct Official*" means an Idaho State University official authorized on a case-by-case basis by the University Student Conduct Administrator to impose sanctions upon any student(s) found to have violated the *Student Conduct Code*.
- N. "*Student organization*" means any number of persons who have complied with the formal requirements for Idaho State University student organization recognition/registration.
- O. "*University*" means Idaho State University including all locations and centers.
- P. "*University Student Conduct Administrator*" is an individual designated by the Idaho State University President, through the Vice President for Student Affairs, to be responsible for the administration of the *Student Conduct Code System*.

Article II: *Student Conduct Code* Authority

Students (Article I.K.) are subject to University authority. The Vice President for Student Affairs shall designate the University Student Conduct Administrator who shall identify and train other Student Conduct Officials. The Student Conduct Administrator, Student Conduct Officials and Student Conduct Board are responsible for the discipline of students and may, through the disciplinary procedures specified herein, impose sanctions for rule violations of the *Student Conduct Code*. University disciplinary action may be taken in those instances where a case or cases may be pending, in process or concluded in the civil or criminal courts.

The University Student Conduct Administrator, in conjunction with the Student Conduct Board and the Vice President for Student Affairs, may develop policies for the administration of the student conduct system and procedural rules for the Student Conduct Board, including hearings that are consistent with provisions of the *Student Conduct Code*.

Decisions made by the Student Conduct Administrator, a Student Conduct Board and/or Student Conduct Official shall be final, pending the appeal process.

Article III: Academic Affairs Conduct Policies

While the Office of Student Affairs is generally responsible for addressing student conduct, **classroom management and classroom behaviors in violation of behavioral norms** are under the jurisdiction of the responsible faculty member. However, a student disciplined by a faculty member for violation of classroom policies may also be subject to charges under the *Student Conduct Code*. This section describes ISU expectations, student rights, and references to procedures related to student conduct in the classroom.

Note: The policies and procedures in this Classroom Provisions section (Article III) are under the direction of Academic Affairs and generally initiated and administered by faculty, academic departments, and academic affairs administration. The Office of Student Affairs can provide assistance and consultation to the university community on these policies and procedures.

Note: The policies in this section apply to all manner of academic learning, including traditional and online courses.

A. Conduct in the Classroom

Classroom conduct is under the direction of the individual faculty member. The following information is provided in order for students to have a better understanding of appropriate classroom conduct.

B. Freedom in Classrooms

The classroom is the center for study and understanding of the subject matter for which the faculty member has professional responsibility and institutional accountability. Faculty members should encourage free discussion, inquiry and expression among their students in their quest for knowledge.

Faculty members should hold the best scholarly standards for their disciplines. They should conduct themselves in keeping with the dignity of their profession and should adhere closely to their proper role as intellectual guides and mentors. They should foster honest academic conduct and evaluate their students fairly and accurately. They should respect the confidential nature of the relationship between instructor and student.

Faculty members should avoid exploitation of students for private advantage and should acknowledge significant assistance from them. They should protect student rights as defined herein. Control of the order and direction of a class, as well as the scope and treatment of the subject matter, must therefore rest with the individual instructors. The rules properly reflect the obligation of each student to respect the rights of others in the maintenance of classroom order and in the observance of courtesy and civility common to every intellectual discipline.

1. Students have the right to be informed in reasonable detail at the beginning of each term of the nature of the course, the course expectations, the evaluative standards and the grading system that will be used.
2. Students have the right to take reasoned exception to the data or views offered in the classroom and to reserve judgment about matters of opinion without fear of penalty.
3. Students have the right of protection against improper disclosure of information concerning their professional relationships with faculty. (See the Family Education Rights and Privacy Act, a.k.a. Buckley Amendment, for further details.)
4. Students have protection through orderly procedures against prejudiced or capricious academic evaluation. At the same time, they are responsible for maintaining standards of academic performance established for each course in which they are enrolled. (See Scholastic Appeals Policy, http://www.isu.edu/policy/fs-handbook/part6/6_9/6_9c.html)

C. Disruptive Behavior in Classrooms and Laboratories

Control of the order and direction of a class or laboratory as well as the scope and treatment of the subject matter rests with the individual faculty member. Disruption of the classroom is forbidden. Each student has the obligation to respect the rights of others in the maintenance of classroom order and in the observance of courtesy and civility. The instructor has the right to impose sanctions in cases of disruptive classroom behavior. Prior to taking such action, however, it is recommended that a faculty member follow these procedural steps.

1. Inform the student that the behavior in question is disrupting the class and request that the student discontinue the behavior.

In the case of aggressive disruptive behavior, the instructor should ask the student to leave the classroom immediately or initiate action to have the student removed by seeking assistance from ISU Public Safety or the department chair.

Following an incident of aggressive disruptive behavior, the instructor should promptly notify the department chair and dean's office having jurisdiction over the

class, who in turn may contact the Office of Student Affairs and ISU Public Safety in order to determine the appropriate action to be taken. Such action, depending upon the nature and severity of the behavior, may warrant, but not be limited to, any sanction listed in paragraph 3 below.

2. If the disruptive behavior continues (whether in the same or a subsequent class period), the instructor should again direct the student to stop the behavior and ask to meet with the student outside of class (e.g. in the instructor's office) to inform the student that the behavior is disruptive.

At this point, the instructor should direct the student to review the section "Disruptive Behavior in Classrooms and Laboratories (Article III.C)" of the *Student Conduct Code* in the Student Handbook and follow up with a letter to the student.

This letter of notice will be sent to the student's address of record. The letter should describe the specific behavior that is disruptive, reference the warnings given to the student, and state what further actions may take place if the behavior were to continue. The letter will also serve as documentation that may become necessary if the disruptive behavior continues. A copy of the letter should be sent to the chair of the department for the class, the Vice President for Student Affairs and the chair of the student's major department.

3. If the disruptive behavior continues, the instructor's options include:
 - a. asking the student to leave the classroom, which may be followed up with a call to ISU Public Safety, if necessary, to have an official escort the student from the room (notify the department chair that this was done);
 - b. imposing a grade reduction;
 - c. assigning an "F" in the course;
 - d. withdrawing the student from the course and/or; e) sending a second letter to the chair of the student's major department, which may lead to further sanctions, including dismissal from the program or the University.
 - e. sending a second letter to the chair of the student's major department which may lead to further sanctions, including dismissal from a program or the university.

If the instructor chooses any of the options b-e, the decision should be made in conjunction with her/his department chair, and the academic dean (or dean's representative) should be notified.

Sanctions assigned by a professor under this policy may not be avoided by withdrawing from or dropping the class. When sanctions require action by the Registrar, the Registrar shall be notified in writing by the department chair or dean involved in the case.

4. Any student appeal of sanctions imposed due to disruptive behavior in the classroom is made to the dean (or dean's representative) of the college having jurisdiction over the course. The decision of the dean is final for that particular class.

In the case of a graduate student, appeals follow the same steps as appeals of grades or dismissal. The Graduate Council's decision is final. In neither case is the matter appealable through the scholastic appeals process.

Students and faculty members should be aware that if the department chair or college dean (or dean's representative) becomes involved, he/she will assess all relevant information and recognize the obligation of fairness to the instructor, the student, and the class. (See Disruptive Behavior in the Classroom in ISU Policies and Procedures - http://www.isu.edu/policy/fs-handbook/part6/6_9/6_9d.html)

D. Academic Dishonesty

1. General

Academic integrity is expected of all individuals in academe. Behavior beyond reproach must be the norm. Academic dishonesty in any form is unacceptable. Academic dishonesty includes, but is not limited to, cheating and plagiarism.

2. Definitions

- a) **“Cheating”** is using or attempting to use materials, information, or study aids that are not permitted by the instructor in examinations or other academic work. Examples of cheating include, but are not limited to:
1. Obtaining, providing, or using unauthorized materials for an examination or assignment, whether verbally, visually, electronically, or by notes, books, or other means.
 2. Acquiring examinations or other course materials, possessing them, or providing them to others without permission of the instructor. This includes providing any information about an examination in advance of the examination.
 3. Taking an examination for another person or arranging for someone else to take an examination in one's place.
 4. Submitting the same work or substantial portions of the same work in two different classes without prior approval of the instructor.
 5. Fabricating information for any report or other academic exercise without permission of the instructor.
- b) **“Plagiarism”** is representing another person's words, ideas, data, or work as one's own. Plagiarism includes, but is not limited to, the exact duplication of another's work and the incorporation of a substantial or essential portion thereof without appropriate citation. Other examples of plagiarism are the acts of appropriating creative works or substantial portions thereof in such fields as art, music, and technology and presenting them as one's own.

The guiding principle is that all work submitted must properly credit sources of information. In written work, direct quotations, statements that are paraphrased, summaries of the work of another, and other information that is not considered common knowledge must be cited or acknowledged. Quotation marks or a proper form of identification shall be used to indicate direct quotations.

As long as a student adequately acknowledges sources of information, plagiarism is not present. However, students should be aware that most instructors require certain forms of acknowledgment or references and may evaluate a project on the basis of form, penalizing the student in the grade assigned if citation of sources is improper.

3. Penalties for Academic Dishonesty

- a. Any penalty imposed for academic dishonesty shall be in proportion to the severity of the offense.
- b. Penalties that may be imposed by the instructor are:
 - (1) Warning: The instructor indicates to the student that further academic dishonesty will result in other sanctions being imposed.
 - (2) Resubmission of work: The instructor may require that the work in question be redone to conform to proper academic standards or may require that a new project be submitted. The instructor may specify additional requirements.
 - (3) Grade reduction: The instructor may lower a student's grade or assign "F" for a test, project, or other academic work.
 - (4) Failing: The instructor may assign "F" for the course.
 - (5) Failing with notation: The instructor may assign "F" for the course and instruct the Registrar to place notation indicating academic dishonesty on the student's permanent transcript.
- c. Penalties that may be imposed at the University level are:
 - (1) Suspension from the University: This is the administrative withdrawal of the offending student by the University. The student is suspended for a length of time, determined by the University, which may depend upon the circumstances that led to the sanction.
 - (2) Expulsion from the University: This is the most severe penalty for academic dishonesty and may be imposed by the University for extreme or multiple acts of academic dishonesty. Once expelled, the student is not eligible for readmission to the University.
- d. Combinations of penalties may be imposed.
- e. Withdrawal from a course does not exempt a student from penalties for academic dishonesty.

4. Procedures for Determination of Academic Dishonesty and Imposition of Penalties

The instructor of the course is responsible for initiating investigation of each suspected incident of academic dishonesty. When the instructor witnesses such an incident, has evidence of one, or is informed of one by a witness, the instructor shall proceed as follows:

- a. The instructor may intervene and shall gather evidence to see whether further action is necessary.
- b. If the instructor feels that a sanction of grade reduction, failing, or failing with notation is warranted, he/she shall discuss the incident with his/her department

- head or dean. If, after this meeting, the instructor decides not to impose sanctions, then no further action is necessary.
- c. If, after the meeting, the instructor decides to proceed, he/she shall inform the student or students involved (orally and in writing) of the evidence of academic dishonesty. The instructor shall meet with the student, consider the student's response (which should be given orally and in writing), and collect any available evidence and testimony from witnesses. In cases of suspected plagiarism, the instructor may ask the student to supply the references used, and the student must comply with such a request.
 - d. On the basis of this information, the instructor may decide to impose a penalty. If the penalty is only a warning or a demand that work be resubmitted, then no further action is necessary.
 - e. If, after those steps, the instructor concludes that academic dishonesty has occurred and decides to impose a sanction of grade reduction, failing, or failing with notation, he/she shall prepare a written incident report. The report shall include the student's name, the date of the incident, a description of the incident and the available evidence, and the instructor's decision regarding sanctions. The report shall state the specific sanctions imposed-grade reduction, failing, or failing with notation. The instructor shall keep a copy of the report and send copies to:
 - (1) the student,
 - (2) the chairperson (or designee) of the department in which the instructor holds an appointment,
 - (3) the chairperson (or designee) of the department in which the student is a major,
 - (4) the dean (or designee) of the college in which the instructor holds an appointment,
 - (5) the dean (or designee) of the college in which the student is a major, and
 - (6) the Office of the Registrar. A copy of the incident report shall be placed in the student's permanent file in that office.The instructor shall also inform the student of the procedures for appeal outlined in Section 5 below.
 - f. When an "F" with notation is assigned, the Office of the Registrar shall also send a letter to the student informing him/her of the procedures for appeal. Notation indicating academic dishonesty shall be placed on the student's permanent transcript if,
 - (1) the student does not appeal the penalty within the first full semester following the semester in which the alleged incident occurred, or
 - (2) the penalty is upheld in the appeals process.
 - g. Any student who receives two "F"s with notation is subject to suspension or academic expulsion. When a student receives a second "F" with notation, the Office of the Registrar shall notify the Academic Dishonesty Board; that board will then decide whether the student should be suspended, expelled, or neither, following the procedures in Section B below.

5. Procedures for Students' Appeals of Imposed Penalties

- a. The student may appeal penalties for academic dishonesty to the dean (or designee) of the college in which the course was offered. This is the final level of appeal for penalties of resubmission of work, grade reduction, or failing without notation that are imposed for academic dishonesty. For a penalty of failing with notation, the final level of appeal is the Provost and Vice President for Academic Affairs.
- b. The appeal to the dean (or designee) must be filed, in writing, no later than the next full semester following the semester in which the alleged incident of academic dishonesty occurred.
- c. When a student files an appeal, the dean (or designee) shall set a date for a formal hearing to discuss the allegations and sanctions. He/she shall moderate the hearing and keep a written record of it. The hearing shall include the instructor, the student, the chairperson (or designee) of the department in which the instructor holds an appointment, the chairperson (or designee) of the department in which the student is a major, and the dean (or designee) of the college in which the student is a major.
- d. If the formal hearing results in the student being exonerated of all charges of academic dishonesty, the dean (or designee) of the college in which the course was offered shall prepare a letter or memorandum stating that the student has been exonerated and requesting that all records about the alleged act of dishonesty be destroyed, other than the dean's own record of the hearing. The dean (or designee) shall send copies of the letter or memorandum to:
 - (1) the instructor,
 - (2) the student,
 - (3) the chairperson of the department in which the instructor holds an appointment,
 - (4) the chairperson of the department in which the student is a major,
 - (5) the dean of the college in which the student is a major, and
 - (6) the Office of the Registrar. That office shall remove all records about the alleged dishonest conduct from the student's permanent file.
- e. If the student is not exonerated of all charges, then the dean (or designee) of the college in which the course was offered shall send copies of the written record of the formal hearing to parties (1)-(6) above.
- f. If the penalty is reduced or rescinded as a result of the hearing, the dean (or designee) of the college in which the course was offered shall direct the Registrar to make any changes in the student's grade.
- g. Penalties for academic dishonesty may not be challenged through the scholastic appeals process.

Academic Dishonesty policy and procedures can also be found at:
http://www.isu.edu/policy/fs-handbook/part6/6_9/6_9a.html

Article IV: General Conduct Expectations

A. University jurisdiction under the *Student Conduct Code* and its processes:

1. apply to all students (see Article I.K., pg. 4), *student organizations* (see Article I.N., pg. 4), or other student groups when and if the collective action of such body

violates the Code and displays a lack of internal control that may be detrimental to the purposes of the University and/or maintenance of a secure and productive learning environment.

2. apply to student conduct that occurs on University premises, at University sponsored activities, and to off-campus conduct that adversely affects the University community and/or the pursuit of its objectives.
3. apply to all University locations and centers.

The Vice President for Student Affairs, or designee, shall decide whether the *Student Conduct Code* shall be applied to conduct occurring off campus on a case-by-case basis in his/her sole discretion.

B. Behavioral Expectations for Students

Each student shall be responsible for complying with behavioral/conduct expectations from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is not discovered until after a degree is awarded).

The *Student Conduct Code* shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending.

The following expectations reflect the principles and approach to decisions that we encourage, but not all behaviors that violate these principles may be actionable under this code. **Some proscribed behaviors are identified in Article V below; however, this is not an exhaustive list.**

1. Idaho State University expects its students to conduct themselves in fundamentally honest and civil ways that encourage trust and display basic integrity, as our very functioning and support depend upon trust placed in us and our credentials by the larger society.
2. Idaho State University values rational discourse, including civil disagreements and the marketplace of ideas. Therefore, we expect that students will engage in discourse and activities that are free and un-coerced; further, other parties will be afforded those same courtesies.
3. Idaho State University expects its students to recognize the core functions and processes of the University and to act in a manner that allows those functions (e.g., learning, teaching, research, free speech, enforcement of campus regulations) to progress without unnecessary impediments.
4. Idaho State University expects its students to recognize the legal and other rights of each individual and to honor those in the context of interpersonal relationships. Thus, the decision-making autonomy of each person, free from threats or force, is to be respected.

Article V. Rules and Regulations

Any student or student organization found to have committed or to have attempted to commit the following misconduct is subject to the disciplinary sanctions outlined in Article VI.D. (Student Conduct Process and Procedural Rights, Sanctions, pg. 31):

Note: The proscribed behaviors identified in this section are not an exhaustive list. See Article IV.B., pg 12, for general information on behavioral expectations.

A. Acts of dishonesty, including but not limited to the following:

1. Possible violations of the ISU Academic Dishonesty Policy are administered separately through academic channels (see http://www.isu.edu/policy/fs-handbook/part6/6_9/6_9b.html, Faculty/Staff Handbook, Part 6, Section 9). Certain behaviors may violate both the Academic Dishonesty Policy and this section, or others, of the *Student Conduct Code*. In that case, the University Student Conduct Administrator will consult with the relevant department(s) in question and determine whether one process, or both, will be utilized. (See the *Student Conduct Code*, Article III. D., Academic Affairs Conduct Policies/Academic Dishonesty for a listing of the relevant policy and procedures, pg. 8)
2. Furnishing false information to the University. This includes filing false or intentionally exaggerated reports with Public Safety, the Vice President for Student Affairs, or other University reporting sites, such as but not limited to academic departments and faculty.
3. Forgery, alteration, or misuse of any University document, record, or instrument of identification including parking passes.
4. Unauthorized possession, duplication or use of keys or access codes to any University premises or unauthorized entry to or use of University premises.

B. Theft, including but not limited to the following:

1. Attempted or actual theft of and/or damage to property of the University or property of a member of the University or other personal or public property.
2. Identity theft including assuming the identity of another person for any reason.

C. Disruption or obstructive actions or activities, including but not limited to the following:

1. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, Public Safety proceedings, other University activities, including its public service functions on or off campus, or of other authorized non-University activities when the conduct occurs on University premises. This includes speech that is manifestly unreasonable in time, place or manner such as extended and loud tirades directed at University employees engaged in official duties and that disrupt a normal University activity. (No violation occurs if the speech is merely upsetting, offensive or critical of a process or person.)
2. Participating in an on- or off-campus demonstration, riot or activity that disrupts the normal operations of the University and/or infringes on the rights of other members of the University community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.
3. Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University sponsored or supervised functions.

- D. Disorderly and/or Irresponsible Conduct**, including, but not limited to the following:
1. Conduct that is disorderly, lewd, or indecent.
 2. Breach of peace; or aiding, abetting, or procuring another person to breach the peace on University premises or at functions sponsored by, or participated in by the University or members of the its community.
 3. Any unauthorized use of electronic or other devices to make an audio or video record of any person while on University premises without his/her prior knowledge, or without his/her effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.
- E. Destruction, Damage, or Misuse of University or Private Property:** This includes, but is not limited to, all University property, whether that property be buildings, library materials, computer hardware, software and network, trees and shrubbery or University files and records; violation of University or student government rules for use of campus facilities; tampering with safety equipment, including but not limited to fire alarms, fire equipment or escape mechanisms and elevators and tampering with safety equipment.
- F. Dangerous Materials** – Illegal or unauthorized possession of firearms, explosives, other weapons, or dangerous chemicals on Idaho State University premises or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others.
- G. Misuse of Technology** – Theft or other abuse of computer facilities and resources, including but not limited to:
1. Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
 2. Unauthorized transfer of a file.
 3. Use of another individual's identification and/or password.
 4. Use of computing facilities and resources to interfere with the work of another student, faculty member or University official.
 5. Use of computing facilities and resources to send obscene, harassing, threatening or abusive messages.
 6. Use of computing facilities and resources to interfere with normal operation of the University computing system.
 7. Downloading, sharing and/or distributing copyrighted materials without the permission of the copyright holder and/or any other use of computing/network resources in violation of copyright law.
 8. Unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities in addition to University Conduct Code sanctions ranging from warning to expulsion.
 9. Any violation of the University Computer Acceptable Use Policy. (See isu.edu/fs-handbook/part3/3_8/3_8c.html)

- H. Libel** - A written, published or broadcast malicious statement, made with intent to harm, which is knowingly false.
- I. Slander** – A verbal malicious statement, made with intent to harm, which is knowingly false.
- J. Failure to comply** with directions of Idaho State University officials, including ISU Public Safety officials, acting in performance of their duties, and/or failure to identify oneself to these persons when requested to do so.
- K. Substantive or repeated violations** of any Idaho State University policy, rule, or regulation published in hard copy or available electronically on the Idaho State University website, including Housing Regulations, may be considered a violation of this Code.
- L. Abusive, threatening, and/or intimidating actions or activities**, including, but not limited to the following:
1. Physical Abuse,
 2. Verbal Abuse,
 3. Intimidation,
 4. Verbal and Nonverbal Threats, (Threat means the making of statements or engaging in a non-verbal act or acts that communicate a clear and serious expression of intent to commit an act of unlawful violence to a particular person, persons or property or has the intent to inflict severe emotional distress.)
 5. Coercion,
 6. Other conduct which threatens or endangers the health or safety of any person.
- M. Harassment** of any student is absolutely forbidden. It is inimical to the purpose of the University and violates state and federal laws and the rules and governing policies and procedure of the University. There are several forms of harassment, all of which are prohibited at Idaho State University. Harassment generally is the malicious or intentional act(s) of hostile, disturbing, or pestering behavior or speech (oral or written) that has the effect of bringing physical harm or substantial emotional distress, or seriously limits an individual's life activities. A violation may include conduct towards another person or persons including, but not limited to, an individual's academic performance, or living conditions, or participation in a University activity;
1. unwelcome comments or other behavior that creates an intimidating, hostile, or offensive environment for that individual's work, education, living conditions, or participation in a University activity;
 2. retaliation against any person filing a conduct complaint or against any person participating in the conduct process; or
 3. implied or stated threats of violence.

Harassment can occur in an employment setting or in other settings and it can occur between students or from a faculty or staff member to a student, or vice versa.

In the employment setting, federal and state law, including Title VII of the Civil Rights Act of 1964 as amended, The Age Discrimination in Employment Act, and the Americans with Disabilities Act, make it unlawful to harass a person based on their race, color, national origin, sex, religion, age, or physical or mental disability. Each of these types of harassment is also misconduct under this *Student Conduct Code*.

N. Gender-Based and Sexual Misconduct

Introduction

Members of the University community, guests and visitors have the right to be free from sexual violence. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. When an allegation of misconduct is brought to an appropriate administration's attention, and a respondent is found to have violated this policy, serious sanctions will be used to reasonably ensure that such actions are never repeated. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated. The University's **Title IX Notice of Non-Discrimination: Sexual and Gender Based Discrimination, Harassment and Other Sexual Misconduct** can be found at the following website (<http://www.isu.edu/aaction/title9.shtml>) or can be provided by the ISU Office of the Vice President for Student Affairs.

Overview of Policy Expectations

The expectations of our community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with each other, **there must be clear, knowing and voluntary consent prior to and during sexual activity**. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence—without actions demonstrating permission—cannot be assumed to show consent.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. **When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction** (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation.

Individuals who consent to sex must be able to understand what they are doing. Under this policy, "No" always means "No," and "Yes" may not always mean, "Yes." **Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "no."**

Sexual Misconduct Offenses include, but are not limited to:

1. Sexual Harassment
2. Non-Consensual Sexual Contact (or attempts to commit same)
3. Non-Consensual Sexual Intercourse (or attempts to commit same)
4. Sexual Exploitation

Note: The University investigates all complaints and allegations of gender-based and sexual misconduct. We encourage all individuals who believe that they or someone they know has been a victim of this type of misconduct to report to a University official.

1. Sexual Harassment is:

unwelcome, sexual-based verbal and physical conduct that is sufficiently severe, persistent or pervasive that it has the effect of unreasonably interfering with, denying or limiting someone's ability to participate in or benefit from the University's educational program and/or activities. This effect can be based on power differentials (quid pro quo), the creation of a hostile environment, retaliation, or other similar factors.

2. Non-Consensual Sexual Contact is:

any intentional sexual touching, however slight, with any object, by one person upon another person (regardless of gender), that is without consent and/or by force.

Sexual contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

3. Non-Consensual Sexual Intercourse is:

any sexual intercourse however slight, with any object, by one person upon another person (regardless of gender), that is without consent and/or by force.

Intercourse includes vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

4. Sexual Exploitation

Sexual Exploitation occurs when a student takes non-consensual or abusive sexual advantage of another for the student's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include but are not limited to:

- a. invasion of sexual privacy;
- b. prostituting another student;
- c. non-consensual video or audio-taping of sexual activity;

- d. going beyond the boundaries of consent within sexual activity (such as, letting your friends hide in the closet to watch you having consensual sex, sharing sexual photos);
- e. engaging in voyeurism;
- f. knowingly transmitting an STI or HIV to another student;
- g. exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- h. sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Additional Definitions and Delineations of Gender-Based and Sexual Misconduct:

1. **Consent** is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.
 - Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
 - Previous relationships or prior consent cannot imply consent to future sexual acts.
 - In order to give effective consent, one must be of legal age.
 - Sexual activity with someone who is known to be—or based on the circumstances should reasonably have been known to be—mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), constitutes a lack of consent and is a Sexual Misconduct violation.
 - This policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs.

NOTE 1: *Incapacitation* is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
2. **Force** is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes resistance or produces consent (“Have sex with me or I’ll hit you. Okay, don’t hit me, I’ll do what you want.”)

NOTE 1: *Coercion* is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE 2: There is no requirement that a person resists the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.
3. **Possession, use and/or distribution of any of these substances**, including Rohypnol, Ketamine, GHB, Scopolamine, or other substance of this type is prohibited, and administering one of these drugs to another student is a violation of

this policy. More information on these drugs can be found at <http://www.911rape.org/>

4. **Use of alcohol or drugs** will never function as a defense to a Gender-Based or Sexual Misconduct violation.
5. **The sexual orientation and/or gender identity** of individuals engaging in sexual activity is not relevant to allegations under this policy. Sexual misconduct can occur with any combination of genders, gender identities/expression, and sexual orientations.

(For reference to the pertinent state statutes on sex offenses, please see <http://legislature.idaho.gov/idstat/Title18/T18CH66.htm>).

Sanctions for Sexual Misconduct

1. Any student found responsible for violating the policy on *Non-Consensual or Forced Sexual Contact* (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.
2. Any student found responsible for violating the policy on *Non-Consensual or Forced Sexual Intercourse* will likely face a recommended sanction of suspension or expulsion.
3. Any student found responsible for violating the policy on *Sexual Exploitation* or *Sexual Harassment* will likely receive a recommended sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.

The University Student Conduct Administrator or the Student Conduct Hearing Board reserve the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the initial Student Conduct Officials nor any appeals body or University Officials will deviate from the range of recommended sanctions unless compelling justification exists to do so.

Sexual Misconduct: Rights, Reporting and Resources

ISU encourages all members of the University community (all campuses) to report any and all incidents of sexual misconduct to one of the following:

- ISU Public Safety (208-282-2515)
- ISU Office of Student Affairs (208-282-2794)
- ISU Equal Opportunity/Affirmative Action/Diversity Office (208-282-3964)
- ISU Janet C. Anderson Gender Resource Center (208-282-2805)
- University Housing Department Staff Members (208-282-2120)
- Local Police Department (phone listings available online for each community)

Confidential and Private Resources:

- University Counseling and Testing Service (UCTS), Pocatello (208-282-2130)
- Center for New Directions, ISU College of Technology, Pocatello (208-282-2454)
- Counseling, Testing and Career Services, Idaho Falls (208-282-7750)
- ISU-Meridian Counseling Clinic, (208-373-1719)

- Twin Falls campus contact UCTS-Pocatello at (208-282-2130) for referrals
- Family Services Alliance, Pocatello (208-232-0742 or 208-251-HELP)
- Domestic Violence & Sexual Assault Center, Idaho Falls (208-529-4352 or 208-235-2412)
- Crisis Center of Magic Valley, Twin Falls (208-733-0100 or 800-882-3236)
- Women and Children's Alliance, Boise (208-343-3688 or 208-345-7273)

Note: Reporting to a resource that maintains confidentiality and privacy does not constitute reporting to the University. To report to University officials please contact one of the ISU departments listed at the top of this page.

Rights and Additional Information:

Preservation of evidence is important. The victim/survivor should not shower or bathe until after an examination by a health care professional.

ISU provides free counseling, mental and physical health support for complainants/victims/survivors and the accused of sexual misconduct. In addition, each ISU campus has local community services and resources for victims/survivors of domestic violence and sexual assault. See the listing under *Confidential and Private Resources*, on this page.

The complainant/victim/survivor and the accused, if students, are entitled to the same opportunities to have others present during a Student Conduct Hearing.

The complainant/victim/survivor and the accused shall be informed of the outcome of any Student Conduct Hearing alleging a sexual assault.

The complainant/victim/survivor also has the right to have their academic and living situations altered, if requested and reasonably available.

Complainants/victims/survivors of sexual misconduct have the right and ISU encourages victims/survivors to pursue action through the University Student Conduct system (if the alleged perpetrator is a student) and/or the appropriate law enforcement authorities, and/or the courts. The University wishes to encourage victims to report incidents of sexual misconduct and, therefore, reserves the right to waive student conduct charges against victims for circumstances surrounding the incident. For example, a victim who had been an underage drinker would not typically face charges of violating alcohol policies.

- O. Stalking** is a course of conduct directed at a specific person that would cause a reasonable person to feel fear. A course of conduct can be defined as a pattern of behavior composed of two or more acts over a period of time, however short, that evidence a continuity of purpose. Stalking behavior includes communicating orally, in writing, or electronically with another individual or remaining in the physical presence of the other person.

P. Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing is not a neutral act and are violations of this rule, as are violations of the Idaho Hazing Statute §18-917.

(<http://legislature.idaho.gov/idstat/Title18/T18CH9SECT18-917PrinterFriendly.htm>):

1. No student or member of a fraternity, sorority or other living or social student group or organization organized or operating on or near a school or college or University campus, shall intentionally haze or conspire to haze any member, potential member or person pledged to be a member of the group or organization, as a condition or precondition of attaining membership in the group or organization or of attaining any office or status therein.
2. As used in this section, "haze" means to subject a person to bodily danger or physical harm or a likelihood of bodily danger or physical harm, or to require, encourage, authorize or permit that the person be subjected to any of the following:
 - a. Total or substantial nudity on the part of the person;
 - b. Compelling ingestion of any substance by the person;
 - c. Wearing or carrying of any obscene or physically burdensome article by the person;
 - d. Physical assaults upon or offensive physical contact with the person;
 - e. Participation by the person in boxing matches, excessive number of calisthenics, or other physical contests;
 - f. Transportation and abandonment of the person;
 - g. Confinement of the person to unreasonably small, unventilated, unsanitary or unlighted areas;
 - h. Sleep deprivation; or
 - i. Assignment of pranks to be performed by the person.
3. The term "hazing," as defined in this section, does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any group or organization. The term "hazing" does not include corporal punishment administered by officials or employees of public schools when in accordance with policies adopted by local boards of education.
4. A student or member of a fraternity, sorority or other student organization, who personally violates any provision of this section, shall be guilty of a misdemeanor.

Q. Illegal Drugs – Use, possession, manufacturing, or distribution of marijuana, heroin, narcotics, or other controlled substances except as expressly permitted by law. Violation of alcohol or drug regulations may lead to notification of a student's parents.

The University expects its students to comply with local, state, and federal laws regarding proscribed substances, in addition to institutional policies. We recognize that our society provides certain privileges to its citizens at different age-points, but adapting to these demands, even while perhaps working for their change, is a part of our obligations as free citizens.

FEDERAL TRAFFICKING PENALTIES—ILLEGAL SUBSTANCES

DRUGS/SCHEDULE	QUANTITY	PENALTIES	QUANTITY	PENALTIES
Cocaine (Schedule II)	500 - 4999 gms mixture	First Offense: Not less than 5 yrs, and not more than 40 yrs. If death or serious injury, not less than 20 or more than life. Fine of not more than \$2 million if an individual, \$5 million if not an individual Second Offense: Not less than 10 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$4 million if an individual, \$10 million if not an individual	5 kgs or more mixture	First Offense: Not less than 10 yrs, and not more than life. If death or serious injury, not less than 20 or more than life. Fine of not more than \$4 million if an individual, \$10 million if not an individual. Second Offense: Not less than 20 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$8 million if an individual, \$20 million if not an individual. 2 or More Prior Offenses: Life imprisonment
Cocaine Base (Schedule II)	5-49 gms mixture		50 gms or more mixture	
Fentanyl (Schedule II)	40 - 399 gms mixture		400 gms or more mixture	
Fentanyl Analogue (Schedule I)	10 - 99 gms mixture		100 gms or more mixture	
Heroin (Schedule I)	100 - 999 gms mixture		1 kg or more mixture	
LSD (Schedule I)	1 - 9 gms mixture		10 gms or more mixture	
Methamphetamine (Schedule II)	5 - 49 gms pure or 50 - 499 gms mixture		50 gms or more pure or 500 gms or more mixture	
PCP (Schedule II)	10 - 99 gms pure or 100 - 999 gms mixture	100 gm or more pure or 1 kg or more mixture		

FEDERAL TRAFFICKING PENALTIES - ILLEGAL SUBSTANCES

Other Schedule I & II drugs (and any drug product containing Gamma Hydroxybutyric Acid)	Any amount	First Offense: Not more than 20 yrs. If death or serious injury, not less than 20 yrs, or more than Life. Fine \$1 million if an individual, \$5 million if not an individual. Second Offense: Not more than 30 yrs. If death or serious injury, not less than life. Fine \$2 million if an individual, \$10 million if not an individual
Flunitrazepam (Schedule IV)	1 gm or more	
Other Schedule III	Any	First Offense: Not more than 5 years. Fine not more

drugs	amount	than \$250,000 if an individual, \$1 million if not an individual.
Flunitrazepam (Schedule IV)	30 to 999 mgs	Second Offense: Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if not an individual
All other Schedule IV drugs	Any amount	First Offense: Not more than 3 years. Fine not more than \$250,000 if an individual, \$1 million if not an individual.
Flunitrazepam (Schedule IV)	Less than 30 mgs	Second Offense: Not more than 6 yrs. Fine not more than \$500,000 if an individual, \$2 million if not an individual.
All Schedule V drugs	Any amount	First Offense: Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual. Second Offense: Not more than 2 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.

FEDERAL TRAFFICKING PENALTIES—MARIJUANA

DRUG	QNT.	1 ST OFFENSE	2 ND OFFENSE
Marijuana	1,000 kg or more mixture; or 1,000 or more plants	<ul style="list-style-type: none"> • Not less than 10 years, not more than life • If death or serious injury, not less than 20 years, not more than life • Fine not more than \$4 million if an individual, \$10 million if other than an individual 	<ul style="list-style-type: none"> • Not less than 20 years, not more than life • If death or serious injury, mandatory life • Fine not more than \$8 million if an individual, \$20 million if other than an individual
Marijuana	100 kg to 999 kg mixture; or 100 to 999 plants	<ul style="list-style-type: none"> • Not less than 5 years, not more than 40 years • If death or serious injury, not less than 20 years, not more 	<ul style="list-style-type: none"> • Not less than 10 years, not more than life • If death or serious injury, mandatory life • Fine not more than \$4 million if an individual, \$10 million if

		than life • Fine not more than \$2 million if an individual, \$5 million if other than an individual	other than an individual
Marijuana	more than 10 kgs hashish; 50 to 99 kg mixture more than 1 kg of hashish oil; 50 to 99 plants	• Not more than 20 years • If death or serious injury, not less than 20 years, not more than life • Fine \$1 million if an individual, \$5 million if other than an individual	• Not more than 30 years • If death or serious injury, mandatory life • Fine \$2 million if an individual, \$10 million if other than individual
Marijuana	1 to 49 plants; less than 50 kg mixture	• Not more than 5 years • Fine not more than \$250,000, \$1 million other than individual	• Not more than 10 years • Fine \$500,000 if an individual, \$2 million if other than individual
Hashish	10kg or less		
Hashish Oil	1kg or less		

R. Alcohol – Use, possession, manufacture, or distribution of alcoholic beverages (except as expressly permitted by Idaho State University regulations). Violation of alcohol or drug regulations may lead to notification of a student's parents. Alcoholic beverages may not, in any circumstances, be used by, possessed by or distributed to any person under twenty-one (21) years of age.

Alcohol Violations and Policy

1. Regulations

- a. Consumption and possession of alcohol is prohibited in general use areas and all University Residence Halls. General use areas shall include all University owned, leased or operated facilities, and on-campus grounds.
- b. Consumption and possession of alcohol is only permitted in the University Apartments of persons of legal age, and other areas designated by the President with the approval of the State Board of Education. Distribution of alcohol to a minor is prohibited.
- c. Possession and consumption of alcohol by a minor is prohibited.
- d. Possession or consumption of alcohol in areas that are designated as "alcohol free" is prohibited.
- e. If a student violates the *Student Conduct Code* while under the influence of alcohol, this policy will also apply.

- f. Sale of alcohol, unless authorized by the State Board of Education and with the appropriate licenses and permits, is prohibited.

2. Enforcement

- a. All incidents of alcohol violations shall be reported to the Public Safety Office.
- b. All reports of incidents involving alcohol will be forwarded to the University Student Conduct Administrator.
- c. The University Student Conduct Administrator, or designee, will be responsible for the following:
 - (1) Determining if an incident reported constitutes a violation of the University alcohol policy.
 - (2) Recording and tracking all students involved with alcohol violations.
 - (3) Notification of the criminal justice system, when warranted, of the behavior of an individual involved in an incident.
 - (4) Enforcing sanctions described.

3. Sanctions

- a. Minimum Sanctions
The sanctions described are minimum sanctions and do not limit the disciplinary power of the University in any matter involving *Student Conduct Code* violations.
- b. Infractions and Mandatory Sanctions
 - (1) *First infraction of the Academic Year* – The student must attend an alcohol education class and will be placed on University conduct probation.
 - (2) *Second infraction in the Academic Year without injury or conduct likely to lead to injury* – The student is placed on conduct probation and, at the student's expense, must submit to a substance abuse evaluation administered by a qualified authority. The student will provide the evaluation results or authorize the release of the evaluation results to the University Student Conduct Administrator, or designee.
 - (3) *Second infraction in the Academic Year with injury or conduct likely to lead to injury* – The student is placed on conduct probation, and, at the student's expense, must submit to a substance abuse evaluation performed by a recognized authority. The student will provide the evaluation results or authorize the release of the evaluation results to the Vice President for Student Affairs Office. The University Student Conduct Administrator or designee may share all records of the incident with the Pocatello Police Department or other appropriate law enforcement agencies as deemed necessary.
 - (4) *Third infraction in the Academic Year without injury or conduct likely to lead to injury* – The student is suspended from the University for one academic semester.
 - (5) *Third Infraction in the Academic Year with injury or conduct likely to lead to injury* – The student is suspended from the University for at least one academic year and all records involving the incident may be shared with the Pocatello Police Department or other appropriate law enforcement agencies as deemed necessary by the University Student Conduct Administrator or designee.

- c. Recording Cycle for Violations is One Academic Year
The academic year begins the first day University Housing opens for the fall semester and will continue through the day prior to University Housing opening for the next academic year.
- d. Right of Appeal
The student may appeal to the Vice President for Student Affairs. The procedure described in the Student Conduct System policy will apply for all appeals. On-campus residents who live in University Housing and who violate the alcohol policy in on-campus housing will be governed by the policy and appeals process described in the University Housing Standards of Residence Life Handbook.

4. Additional Information – Alcohol Violations

Students who violate the *Student Conduct Code* Alcohol and/or Illegal Drug rules and regulations are subject to disciplinary action through University Housing [<http://www.isu.edu/housing/manual.shtml>] and/or the University Student Conduct system.

Students may also be subject to arrest and prosecution in cases where state laws have been violated. Sanctions up to and including expulsion may be imposed for drug or alcohol violations. A conviction for violation of state or federal drug laws may jeopardize federal financial aid.

The University will attempt to help students who have an alcohol and/or drug problem and wish to receive assistance in dealing with that problem. The University will not, however, condone illegal activity; continued violation of drug or alcohol policies may result in expulsion.

- S. Misconduct Abroad** – Any student, who in any foreign country undertakes study or represents the University otherwise, remains subject to the *Student Conduct Code*. The University retains discretion, as it considers appropriate, to apply disciplinary action under the Code if the student violates any law, rule or regulation in that country or any institution where that student undertakes study.

T. Abuse of the Student Conduct System, including but not limited to:

1. Failure to obey the notice from a Student Conduct Official, Board or other University official to set an appointment or appear for a meeting or hearing as part of the Student Conduct System.
2. Falsification, distortion, or misrepresentation of information before a Student Conduct Administrator or Student Conduct Board.
3. Disruption or interference with the orderly proceedings of a Student Conduct Meeting, Administrative Hearing or Board Hearing.
4. Institution of a *Student Conduct Code* proceeding in bad faith.
5. Attempting to discourage an individual's proper participating in, or use of, the student conduct system.
6. Attempting to influence the impartiality of a Student Conduct Administrator or a member of a Student Conduct Board prior to, and/or during the course of, the Student Conduct Hearing proceeding.

7. Harassment (verbal or physical) and/or intimidation of a Student Conduct Administrator or a member of a Student Conduct Board prior to, during, and/or after a *Student Conduct Code* proceeding.
8. Failure to comply with the sanction(s) imposed under the *Student Conduct Code*.
9. Influencing or attempting to influence another person to commit an abuse of the *Student Conduct Code* system.

U. Violation of Law and Idaho State University Discipline – Idaho State University disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this *Student Conduct Code* (that is, if both possible violations result from the same factual situation) without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution.

Proceedings under this *Student Conduct Code* may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the University Student Conduct Administrator in consultation with the Vice President for Student Affairs and General Counsel.

Determinations made or sanctions imposed under this *Student Conduct Code* shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

V. Other Acts of Misconduct – Violations of any local, state, or federal laws and/or any published University policies may be actionable under the *Student Conduct Code*.

Article VI: Student Conduct Process and Procedural Rights

Any member of the Idaho State University community may file a complaint against a student for violations of the *Student Conduct Code*. Most often, the initial report is made to ISU Public Safety. ISU Public Safety will create a standard report and forward it to the University Student Conduct Administrator for consideration of a possible *Student Conduct Code* violation. Alternatively, a complaint may be prepared in writing and directed to the Student Conduct Administrator in the Office of the Vice President for Student Affairs. Any charge should be submitted as soon as possible after the event takes place. However, there is no statute of limitations on when an alleged violation must be brought to the attention of ISU Public Safety or the University Student Conduct Administrator.

The University Student Conduct Administrator or Student Conduct Official may conduct an investigation to determine if allegations have merit. If it is determined that an alleged violation has occurred, notice and a request for a meeting will be sent to the student's address of record (ISU email address and/or the official local address on file with the Office of the Registrar.) Allegations involving more than one accused student may be investigated and adjudicated separately or together, in the sole discretion of the University Student Conduct Administrator. If the University Student Conduct Administrator determines that the allegations have no merit, no action is taken.

A. Administrative Hearing

If, after investigation of a reported complaint or incident, it is determined that the *Code* violation(s) have merit and subsequently the accused student admits responsibility, the Student Conduct Administrator/Official may offer the accused the option of an expedited administrative hearing. This will be at the discretion of the Student Conduct Administrator and only when a student admits responsibility.

The purpose of the Administrative Hearing is solely to determine the appropriate sanctions. If the accused student does not agree with the sanctions imposed by the Student Conduct Official, then a Student Conduct Board Hearing shall be held. A record of the outcome will be maintained in accordance with University policy and state regulations (typically seven years).

B. Student Conduct Board Hearing

The University Student Conduct Administrator shall strive to a) make the composition of the Student Conduct Board and Appellate Boards represent the University community and b) make the appointments follow the criteria set forth in this document or other official University documents. The University Student Conduct Administrator shall also determine, within the parameters of the *Code*, which Student Conduct Officials shall be authorized to hear each case.

When an accused student disputes the allegations, the Student Conduct Administrator will schedule a Student Conduct Board Hearing. The purpose of the hearing is to determine responsibility and, if found responsible, the appropriate sanctions. Appeals of decisions of the Student Conduct Board are described in Article VI, Section E.

Members of the Student Conduct Board are from the faculty, staff and student body who have volunteered and received training on the ISU Student Conduct System and due process issues. A Student Conduct Hearing Board is composed of no less than three and no more than five members drawn from the Student Conduct Board. The Student Conduct Administrator will make every effort to convene a diverse Board and one that includes students. However, during recess and holiday periods, this may not be possible.

Student Conduct Board Hearings are held according to the following guidelines:

1. Student Conduct Board Hearings are private. Only the complainant, accused, their advisors, members of the Hearing Board and Student Conduct Officials may attend. However, at the discretion of the Student Conduct Administrator, other persons may be admitted. Board Hearings are recorded. The recording is the property of the University. The University does not provide a transcript but will provide a copy of the recording upon request to the complainant and accused student.
2. The complainant and accused may be accompanied by an advisor. The advisor does not speak directly to board members or otherwise participate in the hearing. However, the advisor may confer with the student that they have accompanied. The complainant and accused are responsible for presenting their own information. A student should select an advisor whose schedule permits attendance. No delays

shall be granted on the basis of an advisor's scheduling conflicts. If requested, an advisor will be provided.

3. The complainant and accused may call and question witnesses. All questions asked of witnesses must be directed to the Hearing Board Chair. The names of witnesses who will be called to testify at the hearing and advisor must be provided to the Student Conduct Administrator no less than 48 business hours prior to the hearing. The University cannot compel witnesses to testify. It is the responsibility of the complainant and the accused to persuade their witnesses to attend. In general, character witnesses are inappropriate and do not contribute to fact-finding. Rather the Board's focus is on witnesses who may have information about the incident(s) in question.
4. The complainant and accused may present evidence (records, exhibits, written statements) of their choosing at the hearing. Whether the evidence is relevant or accepted as information for consideration by the Board is at the sole discretion of the Board Chair.
5. Formal rules of process, procedure, and/or technical rules of evidence, such as those applied in criminal or civil court, are not used in *Student Conduct Code* proceedings.
6. All procedural questions and/or exceptions are subject to the final decision of the Board Chair.
7. The complainant and accused will be invited to give opening statements. Then the complainant presents his/her case followed by the accused student's presentation. The complainant and the accused will have the opportunity to question witnesses through the Board Chair. Lastly, the complainant is invited to give a closing statement followed by the accused.
8. The Board shall go into closed session following the hearing with only hearing board members present. Deliberations are not audio recorded. The Board's decision shall be based on a *preponderance of the evidence*, whether "it is more likely than not," that the accused is responsible for the alleged *Code* violation(s). The Board's decision may be rendered with or without statements of fact or comments.
9. If an accused student or complainant chooses not to attend the hearing, the hearing may commence without his or her presence. However, no assumptions shall be made about the accused student's responsibility due to his or her absence.
10. The Board may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, accused, and/or witnesses during the hearing by providing accommodations not limited to separate facilities, using a visual screen and/or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, where and as determined in the sole judgment of the University Student Conduct Administrator as appropriate.
11. The complainant and accused will be verbally notified by the Student Conduct Administrator of the outcome of the hearing within 24 hours after the Board has reached a decision. Written notification will be sent within three (3) business days.

C. Procedural Rights

The University affords students the following rights in the adjudication of alleged violations of the *Student Conduct Code*.

Rights of the Complainant	Administrative Hearing	Conduct Board Hearing
Fair & Impartial Hearing	Yes	Yes
Expeditious Hearing	Yes	Yes
Written notification of date/time/place of hearing	Yes	Yes
Present evidence; call witnesses; question witnesses	Yes	Yes
Be accompanied by an advisor	Yes	Yes
Decide not to attend hearing	Yes	Yes
Attend hearing but refuse to answer questions	Yes	Yes
Receive verbal notification within 24 hours following decision	Yes	Yes
Receive written notification of decision within 3 business days	Yes	Yes
Right to Appeal Decision	Only for sexual misconduct / sexual harassment	Yes

Rights of the Accused	Administrative Hearing	Conduct Board Hearing
Fair & Impartial Hearing	Yes	Yes
Expeditious Hearing	Yes	Yes
Written notification of date/time/place of hearing	Yes	Yes
Present evidence; call witnesses; question witnesses	Yes	Yes
Be accompanied by an advisor	Yes	Yes
Decide not to attend hearing	Yes	Yes
Attend hearing but refuse to answer questions	Yes	Yes
Receive verbal notification within 24 hours following decision	Yes	Yes
Receive written notification of decision within 3 business days	Yes	Yes
Right to Appeal Decision	No	Yes

D. Sanctions

1. In keeping with the University's focus, sanctions may include educational and learning based outcomes as appropriate. The following sanctions may be imposed, singly or in combination, upon any student found to have violated the *Student Conduct Code*:
 - a. Verbal Warning – A verbally-delivered notice that the behavior in question failed to meet the core standards of the *Student Conduct Code*.

- b. Written Warning – A written notice to the student that the student is violating or has violated institutional regulations. A record of the warning is kept in the student's file.
 - c. Probation – A written reprimand for violation of specified regulations. Probation is for a designated period of time. Sanctions may include loss of privileges or benefits. Additional sanctions up to and including suspension or expulsion may occur for additional violations of the *Student Conduct Code*.
 - d. Loss of Privileges – Denial of specified privileges for a designated period of time, including the privilege of representing the University in official capacities. However, decisions about eligibility to participate in NCAA intercollegiate competitions are reserved to the Department of Athletics.
 - e. Restitution – Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement. Financial penalties may be added to the student's ISU financial account.
 - f. Discretionary Sanctions – Work assignments, essays, service to Idaho State University, or other related discretionary assignments.
 - g. University Housing Suspension – Separation of the student from ISU University Housing for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
 - h. University Housing Expulsion – Permanent separation of the student from University Housing.
 - i. University Suspension – Separation of the student from Idaho State University for a definite period of time, after which the student is eligible to apply to return. Conditions for readmission may be specified and all sanctions must be completed prior to applying for re-admission. Suspension shall in no case be longer than two calendar years.
 - j. University Expulsion – Permanent separation of the student from Idaho State University. Expulsion carries with it an automatic appeal to the Vice President for Student Affairs or designee.
 - k. Alcohol Sanctions – Sanctions have been established for alcohol violations at the University. See Article V.R.3 (*Student Conduct Code* pg. 25).
 - l. Revocation of Admission and/or Degree – Admission to or a degree awarded from Idaho State University may be revoked for fraud, misrepresentation, or other violation of Idaho State University standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
 - m. Withholding Degree – Idaho State University may withhold awarding a degree otherwise earned until the completion of the process set forth in this *Student Conduct Code*, including the completion of all sanctions imposed, if any.
2. A disciplinary sanction becomes part of the student's permanent academic record only as set forth in this paragraph. A student's permanent academic record includes any disciplinary sanction that comprises:
 - a. expulsion, which the University automatically records onto the student's academic transcript, or
 - b. any revocation or withholding of the student's degree.
 3. Each University-related group or organization is offered the privilege to conduct its activities at the University, subject to its compliance with the *Code*. Accordingly, the

University has discretion to impose upon any University-related student group or organization any one or more of the following sanctions:

- a. each sanction described in Article VI.D.
- b. loss of any applicable University-related privilege during any time period that the University specifies; and
- c. permanent loss of either University recognition or any other applicable University-related privilege.

E. Appeals

1. A decision reached or sanction assigned by the Student Conduct Board or by a Student Conduct Official (except in an administrative hearing) may be appealed by the accused student to the Vice President of Student Affairs within five (5) business days of receipt of the decision. Such appeals shall be in writing and shall be delivered to the Office of the Vice President for Student Affairs.
2. Appeals may be heard by either the Vice President of Student Affairs or a three-person board at the discretion of the Vice President of Student Affairs.
3. The appeal shall consist of a conversation with the appellant and a review of the verbatim record of the Student Conduct Board hearing and supporting documents for one or more of the following purposes:
 - a. To determine whether the Student Conduct Board hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complainant a reasonable opportunity to prepare and to present information that the *Student Conduct Code* was violated, and giving the accused student a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results.
 - b. To determine whether the decision reached regarding the accused student was based on substantial information for a finding of responsibility.
 - c. To determine whether the sanction(s) imposed were appropriate for the violation of the *Student Conduct Code* that the student was found to have committed.
 - d. To consider new information, sufficient to alter a decision or other relevant facts, not known to the person appealing at the time of the original Student Conduct Board hearing.
4. If the appellate body grants the appeal based on any of the above grounds for appeal, then the following will occur:
 - a. If there were significant prejudice resulting from procedural irregularities, the case will be remanded for a new hearing.
 - b. If there was insufficient information for a finding of responsibility, the Appellate body may either reverse the decision or remand the case for a new hearing.
 - c. If the sanctions are inappropriate for the violation, either new sanctions may be imposed or the case remanded for a new hearing..
 - d. If there is new information sufficient to alter a decision or other relevant facts not known to the person appealing at the time of the original hearing, the case will be remanded for a new hearing.
 - e. A review of the Appellate Board's decision is available by the President of ISU in cases involving sanctions of suspension or expulsion. A letter requesting such a

review shall be submitted to the University Student Conduct Administrator within five (5) business days of receipt of the appellate decision.

- f. Sanctions issued following Student Conduct Board hearings shall not be implemented until all appeals have been either exhausted or voluntarily waived.

F. Disclosure of the Outcome of Student Conduct Hearings to Victims and/or Others

When an alleged *Student Conduct Code* violation would constitute a crime of violence (e.g., battery, sexual assault), and the alleged violator is found responsible by the Student Conduct Administrator or Board, the University shall disclose the outcome of the Conduct Hearing and the sanction to the victim.

In addition, when the alleged *Code* violation would constitute a crime of violence and the alleged violator is found responsible, the University, again under applicable Federal Law, retains the right to disclose the name of the violator, the portion of the *Student Conduct Code* that was violated and the sanctions, to anyone to which that information may be re-disclosed. For a legal reference, see the Family Educational Rights and Privacy Act, §99.31(a)(13), and 20 U.S.C. 1232g.

F. Interim Suspension

In certain circumstances, the University Student Conduct Administrator, may impose an Idaho State University or residence hall suspension prior to the Student Conduct Board Hearing.

1. Interim suspension may be imposed only:
 - a. to ensure the safety and well-being of members of the Idaho State University community or preservation of Idaho State University property;
 - b. to ensure the student's own physical or emotional safety and well-being; or
 - c. if the student poses an ongoing threat of disruption of, or interference with, the normal operations of Idaho State University.
2. During the interim suspension, a student shall be denied access to University Housing and/or to the campus (including classes) and/or all other Idaho State University activities or privileges for which the student might otherwise be eligible, as the University Student Conduct Administrator may determine to be appropriate.
3. The interim suspension does not replace the regular process, which shall proceed on the normal schedule, up to and through a Student Conduct Board Hearing, if required.

The student should be notified in writing of this action and the reasons for the suspension. The notice should include the time, date, and place of a subsequent hearing at which the student may show cause why his/her continued presence on the campus does not constitute a threat (and at which they may contest whether a campus rule was violated).

Article VII: Interpretation, Revision and Records

- A. Any question of interpretation or application of the Student Conduct Code shall be referred to the University Student Conduct Administrator, or designee, for final determination.

- B. Where the provisions and procedures of the Student Conduct System conflict with specific laws and provisions of the United States of America, the State of Idaho, the policies of the Idaho State Board of Education or Idaho State University the specific laws and provisions would apply.
- C. The Student Code shall be reviewed annually under the direction of the University Student Conduct Administrator.
- D. Student Conduct System case files and official records will be stored in the Office of the Vice President for Student Affairs. The access, storage and destruction of these files and records will be in accordance and compliance with current law, related University policies and the Family Educational Rights & Privacy Act (FERPA).

PRESIDENTIAL CERTIFICATION

 Approved by Arthur C. Vailas
 President, Idaho State University

Date: August 26, 2013

OGC use only:

Received by OGC on _____ by _____ (initial).

Published to ISUPP on _____ by _____ (initial).