

BERKELEY CAMPUS CODE OF STUDENT CONDUCT

General Overview

The University of California at Berkeley is a community of scholars committed to maintaining an environment that encourages personal and intellectual growth. It is a community with high standards and high expectations for those who choose to become a part of it, including established rules of conduct intended to foster behaviors that are consistent with a civil and educational setting. Members of the University community are expected to comply with all laws, University policies and campus regulations, conducting themselves in ways that support a scholarly environment. In this context, faculty are guided by The Faculty Code of Conduct, Section 015 of the Academic Personnel Manual, and students by the Berkeley Campus Code of Student Conduct, articulated here.

Accompanying the Berkeley Campus Code of Student Conduct (Code) is an established process to determine if a student has violated the Code and to respond appropriately when violations are sustained. Students alleged to have violated the Code are given an opportunity to meet with a member of the Center for Student Conduct staff to discuss the incident in question. Most often complaints are resolved informally through discussions with Center for Student Conduct staff. The Center for Student Conduct may conduct an investigation and/or gather further information relevant to the complaint. Students may also provide any additional information to clarify the facts. If the investigation shows that there was no Code violation, the case may be dropped or a Notification may be issued (see *Case Not Pursued*, section II.C.1). If the investigation yields evidence of a Code violation, the Center for Student Conduct will propose a resolution and students may be given the opportunity to resolve the case informally. If the student chooses not to accept informal resolution or the Center for Student Conduct determines it necessary, the case will be handled formally by either an administrative hearing or panel hearing.

Once the formal process begins, students can expect to be notified of the date and time for a hearing. In a panel hearing the panel will be composed of faculty, staff, and student members of the Committee on Student Conduct, presided over by an Independent Hearing Officer who will make determinations with regard to procedural and evidentiary issues. In an administrative hearing the Independent Hearing Officer will preside alone. The process for either hearing is the same. Center for Student Conduct staff will present witnesses and information related to the case and students will have the opportunity to share information to be reviewed, present witnesses and information on their behalf and ask questions of the campus' witnesses. The hearing body will determine whether it is more likely than not that students violated the Code, and if so, will recommend an appropriate sanction to the Dean of Students. If a sanction is imposed, students have the right to appeal their case to the Vice Chancellor of Student Affairs.

Students are expected to speak for themselves. They may, however, seek the advice of another person to assist them in either the formal or informal process. In the event that the student chooses not to participate in the hearing process, the hearing process will continue in the student's absence.

Potential conduct sanctions are described in Section VI. Sanctions in both the formal and informal processes are intended to enforce the Code of Student Conduct and to inform students about appropriate behavior within the community, help them learn from mistakes, and discourage future violations of the rules of conduct. Sanctions may include, but are not limited to, such elements as reflective writing assignments, community service, letters of apology, counseling, additional coursework, or restitution.

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I. STUDENT RIGHTS

Students charged with violations of the Berkeley Campus Code of Student Conduct (Code) are advised of their due process rights when they meet with Center for Student Conduct staff, and throughout the process, they are entitled to the following procedural protections:

A. Notice of Conduct Charges

If the Center for Student Conduct determines that a student will be charged with violations of the Code, a notice is emailed to the student within seven (7) days after a complaint is filed or initiated by Student Conduct (unless the seven day period is extended by the Independent Hearing Officer (see *Procedures and Timelines*, Section II.A.4). The Alleged Violation Letter identifies those sections of the Code the student is charged with violating and includes a detailed description of the facts supporting the charge(s) (see *Notice of Charges*, section 2.C.2.a).

The University may bring charges against a former student, for offenses committed while a student, within six months after termination of student or student organization status. This limitation does not apply to cases that involve academic dishonesty or fraud affecting the acquisition of a degree, over which the University maintains indefinite jurisdiction.

B. Presumption of Innocence

It is presumed that a student charged with a violation of the Code is not responsible for such violations unless the student admits responsibility or it is determined otherwise following a hearing (see *Standard of Proof*, section II.D.2.d.5).

C. Choosing Not to Participate

The conduct process works best when students and staff collaboratively come to an informal resolution of cases. Students may choose not to participate in the resolution of their charges. In this situation the Center for Student Conduct will proceed to resolve the charge without the participation of the student (see *Response to Charges*, section II.C.2.b.2). When a hearing is held without the student's participation, the decisions of the Independent Hearing Officer, the hearing body and the Dean of Students or his/her designee will have the same force and effect as if the student had participated. Students may also choose to remain silent during any portion of the conduct process and no inference will be drawn from the decision of the student to remain silent.

D. Hearing

Students charged with violations of the Code are encouraged to fully explore informal resolution of their case. They may, however, elect to have formal resolution of the case through an administrative or panel hearing (see *The Hearing*, section II.D.2.d).

E. Appeal

Students have a right to appeal the decisions of the hearing body and the Dean of Students or his/her designee. See *Appeal of the Hearing Body and Dean of Students' Decisions* (section II.E) for a description of the appeals process.

F. Advisors

Students may be accompanied by one advisor at any stage of the process, at the student's own expense. An advisor's role in the student conduct process is to provide students with assistance in preparing for and conducting meetings and hearings. In meetings prior to the commencement of a formal hearing process, students are encouraged to fully participate but may be assisted by an advisor who, with the written permission of the student, may interact directly with Center for Student Conduct staff and may meet on behalf of the student to seek an informal resolution. In a formal hearing, the student may consult with the advisor throughout the proceedings. A charged student may request that the advisor be allowed to make arguments and/or question witnesses on the student's behalf during the hearing,

and the Independent Hearing Officer will decide whether or not to grant that request after considering: whether granting the request will promote the fair, efficient and timely completion of the hearing; the ability of the charged student to effectively present the case; the complexity and seriousness of the case; the advisor's familiarity with and willingness to abide by applicable procedures; cultural or language barriers that prevent the students from expressing themselves during the hearing; and such other factors as may be relevant in the particular case. The Independent Hearing Officer may limit the speaking role of the advisor during the hearing if necessary to prevent disruption.

II. CONDUCT PROCEDURES

A. Administration of the Code of Conduct

1. The Center for Student Conduct

The Center for Student Conduct is responsible on behalf of the campus for intake of complaints alleging violations of the Code, investigation of alleged violations, issuing charges of Code violations, participating in the informal resolution process, and presentation of conduct violation cases at formal hearings. The Center for Student Conduct administers complaints of both academic and non-academic violations of the Code. Faculty members may resolve academic violations separately or in conjunction with the Center for Student Conduct (see *Faculty Informal Resolution of Academic Violations*, section II.D.1.c).

2. The Independent Hearing Officer

The Independent Hearing Officer is responsible for resolving procedural matters described in section II.D.2.c.2 of this Code, administering the formal hearing process, presiding over formal hearings, and deciding all procedural and evidentiary matters related to formal hearings.

3. Advisory Review Committee

The Center for Student Conduct may seek the advice of an Advisory Review Committee with respect to pursuing or charging a case, appropriate recommended sanctions or sanctioning pursuant to an informal resolution. Hearing bodies may also seek the advice of an Advisory Review Committee for the purpose of determining an appropriate sanction. Advisory Review Committees will be formed on an as-needed basis from the members of the Committee on Student Conduct and will include three members: a faculty chair, one student and one staff member. Advisory Review Committee members responsible for making decisions related to pursuing or charging a case will not be seated on the hearing panel for that case.

4. Procedures and Timelines

Each case is handled individually and, while due process is always provided, every procedure outlined in the Code may not be used in a particular case. All deadlines and time requirements in this document may be extended for good cause as determined by the Independent Hearing Officer or upon the agreement of the Center for Student Conduct and the charged student. Requests for extensions of deadlines must be made in writing to the Independent Hearing Officer, and the Independent Hearing Officer will notify both parties whether or not the extension is granted, and if an extension is granted, the specific date of the new deadline or event.

B. Filing a Complaint and Investigation of Allegations

1. Filing a Complaint

Most cases begin with a complaint alleging that a student has committed an academic or non-academic violation of the Code. Any member of the faculty or staff, a student or any other person may file a complaint with the Center for Student Conduct within sixty (60) days of the date the reporting party knew or should reasonably have known of the alleged violation unless law or an external agency requires that information be withheld. In the event that the information must be

withheld the complaint must be submitted within thirty (30) days from the date the information can or could have been released. Complaints alleging violation of certain campus policies, such as the *Sexual Harassment Policy*, must be filed within time limits prescribed in those policies. The Center for Student Conduct may also independently investigate information concerning student misconduct from any source, such as police and/or press reports, even where no formal complaint has been filed.

2. Sexual Harassment Complaints

In cases involving sexual harassment and/or gender discrimination, the investigation of specific allegations will be conducted by the Title IX Compliance Officer or other officer designated by the Chancellor in accordance with the *Berkeley Campus Policy on Sexual Harassment and Complaint Resolution Procedures* or the *Student Grievance Procedure*. In cases involving a complaint of rape or sexual assault, the investigation of specific allegations will be directed by the Title IX Compliance Officer and conducted by the Center for Student Conduct. The Title IX Compliance Officer will decide whether sexual assault and sexual harassment cases should be pursued by the Center for Student Conduct.

3. Complaints Relating to University Housing

Students residing in University-owned and/or operated housing facilities who violate the *Residential Code of Conduct* may be adjudicated under the process outlined in the Residential Code of Conduct or referred directly to the Center for Student Conduct.

C. Investigation of Misconduct

The Center for Student Conduct will conduct an investigation of complaints of alleged misconduct and determine whether sufficient information exists to proceed with a conduct process. One of the following actions will be taken within seven (7) days after the date that the Center for Student Conduct receives a complaint, unless the length of the investigation period is extended to a later specific date by the Independent Hearing Officer (notice does not need to be provided to the student of the application for or issuance of such an extension):

1. Case Not Pursued

a) Insufficient Information or Evidence

If the Center for Student Conduct determines that there is insufficient information or insufficient evidence to support an allegation of violation of the Code, charges against the responding student will not be pursued.

b) Notification

As an alternative to pursuing charges against a student who has allegedly violated the Code, the Center for Student Conduct may issue a written notification to a student that the student's alleged behavior, if it had actually occurred, would have violated University policy, campus regulations or the Code and would be subject to the conduct process. The Notification is not a determination that the allegations against the student are true, does not result in a conduct record, and therefore is not appealable. However, the prior alleged behavior as detailed in the Notification may be introduced in a subsequent conduct process for the purpose of establishing that the student was warned that such behavior violates University policy, campus regulations or the Code.

2. Case Charged

a) Notice of Charges

If the Center for Student Conduct determines that there is sufficient information to support the allegation(s), the student will be notified of the charge(s) under the Code. The written notice

of charges, also referred to as the Alleged Violation Letter, includes: notice to the student of the University Policy or campus regulation(s) the student is alleged to have violated; a brief summary of the incident including, wherever possible, the date, time, and location of the alleged offense; a specific statement of the sanction(s) that may be applied if the student chooses to not take part in the conduct process; notice of the student's right to be accompanied by an advisor at any stage of the conduct proceedings at the student's own expense; notice of the opportunity to meet with a Center for Student Conduct staff member to discuss resolution of the charges pursuant to *Informal Resolution of Allegations* (section II.D.1 of this Code); notice of the student's right to a hearing; notice of the student's right to request a copy of the student's own conduct file; notice of the procedure for requesting a time extension; and notice of the Center for Student Conduct's intent to continue the conduct process in the student's absence unless the student meets with staff or returns the signed letter indicating the student's choice of resolution.

The Alleged Violation Letter also informs the student that unless the student contacts the Center for Student Conduct in writing within seven (7) days of receipt of the Alleged Violation Letter, the student may be found responsible for the conduct violation described in the Alleged Violation Letter and the listed sanction(s) may be assigned.

When appropriate, the Center for Student Conduct may place a student on interim suspension by issuing a Notice of Interim Suspension (see *Interim Suspension*, section VI.105.08).

Notice to student organizations will be addressed to the president, principal officer, student group signatory or other students designated by the group to act as an agent on behalf of the group.

b) Response to Charges

(1) Contacting the Center for Student Conduct

The student must respond to the Center for Student Conduct via email within seven (7) days of receipt of the Alleged Violation Letter regarding the student's intent to participate in the conduct process. As long as the student contacts the Center for Student Conduct in writing by the indicated deadline, the Center for Student Conduct shall not automatically impose any sanction(s). Students should return the signed letter indicating their choice of the following options: request a meeting with Center for Student Conduct staff to discuss an informal resolution (see *Informal Resolution of Allegations*, section II.D.1); accept the proposed sanction(s) or alternative resolution process offered in the Alleged Violation Letter; request a panel hearing; or request an administrative hearing conducted by the Independent Hearing Officer (see *Formal Hearing Processes*, section II.D.2).

(2) No Response

If the student does not contact the Center for Student Conduct in writing within seven (7) days of receipt of the Alleged Violation Letter, and the sanction proposed in the Alleged Violation Letter is not suspension or dismissal, then, within ten (10) days, the Center for Student Conduct may find that the student is responsible for the charges described in the Alleged Violation Letter and may impose the sanction(s) recommended in the letter.

If the student does not contact the Center for Student Conduct in writing within seven (7) days, and the sanction proposed in the Alleged Violation Letter is suspension or dismissal, then the case will be forwarded to the Independent Hearing Officer who, within ten (10) days, will conduct an administrative hearing, determine responsibility, and if necessary, assign sanctions. By failing to reply, the student has waived any right to appear at the administrative hearing, but the Independent Hearing Officer may permit the student to participate in the hearing upon the request of the student. If the Independent Hearing Officer finds that a violation does not justify the sanction(s) recommended by

the Center for Student Conduct, the Independent Hearing Officer may impose a less severe sanction.

D. Resolution of Charged Cases

Students may choose to resolve their cases either informally through meetings with Center for Student Conduct staff or formally through a hearing process. If a student chooses, or if charges are not resolved informally, then charges will be resolved by a hearing. In all cases, a student may request a copy of the student's own conduct record from the Center for Student Conduct. The Center for Student Conduct must provide the requested copy within three (3) days of such requests. The release of such information may be subject to limitations imposed by state and federal law (see the *Berkeley Campus Policy Governing Disclosure of Information from Student Records*).

1. Informal Resolution of Allegations

a) Student Conduct Informal Resolution

Students charged with Code violations are offered the opportunity to meet with the Center for Student Conduct to resolve their case without a formal hearing. If a student elects this option, the meeting will take place within ten (10) days of the student's response to the Alleged Violation Letter. Cases may be resolved informally if the charged student, at any time prior to the hearing, admits violating the Code as charged or otherwise accepts an informal resolution. Informal resolutions generally include sanctions as described in *Conduct Sanctions* (section VI of this Code) combined with enhancements such as community service, additional educational requirements, written assignments, etc. Upon accepting an informal resolution, a student waives the right to a hearing and any further appeal. If the Student Conduct Officer and the student cannot reach a mutually acceptable agreement regarding sanctions, then the Student Conduct Officer will inform the Independent Hearing Officer that informal resolution was unsuccessful, and the Independent Hearing Officer will schedule a hearing to resolve the charges. The student may elect to have the case resolved through a panel hearing or an administrative hearing (see *Formal Hearing Processes*, section II.D.2).

b) Additional Informal Resolution Options

In some cases, Center for Student Conduct staff may suggest to the student that additional options for informal resolution may be appropriate. These options could include, but are not limited to, mediation, peer review boards, and restorative justice processes. If the student agrees that such informal resolution is appropriate, then the Center for Student Conduct may make appropriate referrals. If the informal resolution is successful, the charges may be resolved consistent with (a), immediately above, or may be dismissed in the discretion of the Center for Student Conduct. In these situations, the Independent Hearing Officer shall suspend the hearing timeline while such efforts are pursued, and shall set a hearing date promptly upon notice from the student or from the Center for Student Conduct that informal resolution is unlikely to resolve the charge.

Subject to the agreement of both the Center for Student Conduct and the charged student, charges may be submitted for Alternative Dispute Resolution. Alternative Dispute Resolution refers to procedures for resolving disputes by means other than the formal student conduct processes. This method of resolution utilizes a third party facilitator or mediator who is neutral and does not make decisions for the parties. Instead, the facilitator or mediator creates a format for discussion, holds parties to ground rules, helps organize the dispute into manageable issues, and guides brainstorming for possible solutions. If the parties are not able to create an agreement, then the case is referred back to the Center for Student Conduct for resolution, and to the Independent Hearing Officer for the setting of a hearing schedule.

c) Faculty Resolution of Academic Violations

(1) Generally

Faculty members may choose to informally resolve incidents of academic misconduct or may refer such complaints to the Center for Student Conduct. All faculty dispositions will be reported to the Center for Student Conduct, either for adjudication (as described in *Resolution of Charged Cases*, section II.D) or for record-keeping purposes. If the student has a prior history of misconduct at the University, the Center for Student Conduct may administer the matter after consultation with the instructor or faculty member.

(2) Initial Investigation

Instructors or faculty members attempting to settle academic matters will discuss allegations of academic misconduct with the student directly and, if appropriate, others involved in the suspected academic violation. If the student maintains innocence of the violation and the instructor or faculty member determines that no such violation occurred, he or she may cease investigating the complaint.

(3) Faculty Determined Disposition

If, upon discussion, the student admits the violation, the instructor may impose an appropriate academic sanction after confirming with the Center for Student Conduct that the student has no prior history of academic misconduct. If the student does not admit to the academic misconduct or consent to the sanction proposed by the faculty member, the matter will be administered through the Center for Student Conduct. Academic sanctions may only be imposed by faculty members and include but are not limited to resubmitting assignments and grade adjustments. Faculty members may not impose sanctions as listed in *Conduct Sanctions* (section VI of this Code). All faculty dispositions will be reported to the Center for Student Conduct for record-keeping purposes.

(4) Referral to the Center for Student Conduct

If the instructor or faculty member is unable to, or elects not to resolve the complaint with the student, he or she will report the alleged violation to the Center for Student Conduct.

If the student, in discussion with the instructor or faculty member, maintains innocence of the alleged violation and the instructor or faculty member believes a violation did occur, he or she will report the alleged violation to the Center for Student Conduct. If a student is found responsible for academic violations of the Code, academic sanctions may be imposed by the faculty member (see *Faculty Determined Disposition*, section II.D.1.c.3) and non-academic sanctions may be imposed by the Center for Student Conduct or the hearing body (see *Conduct Sanctions*, section VI).

When an instructor or faculty member reports an alleged academic violation to the Center for Student Conduct, a course grade of "I" (Incomplete) will be noted on the grade sheet pending resolution of the allegation. When the alleged violation is reported to the Center for Student Conduct, it will be handled as outlined in section II.D, *Resolution of Charged Cases*.

(5) Notice of Final Disposition

The instructor or faculty member will, in all cases, be informed of the disposition of the allegations by the Center for Student Conduct to the extent permitted by applicable law and University policy.

2. Formal Hearing Processes

Students may choose to have their cases resolved through either a panel hearing or an administrative hearing. The student must indicate a choice of a panel or administrative hearing in

writing, either by responding to the Alleged Violation Letter or following the student's preliminary meeting with the Center for Student Conduct. If the student requests a hearing but does not choose between a panel or administrative hearing, then the Independent Hearing Officer will schedule a panel hearing. The hearing will be scheduled by the Independent Hearing Officer to occur at least fifteen (15) days from, but not later than twenty-five (25) days from, the date that the student was given as the deadline for responding to the Alleged Violation Letter. If the student elected to meet with the Center of Student Conduct in response to the Alleged Violation Letter, then the hearing will be scheduled by the Independent Hearing Officer to occur at least five (5) days from, but not later than fifteen (15) days from, the end of the ten (10) day period provided for the informal resolution meeting. The Independent Hearing Officer will provide written notice to the Student Conduct Office and to the charged student of the date, time and location of the hearing. The Independent Hearing Officer may determine, for good cause stated in writing by the student or by the Center for Student Conduct, that the date of the hearing should be continued to a later specific date or that the time or place of the hearing should be changed. The Independent Hearing Officer will provide reasonable notice to the parties of any changes to the date, time or location of the hearing.

a) Panel Hearing

Panel hearing cases are presented to hearing panels comprised of members of the Committee on Student Conduct, which act as the hearing body and make a determination regarding the alleged violation(s). Panel hearings are presided over by the Independent Hearing Officer. Both the student and the Center for Student Conduct will have an opportunity to present witnesses for questioning (see *Presentation of Information*, section II.D.2.d.1).

b) Administrative Hearing

Administrative hearings are conducted by the Independent Hearing Officer, who shall act as the hearing body and make a determination regarding the alleged violation(s). In all other respects, administrative hearings are conducted in the same manner as panel hearings.

c) Pre-Hearing Process

(1) Exchange of Information

The student may request a copy of the student's own disciplinary file at any time in order to prepare for a hearing. The Center for Student Conduct must provide a copy within three (3) days of such requests.

The Independent Hearing Officer will establish a procedure for the parties to exchange information prior to the formal hearing. The exchange will occur no later than five (5) days prior to the hearing, unless the Independent Hearing Officer sets an earlier date for the exchange. The parties will exchange copies of all information relevant to the incident to be shared at the hearing and a list of possible witnesses.

The release of information pursuant to this section may be subject to limitations imposed by state and federal law (see *Berkeley Campus Policy Governing Disclosure of Information from Student Records*).

The Independent Hearing Officer may exclude any information from the hearing that a party fails to include in its exchange of information or fails to exchange according to these procedures.

(2) Pre-Hearing and Procedural Matters

The Independent Hearing Officer will review and decide any procedural matters either in advance of or during the hearing as necessary and appropriate. These matters include but are not limited to: limits on each side's time for presentation, exclusion of duplicated or

irrelevant matters, or order of presentation of information. The Independent Hearing Officer will make such decisions based upon the specific circumstances of the case in order to promote the fair and efficient resolution of the hearing.

The Independent Hearing Officer will rule on and remedy any violations of a charged student's procedural rights with regard to the Conduct process and this Code. If the Independent Hearing Officer determines that a violation of the student's procedural rights has occurred, the Independent Hearing Officer may take whatever actions are necessary with respect to the pending case to remedy any harm resulting from the violation, including but not limited to exclusion of evidence or dismissal of some or all of the charges.

Prior to the hearing, if a charged student believes the information or evidence is not sufficient to conclude that it is more likely than not that the student committed the violation(s), and/or if the student believes that the alleged violation is not within the jurisdiction of the Code, the student may ask the Independent Hearing Officer to dismiss the charge.

The Independent Hearing Officer may establish procedures for submission and determination of all pre-hearing matters.

d) The Hearing

(1) Presentation of Information

Hearings are not conducted according to formal rules of procedure and evidence. The members of the hearing panel, the Independent Hearing Officer, the charged student and the Center for Student Conduct shall all be allowed an opportunity to question each witness. Once the hearing body has completed its questioning of a witness, the Center for Student Conduct and the charged student will each be given the opportunity to ask any remaining questions. The student must choose one of the following methods for all follow-up questioning: either 1) all follow-up questions are asked by the student and the Conduct Officer, or 2) all follow-up questions are submitted by the student and the Center for Student Conduct to the panel in writing as they arise during the course of the hearing. No later than the start of the hearing, the student will elect the questioning method in writing. The student and the Center for Student Conduct will each be given an opportunity to make both opening and closing statements.

(2) Question and Answer

No person is required to provide information against one's own self in any conduct proceeding. Information shared will normally not be admissible unless the opposing party is afforded a reasonable opportunity to confront and ask questions of the witness. It is the responsibility of the student to ensure that the student's witnesses are present. However, if a witness is unavailable or declines to attend, the Independent Hearing Officer will determine whether written or other recorded statements of such witness will be admitted.

(3) All Information Presented at the Hearing

The hearing body's decision will be based only upon information introduced at the hearing. Neither the charged student nor the Center for Student Conduct may communicate information regarding the merits of the case or its disposition to the hearing body without the other party being afforded an opportunity to respond.

(4) Choosing Not to Appear

Unless good cause is shown, if the student does not appear at the hearing, the hearing body may find the student responsible for some or all of the charges and may apply some or all of the recommended sanctions against the student. The hearing body's decision will be based only upon the information available at the hearing, and that information may be introduced informally. If the Center for Student Conduct does not appear at the hearing, the Independent Hearing Officer may dismiss the charges against the student.

(5) Standard of Proof

The Center for Student Conduct bears the burden of proving the charges. The standard of proof for all hearings is a preponderance of evidence. A preponderance of evidence is defined as "more likely to be true than not."

(6) Admissibility of Information

Admissible information is the sort upon which responsible persons are accustomed to rely in the conduct of serious affairs, and is not restricted to evidence admissible under the strict rules of evidence of a court of law. The hearing body will not consider information that it determines has been obtained by fundamentally unfair means.

(7) Prior Conduct Record

The hearing body will take into account the student's prior conduct record, if any, only for purpose of determining an appropriate sanction unless the information is considered to be relevant to the charges.

(8) Information in Cases of Sexual Assault or Rape

The privacy interests of the parties will be considered by the hearing body in making decisions about the introduction of information. In cases involving allegations of sexual assault or rape, information regarding an individual's sexual history and practices will be considered only when it is determined that the information is directly relevant to the claims and essential to fair resolution of the matter.

e) Hearing Body's Recommendation and Dean of Students' Decision

The hearing body is responsible for determining, based on the evidence presented at the hearing, whether it is more likely than not that the charged student violated the Code with respect to each charged violation. If the hearing body determines that it is more likely than not that the student violated the Code, it shall also recommend a sanction. Where the hearing is conducted before a hearing panel, the Independent Hearing Officer shall not participate in the panel's deliberations or the drafting of its report, nor shall the Independent Hearing Officer make recommendations to the panel regarding what decision the panel should make. The hearing body's decision will be documented in a report that includes a summary of the student's behavior and a determination of whether the student has been found responsible or not of each alleged violation of the Code of Student Conduct. The hearing body will also recommend to the Dean of Students or his/her designee specific sanctions to be imposed if it finds the student in violation of the Code. The hearing body will deliver a copy of the report to the Independent Hearing Officer within ten (10) days of the hearing, and the Independent Hearing Officer will promptly send a copy by email to the student, the Dean of Students, and the Center for Student Conduct.

Based upon the findings of the hearing body and any recommendation for sanctioning, the Dean of Students or his/her designee will determine the sanction to be imposed. A written statement of the Dean of Students' or his/her designee's final decision on sanctioning will be sent by email to the charged student within ten (10) days of receiving the hearing body's report.

f) Recommendation to Revoke Degree Previously Conferred

- (1) If the hearing body determines that a student has committed an act of academic misconduct or fraud affecting the acquisition of the student's degree, the Dean of Students or his/her designee may forward a recommendation that the degree be revoked to the Committee on Courses of the Academic Senate. A Notice of Intent to Recommend Revocation of Degree will be sent via email to the charged student with the written statement of decision.
- (2) The Dean of Students' or his/her designee's recommendation will not be forwarded to the Committee on Courses until expiration of the time to file a written appeal (see *Appeal of the Hearing Body and Dean of Students' Decisions*, section II.E) or until determination that the appeal by the Vice Chancellor for Student Affairs or his/her designee has been completed.
- (3) The Committee on Courses makes the final decision as to revocation of the degree. This determination is not appealable to the Vice Chancellor for Student Affairs.

g) Consolidation of Hearings

Cases in which more than one student is charged with violating the same Code section(s) and which depend on common evidence may, at the discretion of the Independent Hearing Officer, either be considered jointly in a single consolidated hearing or be assigned to separate, individual hearings. All charged students must waive their rights to confidentiality before the hearing may be consolidated. (See *Berkeley Campus Policy Governing Disclosure of Information from Student Records*.) When an individual student is alleged to have violated the Code in separate incidents, the cases may be resolved in a single hearing process when appropriate as determined by the Independent Hearing Officer.

h) Record of the Hearing

The Independent Hearing Officer will make an official recording of the hearing, a copy of which must be made available to the charged student upon request. The student may, at the student's own expense, use the services of a professional stenographer during the hearing. In some instances the recording may have to be transcribed before it can be released (see *Berkeley Campus Policy Governing Disclosure of Information from Student Records*).

i) Hearings Generally Closed to the Public

In order to protect the privacy of the student, hearings are closed to the public unless an exception is granted by the Independent Hearing Officer upon written request by the student. The student may request an open hearing by submitting a written request for a public hearing along with a waiver of confidentiality to the Independent Hearing Officer within a reasonable time in advance of the scheduled hearing date. If the request for an open hearing is denied, the Independent Hearing Officer will provide a rationale in writing. In a consolidated hearing, all charged students must waive their rights to confidentiality and to a closed hearing before the hearing may be opened to the public. In all hearings, charged students may have a non-participating observer present, in addition to the advisor. The Independent Hearing Officer may close any hearing to the public when necessary to maintain order or to protect the rights of the participants including the privacy rights of student witnesses or others. In cases concerning allegations of sexual misconduct or other allegations involving important privacy interests, the Independent Hearing Officer may close a hearing upon determining that the privacy rights of a party or witness may otherwise be jeopardized.

E. Appeal of the Hearing Body and Dean of Students' Decisions

Appeals of the hearing body and the Dean of Students' or his/her designee's decisions must be addressed in writing to the Vice Chancellor for Student Affairs or his/her designee.

1. Timeline for the Appeal

Within ten (10) days of the emailing of the written notification of the Dean of Students' or his/her designee's final decision, either the charged student or the Center for Student Conduct may submit a written appeal to the Vice Chancellor for Student Affairs or his/her designee. When such an appeal is timely submitted by a party, the Vice Chancellor or his/her designee must promptly send a copy of the appeal to the other party. Within five (5) days of receiving the copy, the other party may submit a written response to the Vice Chancellor or his/her designee.

2. Suspension of Sanctions Before the Appeal

The filing of a timely appeal suspends the imposition of sanctions until the appeal is decided, but interim action may be taken as determined by the Dean of Students or his/her designee. Grades or degrees may be withheld pending conclusion of the appeal.

3. Basis for Appeal

An appeal must be based on newly discovered evidence that was not available at the time of the hearing, significant procedural error, or upon other evidence or arguments which, for good cause, should be considered.

4. Final Determination of Appeal

The Vice Chancellor for Student Affairs or his/her designee will make the final determination of all cases appealed under these regulations. Except in cases where the appeal is based upon newly discovered evidence, the Vice Chancellor or his/her designee will review the record of the hearing and will not consider information that was not part of that record, other than the student's prior conduct record, if any. The Vice Chancellor for Student Affairs or his/her designee may approve, reject, or modify the decision and sanction in question, or require that the original hearing be re-opened. Where the appeal is based upon new information, the case may be referred back to the hearing body for further consideration. The action taken will be communicated in writing to the student and the Center for Student Conduct within fifteen (15) days after receipt of the appeal and related documents.

III. DEFINITIONS

A. Student

- 1.** The term "student" for the purposes of this Code means an individual for whom the University maintains student records and who:
 - a)** is enrolled in or registered with an academic program of the University;
 - b)** has completed the immediately preceding term and is eligible for reenrollment, including the recess periods between academic terms; or
 - c)** is on an approved educational leave or other approved leave status, or is on filing-fee status.
- 2.** The Code also applies to:
 - a)** applicants who become students, for offenses committed as part of the application process;
 - b)** applicants who become students, for offenses committed on campus and/or while participating in University-related events or activities that take place following a student's submittal of the application through the student's official enrollment; or
 - c)** former students for offenses committed while a student.

B. Notice

Wherever written notice to the student is required by the Code, it will be conclusively presumed to have been furnished if the notice is sent to the student by email to the email address most recently filed with the Registrar's office. It will be conclusively presumed that written notice to a student organization has been furnished if the notice is sent by email to the email address provided by the student organization to the Center for Student Leadership or sponsoring department.

C. Student Organization

Unless otherwise stated, wherever this Code refers to "student" the same also applies to student organizations. "Student organization" means any group or organization of students of the University of California, Berkeley that has obtained official recognition as a student organization from an office or department of the campus. Communications with student organizations will be directed to the president, principal officer, student group signatory or other students designated by the group to act as an agent on behalf of the group.

D. Days

The term "day" is defined as a full business day and does not include Saturdays, Sundays, legal holidays or University designated administrative holidays. With the mutual consent of the student, the Center for Student Conduct and the hearing body, hearings may be held outside of normal business hours, on Saturdays, Sundays or administrative holidays.

E. Committee on Student Conduct

1. Composition of Committee

The Committee on Student Conduct is the body of individuals who serve on hearing panels and consists of faculty, staff and both graduate and undergraduate students. One undergraduate student may be nominated by the recognized student government and one graduate student may be nominated by the Graduate Assembly. Additional students are solicited from the community at large for appointment to the committee. Staff members are nominated by the Vice Chancellor for Student Affairs. Faculty members are nominated by the Academic Senate Committee on Committees. All members of the committee are appointed by the Chancellor or his/her designee.

2. Hearing Panels

Hearing panels are generally comprised of five members of the Committee on Student Conduct and include: one faculty member, one undergraduate student, one graduate student, one staff member and the faculty chair. Hearings may be heard by a quorum of three members of the Committee on Student Conduct so long as the faculty chair and one student are included on the panel. If the case involves an academic violation, at least two of the individuals hearing the case must be members of the faculty.

3. Duration of Appointment

Unless otherwise specified by the Chancellor, appointments to the Committee on Student Conduct will be made in the spring for terms beginning the following August 1. Faculty and staff appointments to the Committee normally last for a term of two years and student appointments to the Committee normally last for a term of one year, all commencing on August 1, and ending on July 31 or upon the appointment of the new committee members, whichever is later. Members may be appointed for successive terms.

F. Independent Hearing Officer

The Independent Hearing Officer is appointed by the Vice Chancellor for Student Affairs. Because it is intended that the Independent Hearing Officer operate independently of the Center for Student Conduct, neither shall report to the other nor to the direct supervisor of the other. The Independent Hearing Officer shall not participate in communications regarding the merits of a

pending case with one party without the participation of the other party, except that the Independent Hearing Officer may consult the Office of Legal Affairs for legal advice.

IV. JURISDICTION

A. Generally

These provisions govern student conduct on, or as it relates to University property, or at official University functions and University-sponsored programs conducted away from the campus. University property is defined for purposes of this Code as all land, buildings, facilities or other grounds or structures, or any item in possession of or owned, used, maintained or controlled by the University or designated by the campus as subject to these policies, including the International House. University property also includes computers and network systems owned, maintained or controlled by the University or funded by University budgets or designated by the campus as subject to these policies.

B. Off-Campus Conduct

Student conduct that occurs off University property is subject to the Code where it a) adversely affects the health, safety, or security of any other member of the University community, or the mission of the University, or b) involves academic work or any records or documents of the University.

In determining whether or not to exercise jurisdiction over such conduct, the Center for Student Conduct will consider the seriousness of the alleged offense, the risk of harm involved, whether the victim(s) are members of the campus community and/or whether the off-campus conduct is part of a series of actions that occurred both on and off University property.

C. Conduct on Other UC Campuses and Off-Campus Sponsored Sites

A student at one campus of the University who is accused of violation of University policies or campus regulations on another campus of the University, at an official function of that campus, or at any site at which a University function is sponsored, shall be subject to the disciplinary procedures of either the former or the latter campus as agreed by designees of both campuses. The imposition of any recommendations for disciplinary sanctions arising from these procedures must be reviewed and approved by both campuses before the sanctions are imposed.

V. GROUNDS FOR DISCIPLINE

The Chancellor may impose discipline for the commission or attempted commission (including aiding or abetting in the commission or attempted commission) of the following types of violations by students (as specified by University Policy 100.00, <http://www.ucop.edu/ucophome/coordrev/ucpolicies/>), as well as such other violations as may be specified in campus regulations:

102.01 Academic Misconduct

All forms of academic misconduct including but not limited to cheating, fabrication, plagiarism, or facilitating academic dishonesty.

See Appendix II of this Code for further explanation of academic misconduct.

102.02 Other Dishonesty

Other forms of dishonesty including but not limited to fabricating information, bribery, furnishing false information, or reporting a false emergency to the University.

102.03 Forgery

Forgery, alteration, or misuse of any University document, record, key, electronic device, or identification.

102.04 Theft

Theft of, conversion of, destruction of, or damage to any property of the University, or any property of others while on University premises, or possession of any property when the student had knowledge or reasonably should have had knowledge that it was stolen.

102.05 Electronic Resources

Theft or abuse of University computers and other University electronic resources such as computer and electronic communications facilities, systems, and services. Abuses include (but are not limited to) unauthorized entry, use, transfer, or tampering with the communications of others; interference with the work of others and with the operation of computer and electronic communications facilities, systems, and services; or copyright infringement (for example, the illegal file-sharing of copyrighted materials).

Use of University computer and electronic communications facilities, systems, or services that violates other University policies or campus regulations.

Please refer to the UC Electronic Communications Policy (<http://www.ucop.edu/ucophome/policies/ec/>) and Digital Copyright Protection at UC (<http://www.ucop.edu/irc/policy/copyright.html>) for the University's position on digital copyright.

102.06 Unauthorized Conduct

Unauthorized entry to, possession of, receipt of, or use of any University services; equipment; resources; or properties, including the University's name, insignia, or seal.

102.07 University Housing

Violation of policies, regulations, or rules governing University-owned, -operated, or -leased housing facilities or other housing facilities located on University property.

102.08 Physical Abuse

Physical abuse including but not limited to rape, sexual assault, sex offenses, and other physical assault; threats of violence; or other conduct that threatens the health or safety of any person. (See *Berkeley Campus Student Policy and Procedures Regarding Sexual Assault and Rape* or the *Berkeley Campus Policy on Sexual Harassment and Complaint Resolution Procedures* in Appendix I for further information.)

Title IX website: <http://equity.chance.berkeley.edu/titleix.shtml>

102.09 Sexual, Racial, and Other Forms of Harassment (Interim)

Sexual, racial, and other forms of harassment, defined as follows:

Harassment is defined as conduct that is so severe and/or pervasive, and objectively offensive, and that so substantially impairs a person's access to University programs or activities, that the person is effectively denied equal access to the University's resources and opportunities on the basis of the person's race, color, national or ethnic origin, alienage, sex, religion, age, sexual orientation, gender identity, marital status, veteran status, physical or mental disability, or perceived membership in any of these classifications.

Student Employees

When employed by the University of California, and acting within the course and scope of that employment, students are subject to the *University of California Policy on Sexual Harassment*. Otherwise, Section 102.09, above, is the applicable standard for harassment by students.

Both student and/or employee sexual harassment, please refer to the *University of California Procedures for Responding to Reports of Sexual Harassment*.

102.10 Stalking

Stalking behavior in which a student repeatedly engages in a course of conduct directed at another person and makes a credible threat with the intent to place that person in reasonable fear for the person's safety, or the safety of the person's family; where the threat is reasonably determined by the

University to seriously alarm, torment, or terrorize the person; and where the threat is additionally determined by the University to serve no legitimate purpose.

102.11 (Rescinded, UCOP, October 2009)

102.12 Hazing

Participation in hazing or any method of initiation or pre-initiation into a campus organization or other activity engaged in by the organization or members of the organization at any time that causes, or is likely to cause, physical injury or personal degradation or disgrace resulting in psychological harm to any student or other person. (See *Statement on Hazing* in Appendix I for further information).

102.13 Obstruction of University Activities

Obstruction or disruption of teaching, research, administration, disciplinary procedures, or other University activities.

102.14 Disorderly Conduct

Disorderly or lewd conduct.

102.15 Disturbing the Peace

Participation in a disturbance of the peace or unlawful assembly. (See *Berkeley Campus Regulations Implementing University Policies* for further information.)

102.16 Failure to Comply

Failure to identify oneself to, or comply with the directions of, a University official or other public official acting in the performance of the official's duties while on University property or at official University functions; or resisting or obstructing such University or other public officials in the performance of or the attempt to perform their duties.

102.17 Controlled Substances

Unlawful manufacture, distribution, dispensing, possession, use, or sale of, or the attempted manufacture, distribution, dispensing, or sale of controlled substances, identified in federal and state law or regulations.

102.18 Alcohol

Manufacture, distribution, dispensing, possession, use, or sale of, or the attempted manufacture, distribution, dispensing, or sale of alcohol that is unlawful or otherwise prohibited by, or not in compliance with, University policy or campus regulations.

102.19 Destructive Devices

Possession, use, storage, or manufacture of explosives, firebombs, or other destructive devices.

102.20 Weapons

Possession, use, storage or manufacture of a firearm or other weapon.

102.21 Disciplinary Actions

Violation of the conditions contained in the terms of a disciplinary action imposed under this Code or campus regulations.

102.22 Notice of Emergency Suspension

Violation of the conditions contained in a written Notice of Emergency Suspension issued pursuant to Appendix I (*Emergency Suspension*) of this Code or violation of orders issued during a declared state of emergency (see University Policy section 52.00,

<http://www.ucop.edu/ucophome/coordrev/ucpolicies/aos/uc50.html>).

102.23 Course Materials

Selling, preparing, or distributing for any commercial purpose course lecture notes or video or audio recordings of any course unless authorized by the University in advance and explicitly permitted by the course instructor in writing. The unauthorized sale or commercial distribution of course notes or recordings by a student is a violation of these *Policies* whether or not it was the student or someone else who prepared the notes or recordings.

Copying for any commercial purpose handouts, readers or other course materials provided by an instructor as part of a University of California course unless authorized by the University in advance and explicitly permitted by the course instructor or the copyright holder in writing (if the instructor is not the copyright holder).

102.24 Terrorizing Conduct

Conduct, where the actor means to communicate a serious expression of intent to terrorize, or acts in reckless disregard of the risk of terrorizing, one or more University students, faculty, or staff. 'Terrorize' means to cause a reasonable person to fear bodily harm or death, perpetrated by the actor or those acting under the actor's control. 'Reckless disregard' means consciously disregarding a substantial risk. This section applies without regard to whether the conduct is motivated by race, ethnicity, personal animosity, or other reasons. This section does not apply to conduct that constitutes the lawful defense of oneself, of another, or of property.

102.25 Camping or Lodging

Camping or lodging on University property other than in authorized facilities.

102.26 Other Policies or Regulations

Violation of any other University policy or campus regulation.

VI. CONDUCT SANCTIONS

When a student is found in violation of University policies or campus regulations, any of the following sanctions or combination thereof may be imposed. Any sanction imposed should be appropriate to the violation, taking into consideration the context, previous violations, and seriousness of the violation.

Sanctions [for any violations of Section 102.00, Grounds for Discipline] may be enhanced where an individual was selected because of the individual's race, color, national or ethnic origin, citizenship, sex, religion, age, sexual orientation, gender identity, pregnancy, marital status, ancestry, service in the uniformed services, physical or mental disability, medical condition, or perceived membership in any of these classifications.

105.01 Warning/Censure

Written notice or reprimand to the student that a violation of specified University policies or campus regulations has occurred and that continued or repeated violations of University policies or campus regulations may be cause for further disciplinary action. A warning may be issued in instances of deliberate and serious violations as well as for repeat, non-egregious violations.

105.01(a) Non-Reportable Warning

A warning could be in the form of a non-reportable warning, which is notice that subsequent violations will result in more serious sanctions. A non-reportable warning may be issued when the student's action formally constitutes a violation, but the circumstances and degree of severity of the action do not warrant the creation of a conduct record. Once issued, records of non-reportable warnings are maintained only for in-house reference in case of subsequent violations.

105.01(b) Reportable Warning

A warning could be in the form of a reportable warning, which is notice, maintained as part of the student's conduct record.

105.02 [Rescinded May 17, 2002 per UCOP]

105.03 Disciplinary Probation

A status imposed for a specified period of time during which a student must demonstrate conduct that conforms to University standards of conduct. Conditions restricting the student's privileges or eligibility for activities may be imposed. Misconduct during the probationary period or violation of any conditions of the probation may result in further disciplinary action, normally in the form of Suspension or Dismissal. Disciplinary probation will typically be issued in response to more egregious violations and recurring serious violations to communicate to the student that further violations will most likely lead to temporary or permanent removal from campus.

105.04 Loss of Privileges and Exclusion from Activities

Exclusion from participation in designated privileges and activities for a specified period of time. Violation of any conditions in the written Notice of Loss of Privileges and Exclusion from Activities, or violation of University policies or campus regulations during the period of the sanction may be cause for further disciplinary action, normally in the form of Probation, Suspension or Dismissal.

105.05 Suspension

Termination of student status at the campus for a specified period of time with reinstatement thereafter certain, provided that the student has complied with all conditions imposed as part of the suspension and provided that the student is otherwise qualified for reinstatement. Suspensions will typically be issued in cases of extraordinarily serious first-time violations and for subsequent violations of a serious degree after a warning or disciplinary probation has been administered. Violation of the conditions of Suspension or of University policies or campus regulations during the period of Suspension may be cause for further disciplinary action, normally in the form of Dismissal.

105.06 Dismissal

Termination of student status for an indefinite period. Readmission to the University requires the specific approval of the Chancellor of the campus to which a dismissed student has applied. Dismissal will typically be used in cases that cannot be appropriately addressed with a suspension because the recurring nature of multiple violations or the extraordinary caliber of a single violation demonstrates that the student does not deserve an opportunity to return to campus. Readmission after dismissal may be granted only under exceptional circumstances.

105.07 Exclusion from Areas of the Campus or from Official University Functions

Exclusion of a student as part of a disciplinary sanction from specified areas of the campus or other University-owned, -operated, or -leased facilities, or other facilities located on University property, or from official University functions, when there is reasonable cause for the University to believe that the student's presence there will lead to physical abuse, threats of violence, or conduct that threatens the health or safety of any person on University property or at official University functions, or other disruptive activity incompatible with the orderly operation of the campus.

105.08 Interim Suspension

Exclusion from classes, from other specified activities, from areas of the campus, or from the entire campus, as set forth in a Notice of Interim Suspension issued by the Center for Student Conduct. A student will be restricted only to the minimum extent necessary and when there is reasonable cause to believe that the student's participation in University activities or presence at specified areas of the campus will lead to physical abuse, threats of violence, or conduct that threatens the health or safety of any person on University property or at official University functions, or other disruptive activity incompatible with the orderly operation of the campus. A student placed on interim suspension will be given prompt notice of the reason for the interim suspension and the duration of the interim suspension. Any interim suspension will be reviewed by the Chancellor or his/her designee within twenty-four hours of issuance by the Center for Student Conduct. The student will be provided with the opportunity for a prompt hearing before the Independent Hearing Officer regarding the merit of the interim suspension. At the hearing, the Independent Hearing Officer may modify or cancel the interim suspension. If an interim suspension is determined by the Independent Hearing Officer to have been

issued improperly, then the University will engage in reasonable efforts to assist an individual who has been disadvantaged with respect to employment or academic status resulting from the suspension.

Notices of Interim Suspension and determinations regarding the validity of an Interim Suspension shall not be maintained in a student's conduct file nor used as evidence of the occurrence of a conduct violation in a conduct hearing (except with regard to alleged violations of the interim suspension by the student). The Center for Student Conduct will issue an Alleged Violation Letter concerning the alleged conduct that led to the Notice of Interim Suspension within seven (7) days following the issuance of the Notice of Interim Suspension. Failure of a student to comply with the requirements of an interim suspension is a violation of this Code.

105.09 Restitution

A requirement for restitution in the form of reimbursement may be imposed for expenses incurred by the University or other parties resulting from a violation of these policies. Such reimbursement may take the form of monetary payment or appropriate service to repair or otherwise compensate for damages. Restitution may be imposed on any student who alone, or through group or concerted activities, participates in causing the damages or costs.

105.10 Revocation of Awarding of Degree

Subject to the concurrence of the Academic Senate, revocation of a degree obtained by fraud or other academic dishonesty. Such revocation is subject to review on appeal by the Chancellor.

105.11 Other

Other disciplinary actions, such as monetary fines, community service, or holds on requests for transcripts, diplomas, or other student records to be sent to third parties, as set forth in campus regulations.

105.11(a) University Service

A designated number of hours of unpaid University service, performed under the direction of an administrative officer of the Berkeley Campus.

105.11(b) Monetary fines

Monetary fines may be imposed.

105.11(c) Records Hold

A hold may be placed on transcripts and/or diploma(s) or other records as a sanction and/or until a student satisfies the terms and conditions of any sanction imposed.

105.11(d) Deferral or Withholding of Degree

An academic degree may be deferred when disciplinary proceedings are pending or when a student's full compliance with disciplinary sanctions is pending, or withheld when academic dishonesty or fraud affected the acquisition of the student's degree (see *Recommendation to Revoke Degree Previously Conferred*, section II.D.2.f, for further information regarding this procedure).

105.11(e) Stay of Sanction

The imposition of any sanction may be held in abeyance pending future conduct.

105.11(f) Counseling

Appropriate counseling or other professional assistance including but not limited to psychological counseling, drug and alcohol counseling, and anger management workshops may be required.

105.11(g) Other Actions

Other appropriate action, including, but not limited to, additional academic assignments.

105.11(h) Additional Student Organization Sanctions

1. In addition to the sanctions listed above, violations by student organizations may also result in revocation of the organization's recognition or revocation of recognition of the organization's officers.
2. A recognized student organization may be sanctioned where a member or members of the organization violated the Code with the knowledge and consent of the organization's officers, or acted in concert with other members of the organization.

VII. MISCELLANEOUS

A. Maintenance of Disciplinary Records

1. University Policy, State and Federal Law

Conduct case records and all supporting documentation will be maintained according to the University policies and applicable State and Federal laws concerning maintenance and disclosure of student records, protection of a student's right of privacy, and the disclosure of personal student information.

2. Campus Policy Regarding Retention

The file of a student found in violation of campus regulations (including the transcripts or recordings of the hearing) will be maintained by The Center for Student Conduct. Student discipline records are confidential and are separate from the student's academic record.

The Center for Student Conduct will retain student discipline records according to the following schedule:

- (a) In cases where the final disposition is dismissal from the University, denial or revocation of a degree, and/or withdrawal of a diploma, the records will be retained indefinitely.
- (b) Records which are subject to maintenance under the Campus Security Act (also known as the Jeanne Clery Act) will be retained for seven (7) years from the date of the notice of final disposition.
- (c) Student discipline records in all other cases are retained for four (4) years from the date of the notice of final disposition or until graduation (whichever comes first).

When there have been repeated violations of the Student Conduct Code, all student discipline records pertaining to an individual student will be retained for four (4) years or graduation (seven (7) years for cases which fall under the Clery Act) from the date of the final disposition in the most recent case. Disciplinary records may be retained for longer periods of time or permanently, if so specified in the sanction.

3. Posting on Transcripts

When, as a result of a violation of the Code of Student Conduct, a student is suspended, the fact that suspension was imposed must be posted on the academic transcript for the duration of the suspension. When a student is dismissed, the fact that dismissal was imposed must be posted on the academic transcript permanently.

4. Expunging of Disciplinary Record

Disciplinary records may be expunged by the Dean of Students of his/her designee for good cause, upon written request of a student who has a disciplinary record. Factors to be considered in review of such petitions shall include:

- (a) the person's disciplinary record as a whole
- (b) the conduct of the student subsequent to the violation
- (c) the nature of the violation(s) and the severity of any damage, injury, or harm resulting from it.

Disciplinary records retained for less than 120 days or designated as “permanent” shall not be expunged without unusual and compelling justification.

Expunged files will be so marked, shall not be kept with active disciplinary records, and shall not leave any student with a disciplinary record.

B. Threats to Health and Safety/Disruptive or Illegal Activity

1. Threats to Health and Safety

In cases involving behavior that is willfully disruptive or presents a threat to the health or safety of others, interim suspension or exclusion pursuant to California Penal Code Section 626 may be invoked in addition to or instead of the initiation of conduct action (see *Interim Suspension*, section 105.08, and *Disruptive and Illegal Activity*, section VII.B.2).

2. Disruptive and Illegal Activity

Independent of the procedures described above, the Berkeley Campus Chief of Police or other designated officer may exclude disruptive students from the campus under the *Berkeley Campus Procedures for Implementing Section 626 of the State Penal Code*. Such exclusions may be ordered where there is reasonable cause to believe that the individual has engaged in an activity which (1) willfully disrupts the orderly operation of the campus and (2) is illegal under criminal statutes other than Section 626.4. (See *Berkeley Campus Procedures for Implementing Section 626 of the State Penal Code* for further information.)

C. Application of the Code

Conduct for violations of University policies or campus regulations may be imposed whether or not such violations are also violations of law, and whether or not proceedings are or have been pending in the courts involving the same acts. The proceedings described herein are separate and distinct from criminal or civil proceedings which may arise from identical circumstances and which apply to students as citizens at large. Whenever it is possible and reasonable to do so, student conduct cases will be handled in an informal manner that encourages students to learn from their experiences and be positive contributors to the community.

Students are responsible for informing themselves about their rights and responsibilities with respect to the Code and cannot reasonably claim innocence of a violation of the Code on the grounds of ignorance.

Complaints initiated prior to the adoption of the current version of this Code will be resolved using the prior version of this Code unless the student elects to have the complaint resolved using the current version of this Code.

D. Revisions of the Code

The Chancellor consults faculty, staff and students, including representatives of student governments, in the revision of the Berkeley Campus Code of Student Conduct except when such revisions result from changes to Universitywide policies or are specifically mandated by law. Any member of the campus community may submit written proposals to change the provisions of this Code to the Chancellor at any time. Prior to the adoption of a revised Code of Student Conduct, all proposed modifications are submitted to the Office of the Assistant Chancellor for Legal Affairs and to the Office of the President for review for consistency with Universitywide policies and the law.

Copies of all campuswide and University policies referenced herein are available at online at <http://studentconduct.berkeley.edu>.

APPENDIX I: EMERGENCY SUSPENSION

During a state of emergency, Chancellors or their designated representatives are empowered to impose Emergency Suspension on any student, faculty member, or employee when there is a reasonable cause to believe:

1. The individual has participated in a disturbance of the peace or unlawful assembly, or has acted in violation of the campus emergency orders, has committed an act of physical violence or has threatened to commit such an act, or has committed a theft or has damaged property; or
2. The individual's presence on campus will lead to violation of campus emergency orders, violence, intimidation, damage to property, or other disruptive activity incompatible with the orderly operation of the campus.

If Emergency Suspension is imposed by a designated representative of the Chancellor, such representative shall immediately inform the Chancellor and submit a written report on the action to the Chancellor as soon as is reasonably possible. The report must contain a description of the person suspended, including the person's name and, if available, address and phone number, and a statement of the facts giving rise to the suspension. If the Chancellor does not affirm the action of the designated representative within twenty-four hours after being informed that the suspension has been imposed, the suspension will be deemed void and a reasonable effort will be made to inform the person who was suspended that the suspension is void.

Any individual placed on Emergency Suspension will be given written confirmation of the suspension, either by delivering it to the individual personally, by mailing it to the individual's last known address of record or by emailing it to the individual's last known email address of record. The confirmation will inform the individual of the procedures by which the validity of the Emergency Suspension can be appealed, including the opportunity to obtain a special hearing on the Emergency Suspension in accordance with applicable campus procedures. If an individual is found to have been unjustifiably placed on Emergency Suspension, the University is committed to a policy whereby reasonable efforts are taken to assist an individual who has been disadvantaged in employment or academic status.

The outcome of the appeal will have no bearing on University conduct proceedings arising from the behavior which gave rise to the Emergency Suspension.

Any individual placed under Emergency Suspension shall not, during the period of suspension, enter upon specified areas of the campus or engage in specified activities, as set forth in the written Notice of Emergency Suspension. The exclusion or restriction will be limited to the minimum extent necessary to protect the health and safety of persons or property, or to maintain the orderly operation of the campus.

Violation of any condition set forth in the Notice of Emergency Suspension will subject the individual to disciplinary proceedings based upon such violation.

APPENDIX II: ACADEMIC MISCONDUCT

This appendix provides students with a further explanation of different forms of academic misconduct. This list is not exhaustive. Individual departments at the University of California, Berkeley may have differing expectations for students, and therefore students are responsible for clarifying the standards and expectations of their individual departments.

Cheating

Cheating includes fraud, deceit, or dishonesty in an academic assignment, or using or attempting to use materials, or assisting others in using materials that are prohibited or inappropriate in the context of the academic assignment in question.

Plagiarism

Plagiarism includes use of intellectual material produced by another person without acknowledging its source.

False Information and Representation and Fabrication or Alteration of Information

Furnishing false information, failing to identify oneself honestly, fabricating or altering information and presenting it as legitimate, or providing false or misleading information to an instructor or any other University official in an academic context.

Theft or Damage of Intellectual Property

Sabotaging or stealing another person's work, improper access to or electronically interfering with the property of another person or the University, or obtaining a copy of an exam or assignment prior to its approved release.

Alteration of University Documents

Forgery of an instructor's signature, submitting an altered transcript of grades to or from another institution or employer, putting one's name on another individual's work, or falsely altering a previously graded exam or assignment.

Disturbances in the Classroom or Lab

Disturbances in a classroom or lab that serve to create an unfair academic advantage for oneself or disadvantage for another member of the academic community.