



**University of Colorado at Boulder
Office of Judicial Affairs
Student Conduct Code
Policies and Procedures
2006-2007**

Effective 8/21/06

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A. Overview

The purpose of the Student Conduct Code is to maintain the general welfare of the university community. The university strives to make the campus community a place of study, work and residence where people are treated, and treat one another, with respect and courtesy. The university views the student conduct process as a learning experience that can result in growth and personal understanding of one's responsibilities and privileges within both the university community and the greater community. All students must follow these standards. Students who violate these standards will be subject to the actions described below. These procedures are designed to provide fairness to all who are involved in the conduct process.

B. Authority

Article 7, Part B, of the Laws of the Regents requires each campus to develop a student code of conduct. The Office of Judicial Affairs ("OJA") is authorized to establish and administer this policy. Any questions regarding interpretation of this code or any of its provisions should be directed to the Vice Chancellor for Student Affairs or his/her designee for final determination.

Questions regarding behavioral problems should be directed to the Office of Judicial Affairs, University of Colorado at Boulder, 10 UCB, Boulder, CO 80309, phone 303-492-5550.

C. Jurisdiction

1. This policy governs:

a. Student conduct that occurs on or as it relates to university property or at official functions and university-sponsored programs conducted away from the campus. University property is defined as land, buildings and facilities in possession of or owned, used or controlled by the university or funded by university budgets.

b. Student conduct that occurs off university property is subject to this policy if it: (1) adversely affects the health, safety or security of any member of the university community or the mission of the university; or (2) involves any records or documents of the university.

2. All students residing in Housing and Dining Services facilities are also subject to the applicable Housing and Dining Services procedures detailed in section K, except:

a. Cases in which the potential sanction is suspension or expulsion.

b. Cases which are referred to Judicial Affairs by Housing and Dining Services.

3. Proceedings initiated under this policy are separate from civil or criminal proceedings that may relate to the same incident. Investigations or conduct proceedings by the university are not postponed while criminal or civil proceedings are pending unless otherwise determined by the conduct officer.

4. The unexcused failure of a student to appear and/or respond to the conduct process does not prevent the university from proceeding with the conduct process.

D. Advisors

A student being investigated, a charged student and an alleged victim of an alleged policy violation may be accompanied by an advisor during the conduct process. Advisors are not permitted to speak for or on behalf of the student during any phase of the conduct process, including hearings. However, with permission from the conduct officer, Residence Life Conduct Board, or Judicial Affairs Hearing Board, advisors may make a statement and/or ask questions of the charged student to present relevant information after the conduct officer/conduct body has completed discussions with the student under investigation, charged student or alleged victim.

E. Duties of Students

It is the duty of all students who are potential parties or witnesses to an alleged violation of the code to participate conscientiously. Students have a duty to cooperate and discuss the incident with an investigator and conduct officer over the telephone or in person, adhere to stated deadlines, attend scheduled meetings, and participate in all proceedings. Failure to meet these duties may result in a decision being made without the benefit of the student's participation or may result in a student being charged with failing to comply with the direction of a university official. It is the responsibility of a charged student to seek modification to any criminal or civil restraining orders to allow for the completion of any conduct process defined in the Student Conduct Code.

F. Mission Statement and Values of the Office of Judicial Affairs

The mission of the Office of Judicial Affairs is to establish an ethic of care at the University of Colorado at Boulder through its preventive, behavioral and accountability practices. Establishment of an ethic of care aids in providing a safe, respectful and supportive community where students, parents, faculty and staff will be challenged to develop their critical thinking, values, connectedness to the community, sense of identity, understanding of independence and interdependence and multicultural awareness.

An "ethic of care" model for Judicial Affairs is a holistic approach to engage community members regarding their behaviors and responsibilities, recognizing that concern for self and others in a community of individuals can have a powerful impact. The values, functional practices and programs of the Office of Judicial Affairs support this holistic model and demonstrate an effort to aid in student development and contribute to a positive, successful and respectful living and learning environment throughout the university community.

The values of the Office of Judicial Affairs provide a framework for programs and practices that mirror institutional values. The Office of Judicial Affairs' values are:

Civic responsibility and student involvement

Education and development of all students

Respect, dignity and equity

A socially just community

Responsibility, accountability and critical thinking
Fairness, honesty and integrity

G. Student Conduct Code

The conduct listed below is prohibited, as are attempts to commit and aiding, abetting, or inciting others to commit conduct prohibited by this code.

Engaging in retaliatory acts against a person who reports an alleged violation of the code or testifies, assists, or participates in a conduct proceeding or investigation is a violation of this code.

Violating any of the below standards with bold type will result in a minimum sanction of suspension unless specific and significant mitigating factors are present.

1. Assaulting or physically abusing another person or being involved in brawling.
2. Intimate partner violence. Intimate partner violence is conduct between people who are or were involved in a sexual or romantic relationship when one person in the relationship causes harm or significant alarm or distress to the other person. This includes but is not limited to threats, assault, or other action against the person or their property when used as a method of coercion, control, punishment, intimidation, or revenge.
3. Threatening or endangering the health or safety of a person (one's self or others).
4. Sexual Misconduct: Sexual Misconduct includes Non-consensual sexual intercourse, Non-consensual sexual contact and Sexual exploitation or exposure.
 - a. Non-consensual sexual intercourse:** Non-consensual sexual intercourse is any sexual intercourse (anal, oral or vaginal), including sexual intercourse with an object, however slight, by one person upon another without consent.
 - b. Non-consensual sexual contact:** Non-consensual sexual contact is any sexual touching (including touching with an object) however slight, by one person on another without consent.
 - c. Sexual exploitation and/or exposure:** Sexual Exploitation is when a student takes non-consensual, unjust or abusive sexual advantage of another for his/her own pleasure, advantage or benefit, or to pleasure, benefit or advantage anyone other than the one being exploited. Sexual Exposure occurs when a student engages in lewd exposure of the body done with the intent to arouse or satisfy the sexual desire of any person.
5. Indecently exposing one's body.
6. **Stalking.** Repeated conduct which reasonably and subjectively causes another person to fear for his/her safety or repeated conduct which causes a person to alter his/her activities in response to the repeated conduct. Such repeated conduct may include but is not limited to any of the following: following or approaching a person or a member of that person's family or household; contacting a person or a member of that person's family or household

whether or not conversation ensues; and placing a person or a member of that person's family or household under surveillance.

7. **Hazing.** Any action or situation that recklessly or intentionally endangers the health, safety, or welfare of an individual for the purpose of initiation, participation, admission into or affiliation with any organization at the university. Hazing includes, but is not limited to, any abuse of a mental or physical nature, forced consumption of any food, liquor, drugs, or substances, or any forced physical activity that could adversely affect the health or safety of an individual. Hazing also includes any activity that would subject the individual to embarrassment or humiliation, the willingness of the participant in such activity notwithstanding. (See Appendix 2)

8. **Abusive Conduct.** Unwelcome conduct by an individual(s) that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive. The determination of whether an environment is "hostile" must be based on all of the circumstances. These circumstances could include the frequency of the conduct, its severity, and whether it is threatening or humiliating. Simple teasing, offhand comments and isolated incidents (unless extremely serious) will not amount to abusive conduct.

This policy should not be construed, and will not be enacted, to deny any student the right of free speech and expression.

9. Violating any federal, state, or local law or university regulation or policy, which includes but is not limited to:

a. Violating the University's Administrative Policy Statement entitled, "Sexual Harassment Policy and Procedures." (See

<http://www.cusys.edu/policies/Personnel/sexharass.html>.)

b. Violating the University of Colorado at Boulder's policy entitled, "Discrimination and Harassment Policy and Procedures." (See

<http://www.colorado.edu/policies/discrimination.html>.)

c. Violating the University of Colorado at Boulder's policy entitled, "Use of CU Boulder's Computing and Network Resources." (See

<http://www.colorado.edu/policies/cnr/index.html>.)

10. Interfering with, obstructing or disrupting a university activity.

a. University activities include, but are not limited to, all normal university activities, such as teaching, research, recreation, meetings, public events, and disciplinary proceedings.

b. This prohibition includes, but is not limited to, interference, obstruction or disruption of the freedom of expression or movement of students or other members of the university community and their guests.

11. Interfering with, obstructing or disrupting police or fire responses. This prohibition includes, but is not limited to:

- a. Resisting arrest.
- b. Failing to abide by the directions of a peace officer.
- c. Tampering with, impairing, disabling, or misusing fire protection systems such as smoke detectors, fire extinguishers, sprinklers, or **alarms**.
- d. Failing to evacuate during a fire alarm.
- e. **Arson/setting fires.**

12. Failing to comply with the direction of university officials who are performing their duties. Students are required to comply with instructions or directions given by university officials, including, but not limited to, an instruction to present identification and an instruction to appear at conduct proceedings or other mandatory meetings.

13. Failing to abide by or complete a university sanction in a satisfactory manner, including violating the Student Conduct Code while on university probation or suspension in abeyance.

14. Providing false information to university officials, student conduct officers, the Judicial Affairs Hearing Board (JAHB), or peace officers in performance of their duties or forging, altering, falsifying or misusing documents or records, or knowingly using/possessing forged, altered or false documents or records.

15. Retaliating against or discouraging an individual from participating in a university process, acting to improperly influence a university conduct body, or the unauthorized release of confidential student or university information/records.

Direct contact with an individual or conduct body or contact through a third party may constitute a violation of this provision.

16. Violating any Housing and Dining Services policy. Violating any residence hall policy appearing in the *Guide to Residence Hall Living* or properly communicated through Housing and Dining Services staff. See the *Guide to Residence Hall Living* link on the OJA website <http://www.colorado.edu/studentaffairs/judicialaffairs> for more information. This includes, but is not limited to, the following:

- a. Violating the noise policy.
- b. Throwing items of any kind from windows, balconies, roofs, etc.
- c. Tampering with, propping open, or misusing residence hall security doors.
- d. Disposing of personal trash in hallways, bathrooms, or other common areas.
- e. Keeping a pet or animal in the residence hall.
- f. Playing any type of restricted game in the buildings (e.g., Frisbee, hockey, golf, darts); throwing snowballs; participating in water fights; or bicycling, skateboarding, or inline skating in the buildings or specified areas close to the buildings.
- g. Maintaining open flames, burning incense or candles, using barbecues or grills,

- using prohibited appliances, hanging/displaying prohibited tapestries, or possessing any of these items, even if meant for display only, or cooking in resident rooms, common areas, and areas surrounding the residence halls.
- h. Failing to instruct guests as to university or residence hall rules and policies. Residents are responsible for and are held accountable for the conduct of their guests and all activities in their rooms.
 - i. Violating the visitation policy.
 - j. Throwing food and/or items in the residence hall dining centers; and/or carrying out food from the dining centers, except where permitted.
 - k. Violating the smoke-free buildings policy.
17. Unauthorized entry into or exit from a university facility or property.
18. Damaging university property or property belonging to another.
19. **Engaging in, inciting, or arming someone for a riot or public disturbance.** (See Appendix 4)
20. Use of electronic or other devices to make an audio or video record of another person without that person's express consent and/or knowledge when such a recording is likely to cause injury or distress to the individual being recorded.
21. **Possessing firearms, explosives, fireworks, incendiary devices, ammunition, or other weapons on campus.**
- a. Possession of a harmless instrument designed to look like a firearm, explosive, or dangerous weapon is also prohibited by this policy (including but not limited to BB guns, pellet guns, martial arts equipment, and knives with a blade over 3" in length).
 - b. As mandated by Regent's Policy, in the case of a student who is found responsible via the Student Conduct Code process to have intentionally or recklessly used or possessed a weapon in a way that would intimidate, harass, injure, or otherwise interfere with the learning and working environment of the university, the minimum disciplinary sanction shall be expulsion. (See <http://www.cu.edu/regents/Policies/Policy14.html#14-I>)
 - i. In the case of a harmless instrument as described in section 21a., the minimum sanction shall be expulsion if the student used the item with the intent to cause fear in or assault to another person.
 - c. Mere possession of firearms, explosives, fireworks, incendiary devices, ammunition, other weapons, or instruments designed to look like any of the above will result in suspension unless mitigating factors are present.
22. Theft, including but not limited to, possessing property known to be stolen, or taking property of another without consent, even with an intent to return the property.
23. Possessing, using, providing, **manufacturing, distributing,** or **selling** drugs or drug paraphernalia in violation of law or university policies.
- a. If the violation occurs in a Housing and Dining Services facility, this prohibition

includes a student who knew, or reasonably should have known, s/he was in the presence of illegal drugs or drug paraphernalia.

In the case of a student who is found responsible via the student conduct code process to have endangered the health, safety, or welfare of an individual through the provision of drugs, the minimum disciplinary sanction shall be suspension.

24. Possessing, using, providing, **manufacturing, distributing, or selling** alcoholic beverages in violation of law or university policies.

a. If an underage student is in a Housing and Dining Services facility, this prohibition includes a student who knew, or reasonably should have known, s/he was in the presence of alcoholic beverages, or possessed, displayed, or was in the presence of alcohol containers.

In the case of a student who is found responsible via the student conduct code process to have endangered the health, safety, or welfare of an individual through the provision of alcohol, the minimum disciplinary sanction shall be suspension.

H. Definitions

Unless the context requires a different meaning, the following definitions apply.

1. Acceptance of Responsibility. The charged student agrees that their behavior constitutes a violation of the code of conduct, as outlined in the conference letter.

2. Aggravating Factor. Any circumstances accompanying the commission of misconduct that add to its seriousness. Examples may include the use of violence or force, violation of a trust or duty, premeditation of an incident, the existence of a previous conduct violation, and elements of hate and bias.

3. Appeals Officer. An appointee by the Vice Chancellor for Student Affairs charged with reviewing cases that have been sanctioned by the JAHB or a conduct officer.

4. Conduct Process. Any processes outlined in this Student Conduct Code Policies and Procedures. These include, but are not limited to Housing and Dining Services Conduct Procedures, Office of Judicial Affairs Conduct Procedures, investigations of alleged misconduct and appeals processes.

5. Conduct Bodies. Conduct bodies consist of conduct officers, the JAHB, and the RLCB. Staff members within Housing and Dining Services, which include Hall Directors, Hall Director Assistants, Area Directors, and Residence Life Coordinators, and Student Conduct Officers may serve as conduct bodies in Housing and Dining Services cases.

6. Conduct Officers. Conduct officers include any university staff member who is designated to investigate and/or make decisions about facts in student conduct cases. Conduct officers have the authority to determine sanctions including, but not limited to, exclusions, no-contact orders, administrative moves, residence hall termination, probation, suspension, expulsion, and educational sanctions.

7. Designation. A student's classification; i.e., graduate, undergraduate, continuing education, degree seeking or non-degree-seeking.
8. JAHB. Judicial Affairs Hearing Board. See section J.
9. Mitigating Factor. Extenuating circumstances that may be taken into account to reduce a sanction. They do not constitute a justification or excuse for the offense in question.
10. Parent. A student's parent or legal guardian.
11. Peace Officer. A person designated by the University of Colorado or the state or federal government with the responsibility of enforcing laws or policies.
12. Preponderance of Evidence. What happened more likely than not, or "50% plus a feather." This shall be the standard of proof used in all conduct proceedings under this code.
13. RLCB. Residence Life Conduct Board. A conduct body comprised of a residence life staff member and residence hall students, charged with adjudicating alleged policy violations within the residence halls.
14. Student. The term student includes all persons taking courses at the university, either full time or part time, pursuing undergraduate, graduate, or professional studies, as well as nondegree students. This also includes individuals admitted, those attending orientation sessions, and those that were enrolled at the date of an alleged incident. Persons who withdraw after allegedly violating the student conduct code are also considered "students."
15. Student Conduct Officers. Student Conduct Officers serve either on the JAHB, RLCB, or as Housing Conduct Officers. JAHB student Conduct Officers are students designated by the Director of Judicial Affairs to serve on the JAHB. Housing Conduct Officers are students designated by Housing and Dining Services to serve on Housing and Dining Services cases.
16. University. The University of Colorado at Boulder.
17. University Official. A university employee working in the performance of his or her duly authorized duties. University officials may be full or part time, or may be student staff members.
18. University Premises. University owned or controlled property.
19. Witness. Any individual who may have information relating to a conduct case.
20. Working Day. Monday through Friday, except for official university holidays.

I. Office of Judicial Affairs Procedures

1. Overview

All student conduct proceedings are closed. The university reserves the right to audiotape any conduct proceeding, as described in sections I, J, K. The student or his or her advisor must obtain permission from the conduct officer to audiotape the conduct proceeding. Any audiotape that is made by the university may be listened to by the charged student, but not copied, and will be kept for as long as described in section L.1.c. The following procedures will be used for conduct proceedings, except as noted below.

For cases involving an alleged violation of sections G.4a-c (Sexual Misconduct), G.9.a (Sexual Harassment), and G.9.b (Protected Class Discrimination and Harassment) the conduct process outlined in Appendix 1 applies. When alleged violations of the charges governed by Appendix 1 are accompanied by other alleged violations of the Student Conduct Code, all of the charges may be processed together as outlined in Appendix 1.

2. Commencement of a Conduct Process

A conduct officer may initiate the conduct process on the basis of a report received from any source, including, but not limited to an individual, a residence hall official or a law enforcement agency.

Upon receipt of a complaint or report, the conduct officer may conduct an investigation to decide whether the allegations fall within the jurisdiction of this policy, whether there is substance to the allegations, and whether conduct proceedings should occur. Options include: 1) investigating the report or complaint; 2) resolving the situation through an informal resolution process including but not limited to mediation or a meeting between the respondent and a judicial affairs officer or a third party; or 3) determining that the facts of the complaint or report, even if true, would not constitute a violation of the conduct code or applicable policy. The conduct officer may proceed by sending the student respondent a Pre-Conference Letter.

3. Pre-Conference Letter

a. In all cases, the conduct officer shall provide a pre-conference letter to the student who is the subject of the report or complaint. When students are sent the pre-conference letter via U.S. mail, the letter shall be sent to the student's mailing address appearing in the University's Student Information System. An email notifying the student to expect the letter will be sent as well. If the mailing address is no longer current or no mailing address is given, the permanent address may be used. Notice to the student will be considered furnished once the Office of Judicial Affairs follows these mailing guidelines.

b. The pre-conference letter shall include:

- i. A description of the alleged misconduct;
- ii. The conduct code provisions that are alleged to have been violated;

iii. Copies of, or information on how to obtain copies of, all available documents pertinent to the incident that are in the possession of the Office of Judicial Affairs to the extent permitted by law;

iv. The requirement that the student must set up a conference with the conduct officer within the time frame designated in the letter; and

v. An explanation that the purpose of the conference is (1) to permit the conduct officer to clarify the allegations; (2) to explain the conduct procedures and a student's rights and responsibilities; and (3) to explain the resolution options available to the student.

c. If the student does not schedule or attend a conference by the date specified in the notice, or if the student schedules a conference but does not attend, the conduct officer can decide the outcome of the case in the student's absence.

d. Unless unusual circumstances beyond the control of the student arise, a delay in the process will not be granted.

e. In cases in which a student has been contacted for a policy violation by police at a sporting event, notice for the conduct proceeding may be given immediately by the police. Such notice may include a preset conference time with the Office of Judicial Affairs.

4. Standard of Proof and Process

In order to find that a student has violated a standard of conduct, the standard of proof required is a preponderance of the information contained in the record, *i.e.* the information must demonstrate that it was more likely than not that the conduct occurred. Formal rules of process and procedure and technical rules of evidence, such as are applied in criminal or civil court proceedings are not used in the conduct process. Any relevant information may be considered if it is the sort of information on which responsible persons are accustomed to rely in the conduct of serious affairs. No information other than that received in conjunction with the conduct process shall be considered.

5. Pre-Conference

A conduct officer will meet with the charged student to explain the conduct process, to answer any questions the student may have, and to offer the student an opportunity to express a preference for one of the three resolutions options described below. The conduct officer reserves the authority to decide the resolution option after considering the total nature of the incident (e.g. when there is a concern for the health or safety of the community).

6. Resolution Options

After considering the charged student's preference, the conduct officer shall decide on one of the following resolution options:

a. An Administrative Review Involving Acceptance of Responsibility. In this process, the student agrees that their behavior constitutes a violation of the code of conduct as outlined in the pre-conference letter. The conduct officer will discuss with the charged student the facts alleged to have occurred and any aggravating or mitigating circumstances or information that might affect the sanction. After considering any additional information the student has presented, the conduct officer shall decide on a sanction. The student waives his/her right to appeal by accepting this option, unless the outcome is a sanction of suspension or expulsion.

b. An Administrative Review Involving Denial of Responsibility. In this process, the student denies either that s/he engaged in the conduct described in the letter, or that the conduct constitutes a violation of the code of conduct, or both. The conduct officer will conduct a review:

i. To consider the facts alleged in the notice and the charged student's version of those facts;

ii. To review any relevant documents that are contained in the file or presented by the charged student, alleged victim, or any other interested party;

iii. To permit the charged student and the alleged victim to identify witnesses with relevant information, and to request to be present during the interview;

iv. To discuss the matter with witnesses who have relevant information and who are willing to meet with the conduct officer;

v. To make determinations about the facts and the credibility of those providing information;

vi. To determine whether the facts found to be true constitute a violation of the Student Conduct Code;

vii. To determine any aggravating or mitigating circumstances; and

viii. To decide on a sanction.

c. Judicial Affairs Hearing Board (JAHB)

The JAHB involves a more extended, formalized review. The JAHB procedures are set forth in section J.

d. Expedited Administrative Review.

When the conduct officer determines that a prompt review is essential (e.g., end of the semester, the student is graduating, or there is substantial concern for the health, safety, or welfare of a member of the university community), the conduct officer may require that the student meet with him or her within 24 hours if the student is a campus resident, or 48 hours if the student resides off campus. In addition, notice

may initially be given in these instances by an end of the semester contact form, by telephone, or by electronic mail. If the student fails to attend the conference in the time specified, the conduct officer can decide the outcome of the case in the student's absence.

J. Judicial Affairs Hearing Board Procedures

1. Preliminary Matters

a. The Office of Judicial Affairs will notify the charged student in writing of the hearing date, time, location, and the names of JAHB members who may participate in the hearing. The hearing date may be changed one time if the charged student makes the request in writing, the request is received by the Office of Judicial Affairs no less than five working days prior to the hearing date, and the student provides a valid reason for the requested date change. The director of the Office of Judicial Affairs determines whether to approve the student's request and may require documentation or other information supporting the reason provided by the student. If the request is approved, a new hearing date is selected and the student is notified. The university also reserves the right to change the hearing time, date, and location if logistically necessary.

b. A quorum consists of three JAHB members, who are appointed by the Director of Judicial Affairs, and will always include at least one student and at least one faculty or staff member. Any JAHB member who believes she or he is unable to be an objective participant for a given hearing is expected to remove herself/himself from the JAHB for that particular hearing. One member of the board will serve as a chairperson.

c. The charged student will be informed, at least three working days before the formal hearing, of the names of witnesses requested by the university to present information at the formal hearing.

d. At least five working days before the hearing date, the Office of Judicial Affairs will give the charged student and the JAHB all additional documents to be used at the hearing that may not have previously been made available.

e. At least seven working days before the hearing date, the charged student will give the Office of Judicial Affairs, in writing,

- i. the names of witnesses (if any) being asked to present information at the hearing;
- ii. all documents (if any) to be included at the hearing, including written statements of witnesses;
- iii. objections (if any) to the service of JAHB member(s); and
- iv. the name of the advisor (if any) who will appear with the charged student.

The charged student may personally request witnesses to attend the hearing, or he or she may request in writing that the Office of Judicial Affairs make the request on his or her behalf; however, the Office of Judicial Affairs cannot guarantee the presence of a requested witness at a hearing. Students and employees are expected to participate

as reasonably requested in conduct proceedings as a responsibility of membership in the university community. Failure to do so may result in disciplinary action.

f. The chair of the JAHB has full discretion regarding the management of the hearing. The JAHB chair may impose reasonable limits upon the number of witnesses presenting information and upon the amount of cumulative information that may be introduced on a disputed issue. Technical rules of evidence and procedures applicable to civil and criminal court cases do not apply. The chair may exclude any person, including the charged student and his/her advisor, who disrupts the hearing.

g. Once the hearing has begun, the JAHB chair has the discretion to continue the hearing to another point in time.

h. If the charged student fails to appear for the hearing, the JAHB may hear the case and make decisions in his/her absence.

i. In cases that allege a crime of violence (as defined in Section N.4.) which proceed to a JAHB, the complainant and the respondent may file a request with the Office of Judicial Affairs to allow an advocate to accompany the student to the hearing to provide support to the student. An advocate must be a professionally trained counselor or a parent or legal guardian and may not be an attorney. Advocates may interact privately with the complainant or respondent during the proceedings; however the advocate is **not** permitted to interact with the board or any other party at the hearing. If the advocate does not act within the limitations outlined, he or she will be asked to leave the hearing. Any request for an advocate must be submitted in writing at least five working days before the hearing date and must include the name and contact information for the advocate. The Office of Judicial Affairs may approve or disapprove of the request as is needed to maintain the efficiency of the hearing. It is the student's obligation to select an advocate whose schedule allows attendance at the scheduled date and time.

j. In cases where there is a complainant, the complainant may be provided during the JAHB hearing, whenever practical, accommodations that do not require the complainant to be in close proximity to the charged student or such person's family, friends, advisor, or witnesses.

2. Hearing Procedures. The hearing will be conducted as follows:

a. Call to order by the chair.

b. Announcements and opening remarks by the chair, including such items as:

i. Statement of the nature of the case under consideration

ii. Statement of the conditions of the hearing:

1. Hearing is closed.

2. Comments and/or statements must be restricted to matters relevant to the case.

3. Any person who interferes with or obstructs the hearing, or who fails to abide by the rulings of the chair or the JAHB, can be dismissed from the hearing.
 4. The hearing will be audio recorded.
 5. JAHB deliberations are in a closed session that is not recorded.
- iii. Establishment of quorum.
- c. The chair will review the charges and allegations against the student.
 - d. The chair will review the documents under consideration.
 - e. The chair will ask the charged student to respond to the charges noted in the pre-conference letter.
 - f. The chair will direct discussion of the information and presentation of the witnesses. The charged student may ask questions of witnesses through the chair of the JAHB. The chair of the JAHB has the discretion to determine the appropriateness of the questions and whether the question will be accepted and presented to the witness.
 - g. The chair has the discretion to recall particular witnesses to address specific issues or questions at either the request of the students or the JAHB.
 - h. The charged student and the chair may make closing statements.
 - i. The chair concludes the hearing and excuses the charged student and advisor/advocate.
 - j. The JAHB enters closed session deliberation and decides by a majority vote whether or not the charged student has violated the Student Conduct Code. If a violation has occurred, the JAHB decides the sanction.
 - k. The chair notifies the Director of Judicial Affairs of the JAHB's decision. The director then notifies, in writing, the charged student and appropriate university officials of the JAHB decision. In cases of crimes of violence, the complainant will also be notified of the decision.
 - l. The Office of Judicial Affairs keeps a record of the hearing. The record includes copies of all correspondence between the charged student and the university, an audio recording of the hearing, all documents admitted at the hearing, and the decision. The record is destroyed when the case file is expunged.

3. Standard of Proof and Process

In order to find that a student has violated a standard of conduct, the standard of proof required is a preponderance of the information contained in the record, *i.e.* the information must demonstrate that it was more likely than not that the conduct occurred. Formal rules of process and procedure and technical rules of evidence, such as are applied in criminal or civil court proceedings are not used in the conduct process. Any relevant information may be considered if it is the sort of information on which responsible persons are accustomed to rely in the conduct of serious affairs. No information other than that received in conjunction with the conduct process shall be considered.

4. Questions of Law. If questions of law arise during a JAHB hearing, the JAHB Chair may consult with the Office of the University Counsel. If requested to do so by the Chair, the Office of the University Counsel will issue a ruling on the question of law raised.

K. Housing and Dining Services Conduct Procedures

All student conduct proceedings are closed. The university reserves the right to audiotape any conduct proceeding, as described in sections I, J, K, or investigative interview. The student and his or her advisor must obtain permission from the conduct officer to audiotape the conduct proceeding. Any audiotape that is made by the university may be listened to by the charged student, but not copied, and will be kept for as long as described in section L.1.c.

1. Commencement of a Conduct Process

A conduct officer may initiate the conduct process on the basis of a report received from any source, including, but not limited to an individual, a residence hall official or a law enforcement agency.

Upon receipt of the complaint or report, the conduct officer may conduct an investigation to decide whether the allegations fall within the jurisdiction of this policy, whether there is substance to the allegations, and whether conduct proceedings should occur. The conduct officer may proceed by sending the student respondent a Conference Letter.

2. Conference Letter

a. The conduct officer shall initiate the conduct process by sending written notice to the student who is the subject of the report or complaint. The residence hall office will attempt to contact the resident by phone or email to notify them to retrieve the letter. If they are unable to reach the student or the student does not retrieve the letter, it shall be placed in the student's mailbox. Notice to the student will be considered furnished once Housing and Dining Services follows these mailing guidelines.

b. The letter shall include:

- i. A description of the alleged misconduct;
- ii. The conduct code provisions that are alleged to have been violated;
- iii. Copies of, or information on how to obtain copies of, all available documents pertinent to the incident that are in the possession of the Office of Judicial Affairs to the extent permitted by law; and
- iv. A date and time for the conference in which the student must meet with the conduct officer. If the student is unable to meet during this time it is the student's responsibility to reschedule in advance of the conference.

c. If the student does not attend the conference the conduct officer can decide the outcome of the case in the student's absence.

d. Unless unusual circumstances beyond the control of the student arise, a delay in the process will not be granted.

3. Conference

At the conference, the conduct officer will explain the conduct process and answer any questions the student may have. The conduct officer and RLCB members also will review the complaint with the student. The student shall have the opportunity to present

documents and to explain his/her understanding of what happened. The conduct officer or RLCB may discuss the matter further with the charged student, conduct further investigation as needed and, based on information received, determine by a preponderance of the information whether or not the student has violated the Student Conduct Code. If so, the conduct officer or RLCB will determine the sanction.

4. Standard of Proof and Process

In order to find that a student has violated a standard of conduct, the standard of proof required is a preponderance of the information contained in the record, *i.e.* the information must demonstrate that it was more likely than not that the conduct occurred. Formal rules of process, procedure and/or technical rules of evidence, such as are applied in criminal or civil court proceedings are not used in the conduct process. Any relevant information may be considered if it is the sort of information on which responsible persons are accustomed to rely in the conduct of serious affairs. No information other than that received in conjunction with the conduct process shall be considered.

5. Expedited Conference

When the conduct officer determines that a prompt review is essential (e.g., end of the semester, the student is graduating, or there is substantial concern for the health, safety, or welfare of a member of the university community), the conduct officer may require that the student meet with him or her within 24 hours. In addition, notice may be given in these instances by an end of the semester contact form, by telephone, or by electronic mail. If the student fails to attend the conference in the time specified, the conduct officer can decide the outcome of the case in the student's absence.

L. Sanctions

1. Overview.

a. After hearing the case, the conduct officer/RLCB (in an administrative conference, in an administrative disposition, or within Housing and Dining Services) or the JAHB, may find by a preponderance of the information that the charged student is not responsible, or may find the student responsible and issue a sanction based on that finding. The charged student and an alleged victim may provide an impact statement or character references for consideration during the sanction process, if the student is found responsible.

b. Sanctions imposed for misconduct will be based upon a consideration of all of the circumstances in a particular case. Mitigating and aggravating circumstances may be considered. Repeated violations are likely to result in progressively severe sanctions. One or more of the sanctions below may be imposed. In all cases, the conduct officer and conduct body reserve the right to use their discretion in determining the appropriate sanction for a case, which could include lower sanctions than the prescribed guidelines or higher sanctions than the prescribed guidelines. All decisions regarding responsibility and appropriate sanctions will be given to a student in writing.

c. Records for cases not involving probation, suspension, or expulsion, or where the incident involved a charge that the university is federally mandated to report upon, will be kept until a student's graduation or permanent withdrawal from the institution.

For cases involving probation, suspension, or an incident upon which the university is federally mandated to report, the university is obligated to keep the records for seven years after the charged student graduates or permanently withdraws from the university. If a student does not return after their suspension period, the period of suspension will not count towards the seven years for expunging the file. Instead, the seven years will start at the end of the suspension period.

The university will maintain cases involving expulsion indefinitely.

Every student may review, upon request, all non-confidential contents of his/her conduct file, to the extent permitted by law.

2. Educational Sanctions. The student may be required to perform a specific number of hours of community service, complete a reflection or research paper, attend a class, program or lecture, or be involved with the community in a way that brings about a new understanding of the community and how his/her behavior may have impacted others. This is not an exhaustive list but should serve as a reference for the types of educational sanctions that may be imposed.

3. Warning/Written Reprimand. A warning/written reprimand is a written statement from the conduct body that the behavior was inappropriate and should subsequent infractions occur, more serious conduct action will be taken.

4. Residence Hall Reassignment. A student who resides in a residence hall may, through the conduct process, be assigned to a different residence hall on campus.

5. Residence Hall Termination. A student's residence hall agreement may be terminated through the conduct process and the student may be prohibited from residing in any university residence hall on either a permanent or temporary basis. Specific exclusion from the residence halls may also be imposed. Termination may occur in cases where a student appears to be involved in violations of the Student Conduct Code and the behavior or pattern of behavior has a significant negative impact on his/her living community.

6. Probation. A student may be placed on probation. Probation lasts for a specific period of time, and is implemented by semesters. Any violation of the Student Conduct Code or the conditions of probation committed during the probationary period will result in further disciplinary action, such as suspension or expulsion.

7. Suspension in Abeyance. The student is suspended from the university, but due to

mitigating circumstances the suspension is deferred, allowing the student to continue with daily university activities and providing a student with a final opportunity to prove they can operate responsibly within the community. If the student, through the conduct process, is found to have violated the Student Conduct Code during the period of the suspension in abeyance, the student will be immediately suspended from the university for the duration of the abeyance, as well as given additional sanctions, including an extension of the suspension, or expulsion.

8. Suspension. The student is required to leave the university for a specific period of time. An indication of suspension appears on the student's transcript. After the period of suspension has expired, the transcript notation will be removed. The student is required to apply for readmission to the university after his/her suspension period. Suspension from the university includes an exclusion from campus property during the period of suspension. A suspension decision results in the student being suspended from all campuses of the University of Colorado system.

Any violation of the following standards will result in a minimum sanction of suspension for one full semester, unless mitigating factors are present: 4a, 4b, 6, 7, 11c (alarms), 11e, 19, 21, 23 (distribution/endangering), 24 (distribution/endangering).

9. Expulsion. The student is required to permanently leave the university. A notation of expulsion remains permanently on the student's transcript. An expulsion keeps the incident on file in the Office of Judicial Affairs permanently. Expulsion from the university includes an automatic exclusion from campus property. An expulsion decision results in the student being expelled from all campuses of the University of Colorado system.

10. Exclusion. The student is denied access to all or a portion of campus. When a student is excluded from campus, that student may be permitted onto campus for limited periods and specific activities with the permission of the Director of Judicial Affairs or his/her designee. Should the student enter campus without permission, actions may be taken by the police.

11. Restriction or Denial of University Services. The student is restricted from using or is denied specified university services, including participation in university activities.

12. Delayed Conferral of Degree. The issuance of a student's diploma is delayed for a specified period of time.

13. Recommendation for Revocation of Degree. The conduct officer or hearing board may recommend to the Regents of the University of Colorado revocation of an earned degree.

14. Additional Sanctions. Additional sanctions include, but are not limited to, requiring the student to compensate a victim for theft, damage, counseling or other expenses incurred as a result of the incident.

M. Appeals

1. Introduction

Either the charged student or the complainant of a crime of violence (as defined by the Campus Security Act, see section N.4.) may file a request for appeal in accordance with procedures outlined in Section I. The appeal is the final step in the conduct process. An appeal does not provide a second hearing of the case. The review on appeal will be based on the existing record, or new information provided per M.2.a. iii. or M.3.a. iii below, as well as the information provided to the appeal officer in the student's request for appeal and information the conduct officer may present regarding the rationale for the decision.

Deviations from the procedures in this code will not invalidate a proceeding or decision or be a basis for appeal except where such deviation has clearly resulted in significant prejudice to an accused student.

2. Office of Judicial Affairs Appeals

a. Grounds

A student may appeal upon one or more of the following grounds:

- i. The established procedures were not followed in a significant way and as a result, the factual findings, the sanction, or both, were not correct.
- ii. The severity of the sanction imposed was not appropriate based on the nature of the violation or the circumstances.
- iii. There is new information that would have been material to the outcome, had the information been presented at the hearing or administrative review. The new information must be included with the student's request for appeal. Also, the student must show that the new information was not known to the person appealing at the time of the original hearing or administrative review.
- iv. In cases in which a charged student has accepted responsibility, s/he may only appeal if the sanctions of suspension or expulsion were imposed. Such appeals are limited to having the severity of the sanction reviewed.

b. Appeals Process

If a student files an appeal, s/he will be informed of the outcome when the appeal process has been completed. Students residing off campus must file their appeals by the date specified in the original decision letter from the Office of Judicial Affairs. Students residing on campus must file their appeals within three working days from the first date the hall office attempts to notify them that the decision has been received.

An appeal will only be considered if: (a) it is delivered to the Office of Judicial Affairs within the time limits set forth above; (b) it includes the student's reasons for requesting an appeal; and (c) it contains all supporting information needed to review the case. The appeal officer will make the decision as to whether these conditions have been met. A student may file an appeal by delivering it to the Office of Judicial

Affairs. The request for appeal form is available in the Office of Judicial Affairs, at the front desk of any hall office, or at <http://www.colorado.edu/studentaffairs/judicialaffairs/>. In general, the filing of an appeal shall result in a stay of the sanctions imposed on the appealing student, unless the welfare of the individual or the community is threatened. Students are encouraged to consult with all resources about the appeal process prior to submitting the request for an appeal.

c. Appeal Officer

The Vice Chancellor for Student Affairs, or his/her designee, upon the recommendation from the Director of Judicial Affairs shall appoint the appeal officers. The appeal officer shall have no prior involvement with the case through the Office of Judicial Affairs. S/he shall only consider information contained in the record of the case that is transmitted to the appeal officer.

d. Actions Available to the Appeal Officer

- i. The decision of the conduct officer or JAHB will be given deference by the appeal officer because the conduct officer or JAHB has been delegated the primary responsibility to speak with the student and all other witnesses, to observe their demeanor, to examine the information, and to make judgments based on these factors and the educational needs of the student.
- ii. The appeal officer shall have the authority to:
 1. Affirm the initial decision.
 2. Find that improper procedures were used, to the prejudice of the student. In this case, the appeal officer can refer the case back to the conduct officer or JAHB with a recommendation on how to correct the procedures. The conduct officer or JAHB may make a new decision on the case. The student may then submit another request for appeal, if the case is referred back and the student again has grounds to appeal after the new decision.
 3. Reduce or increase the sanction, if the appeal officer determines that the sanction imposed was too severe or too lenient, given the nature of the violation and/or the circumstances. A sanction should not be increased or decreased unless there is a compelling justification to do so. Merely disagreeing with the decision of the JAHB or conduct officer is not a compelling justification.
 4. Find that (a) the student has presented information that would have been material to the outcome of the case, had the information been presented at the conference or hearing, and (b) the information was not known to the person appealing at the time of the original hearing or administrative review. In this event, the appeal officer will refer the case back to the conduct officer or JAHB for reconsideration in light of the new information.

e. Questions of Law

If questions of law arise during the appeal process, the appeal officer may consult with the Office of the University Counsel.

3. Housing and Dining Services Conduct Appeals

a. Grounds

An appeal of Housing and Dining Service Conduct decisions may only be submitted if a student was put on probation, terminated from Housing and Dining Services, suspended, or expelled (sections L. 4-9 and 12-13).

A student may appeal upon one or more of the following grounds:

- i. The established procedures were not followed, in a significant way, and as a result, the factual findings, the sanction, or both were not correct.
- ii. The severity of the sanction imposed was not appropriate based on the nature of the violation or the circumstances.
- iii. There is new information that would have been material to the outcome, had the information been presented at the conference or hearing. The new information must be included with the student's request for appeal. Also, the student must show that the new information was not known to the person appealing at the time of the original hearing.

b. Appeals Process

If a student files an appeal, s/he will be informed of the outcome when the appeal process has been completed. Students must file their appeals within three working days from the first date the hall office attempts to notify them that the decision has been received.

An appeal will only be considered if: (a) it is delivered to the residence hall office or the Residence Life Administration Office in Hallett Hall 52 within the time limits set forth above; (b) it includes the student's reasons for requesting an appeal; and (c) it contains all supporting information needed to review the case. The appeal board chair(s) and advisor(s) will make the decision as to whether these conditions have been met. A student may file an appeal by delivering it to the Residence Life Administration Office or to their residence hall office. The request for appeal form is available in the Residence Life Administration Office, at the front desk of any hall office, or at <http://www.colorado.edu/studentaffairs/judicialaffairs/>. In general, the filing of an appeal shall result in a stay of the sanctions imposed on the appealing student, unless the welfare of the individual or the community is threatened. Students are encouraged to consult with all resources about the appeal process prior to submitting the request for an appeal.

c. Appeal Board

The Director of Judicial Affairs, or his/her designee, upon the recommendation from members of the Housing and Dining Services, shall appoint the appeal board chair(s) and members, consisting of Assistant Directors of Residence Life and/or residence hall students. The chair(s) and/or students review the appeal and the chair(s) shall oversee administration of the appeal process and decisions. The appeal board members shall have no prior involvement with the case through the Office of Judicial Affairs or Housing and Dining Services. The board shall only consider information contained in the request for appeal, any rationale for the decision that may be

presented by the conduct officer or RLCB, and the record of the case that is transmitted to the appeal board.

d. Actions Available to the Appeal Board

- i. The decision of the conduct officer or RLCB will be given deference by the appeal board because the conduct officer or RLCB has been delegated the primary responsibility to speak with the student and all other witnesses, to observe their demeanor, to examine the information, and to make judgments based on these factors and the educational needs of the student.
- ii. The appeal board shall have the authority to:
 1. Affirm the initial decision.
 2. Find that improper procedures were used, to the prejudice of the student. In this case, the appeal officer can refer the case back to the conduct officer or RLCB with a recommendation on how to correct the procedures. The conduct officer or RLCB may make a new decision on the case. The student may then submit another request for appeal, if the case is referred back and the student again has grounds to appeal after the new decision.
 3. Reduce or increase the sanction(s), if the appeal board determines that the sanction imposed was too severe or too lenient, given the nature of the violation and/or the circumstances.
 4. Find that (a) the student has presented information that would have been material to the outcome of the case, had the information been presented at the conference, and (b) the information was not know to the person appealing at the time of the original hearing. In this event, the appeal board will refer the case back to the conduct officer or RLCB for reconsideration in light of the new information.

e. Questions of Law

If questions of law arise during the appeal process, the appeal officer may consult with the Office of the University Counsel.

N. Additional Information

1. Adjudication Fee. Students whose cases are heard through the Office of Judicial Affairs and who are found in violation of the Student Conduct Code will be assessed a \$50 adjudication fee. This fee will be assessed directly to the student's account. A financial stop will be placed on the student's record if the student fails to pay the adjudication fee by the due date. This stop will prevent the student from:
 - a. Registering for future terms;
 - b. Participating in drop/add;
 - c. Receiving an academic transcript; and
 - d. Receiving a diploma.

This fee is used by the Division of Student Affairs to support educational programs and presentations, as well as support departments such as Victim Assistance. The Office of

Judicial Affairs does not receive any of the adjudication fee. Failure to pay the adjudication fee by the due date will also result in a \$5 late fee and a one percent per month service charge on the unpaid balance.

2. Disciplinary Hold and Disciplinary Stop

While conduct proceedings are pending, the university may place a disciplinary hold on the student's records. The disciplinary hold is honored by the University of Colorado at Boulder campus, including Continuing Education, and prohibits the student from registering for classes until the conduct process, including the review procedure if requested, has been completed. The transcript hold prohibits the academic transcript from being released until all actions have been completed.

A disciplinary hold may also be placed if a student fails to complete assigned sanctions, which has the same impact on a student's records and registration as described above. The disciplinary hold will not be removed until all sanctions are completed.

A disciplinary stop shall be placed on a student's record if they are suspended as the outcome of the conduct proceedings. A disciplinary stop is honored by all University of Colorado campuses and prohibits a student from being admitted to any of the campuses and from registering for classes until the suspension period is over and the student has reapplied and has been re-admitted.

3. Refund Policy After Disciplinary Action

If a student is suspended or expelled from the university, or has their Housing and Dining Services contract terminated, assessment or refund of tuition and fees and/or Housing and Dining Services room and board costs are made in the same way as when a student voluntarily withdraws. (See the Registration Handbook and Schedule of Courses for more information).

The date used for determining the amount due will be the first day of the suspension or expulsion, as decided upon by the conduct officer.

4. Release of Conduct Information

Provisions of the Family Educational Rights and Privacy Act of 1974, as amended by the Higher Education Amendments of 1998, govern access to a student's academic transcript or conduct file. The student and/or those university officials who demonstrate a legitimate educational need for disciplinary information may have access to the student's conduct file. Parent(s) who provide proof that a student is a dependent as defined in Section 152 of the Internal Revenue Code of 1954, i.e., a copy of the last federal income tax return listing the student as a dependent, can have access to the student's conduct file without written consent of the student. In this case, parents may also have access to a conduct file even if the student has requested otherwise.

In addition, parent(s) may be notified if a student under 21 years of age is found responsible for a violation involving use or possession of alcohol or other drugs.

All other inquiries, including, but not limited to, inquiries from employers, government agencies, news media, family, friends, or police agencies, require a written release from the student before access to university conduct files is granted. Information may be released pursuant to a lawfully issued subpoena and as provided by the Campus Security Act as amended by the Higher Education Amendments of 1992.

The Campus Security Act permits higher education institutions to disclose to alleged victims of any crime of violence (murder, robbery, sexual assault, aggravated assault, burglary, motor vehicle theft, arson) the results of the conduct proceedings conducted by the institution against an alleged perpetrator with respect to such crime. The Campus Security Act also requires that both accused and the accuser be informed of campus conduct proceedings involving a sexual assault.

5. Re-Release of Information

Individuals who receive confidential information due to an exception to privacy laws, due to their participation in the conduct process, or due to the signed consent of the student whose records are in question are prohibited from further disclosing/releasing the confidential information, unless expressly permitted by law. Violation of this prohibition could result in charges being pursued under this policy or other appropriate action.

6. Summary Suspension

The Chancellor, Vice Chancellor for Student Affairs, the Associate Vice Chancellor for Student Affairs, and their designee(s) have the authority to suspend summarily, pending final disposition of the case, any student when, in the opinion of these officials, such a suspension is necessary to:

- a. Maintain order on the campus;
- b. Preserve the orderly functioning of the university;
- c. Stop interference in any manner with the public or private rights of others on university premises;
- d. Stop actions or potential actions that threaten the health or safety of any person;
- or
- e. Stop actions or potential actions that destroy or damage property of the university, its students, faculty, staff, or guests.

Summary suspension will also include excluding the student from campus.

Summary suspension begins immediately upon notice from the appropriate university official, without a conference with a conduct officer. A conference with a conduct officer is then scheduled as soon as possible (usually within 10 calendar days) to determine how the case will continue and to begin the conduct process. In extreme matters, a summary suspension may be put in place until a student receives a final disposition in a court process after having been charged with a serious crime.

O. Related Information

1. Academic Integrity

Cases involving academic dishonesty are heard under the Honor Code. For more

information, contact the Honor Code Office, or see the following websites:
<http://www.colorado.edu/academics/honorcode/> and
<http://www.colorado.edu/policies/acadinteg.html>.

2. Alcohol

On the Boulder campus, students may consume alcohol only if they are of legal drinking age and do so in designated areas. Students should consult with Housing and Dining Services or other facility supervisors to determine where the designated areas are located. Drinking by underage students or in non-designated areas on campus violates the Student Conduct Code and Housing and Dining Services policies (for Housing and Dining Services policies, see the *Guide to Residence Hall Living* link at <http://www.colorado.edu/studentaffairs/judicialaffairs>).

Alcohol Violation Sanctions

a. Any student currently on university probation or suspension in abeyance who is found responsible for violating the university alcohol policy is subject to suspension from the university for at least one full semester.

b. If a student is found to be in violation of state laws or university policies governing alcohol, the student will be subject to the following sanctions:

First Offense:

- Parental notification
- Five hours of community service
- Mandatory attendance at an alcohol awareness class (fee applies)
- Probation for one semester

Second Offense:

- Parental Notification
- Ten hours of community service
- Referral to the City of Boulder's Second Offender Program (fee applies)
- If on probation from a previous violation of the Student Conduct Policies and Procedures, further disciplinary action will be imposed, such as suspension or expulsion.

Sanctioning of alcohol and drug violations may be more severe if the incident includes the following aggravating factor(s): public intoxication, provision of alcohol/drugs to minors, driving a vehicle under the influence of alcohol/drugs, damage to property, obstruction of a peace officer, failure to cooperate with a university official. Sanctioning may also be more severe if it is accompanied by other violations of the Student Conduct Policies and Procedures.

STARS: Striving to Achieve Real Success – For alcohol or drug violations that would otherwise result in a suspension, suspension in abeyance **may** be considered with STARS as a part of the sanction. In making this determination, the conduct officer shall consider

any aggravating or mitigating circumstances. **The STARS option is only made available one time.** See <http://www.colorado.edu/healthcenter/php/index.html>.

c. The conduct officer has discretion to issue appropriate sanctions based on the nature of each individual case. The severity of the violation(s) will determine the level and range of the sanctions.

3. Classroom Behavior

For information about classroom behavior, see the following website:

<http://www.colorado.edu/policies/classbehavior.html>

P. Resources

Counseling and Psychological Services: A Multicultural Center

Willard Administrative Center 134

303-492-6766

<http://www.colorado.edu/sacs/counseling/>

Offers counseling programs and activities for all members of the university. *All contacts are confidential.*

Ombuds Office

Willard Administrative Center 302

303-492-5077

<http://www.colorado.edu/Ombuds/>

Assists students, faculty, and staff in resolving complaints or disputes with other individuals, offices, or departments within the university. *The Ombuds Office maintains impartiality and confidentiality in working with individuals.*

Office of Victim Assistance

Willard Administrative Center 218

303-492-8855

<http://www.colorado.edu/studentaffairs/victimassistance/>

Provides services that may be used by victims of student misconduct. *All contacts are confidential.*

Wardenburg Health Center - Psychological Health and Psychiatry

Wardenburg Health Center 130

303-492-5654

<http://www.colorado.edu/healthcenter/php/index.html>

Offers psychiatric care, including counseling, individual and group psychotherapy, and medication, peer education, substance abuse counseling and education, and stress management programs to fee-paying students. *All contacts are confidential.*

The following resources, although not confidential, are available to students.

Honor Code Office

University Memorial Center 1B71C

303-735-2273

<http://www.colorado.edu/academics/honorcode/>

Offers information concerning academic integrity and handles allegations of academic dishonesty.

UCSU Legal Services

University Memorial Center 311

303-492-6813

<http://www.colorado.edu/sacs/legal/>

Provides legal counseling to full-fee paying students on matters such as traffic violations, criminal charges, and employment problems. Does not provide advice on internal university problems.

University of Colorado Police Department

1050 Regent Drive

303-492-6666 (non-emergencies, for emergencies dial 911)

<http://www.colorado.edu/police/>

Maintains a full-service police department. Officers, who are state certified, respond to reports of criminal acts and emergencies on campus.

Q. Appendices

Appendix 1: Definitions and Procedures for Sexual Misconduct,¹ Sexual Harassment and Protected Class Discrimination and Harassment

A. Definitions - Sexual Misconduct

1. Intercourse. 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).

2. Sexual Touching. Any contact with the breasts, buttocks, 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.

3. Consent. Informed, freely and actively given, mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon sexual activity. Consent is not effectively given if it results from the use of physical force, threats, intimidation, or coercion. Consent is absent when a person has sexual contact with another when the initiator knew, or reasonably should have known, that the person is incapacitated due to illness, consumption of alcohol or drugs, is unconscious, etc.

4. What Consent Means

(a) In the absence of mutually understandable words or actions (a meeting of the minds on what is to be done, where, with whom, and in what way), it is the responsibility of the initiator, or the person who wants to engage in the specific sexual activity to make sure that he or she has consent from their partner(s).

(b) Consent to some form of sexual activity does not necessarily imply consent to other forms of sexual activity.

(c) The initiator must obtain consent at every stage of sexual interaction.

(d) Consent will be determined using both objective and subjective standards. The objective standard is met when a reasonable person would consider the words or actions of the parties to have manifested an agreement between them to do the same thing, in the same way, at the same time, with one another. The subjective standard is met when a party believes in good faith that the words or actions of the parties manifested an agreement between them to do the same thing, in the same way, at the same time, with one another.

(e) Consent which is obtained through the use of fraud or force (actual or implied) whether that force is physical force, threats, intimidation, or coercion, is ineffective consent.

1) Physical force exists, for example, when someone acts upon you physically, such as hitting, kicking, restraining or otherwise exerting their physical control over you through violence.

¹ Much of the sexual misconduct policy and definitions have been used and adapted with permission from Brett Sokolow, J.D. and the National Center for Higher Education Risk Management, Ltd.

(www.nchem.org).

2) Threats exist where a reasonable person would have been compelled by the words or actions of another to give permission to sexual contact they would not otherwise have given, absent the threat. For example, threats to kill you, themselves, or to harm someone you care for constitute threats.

(f) Consent may never be given by:

- 1) A minor to an adult.
- 2) Mentally disabled persons.
- 3) Physically incapacitated persons.

5. Intimidation. Occurs when someone uses their physical presence to menace you, although no physical contact occurs, or where your knowledge of prior violent behavior by an assailant, coupled with menacing behavior, places you in fear as an implied threat.

6. Coercion.

Exists when a sexual initiator engages in sexually pressuring and/or oppressive behavior that violates norms of respect in the community, such that the application of such pressure or oppression causes the object of the behavior to engage in unwanted sexual behavior. Coercion may be differentiated from seduction by the repetition of the coercive activity beyond what is reasonable, the degree of pressure applied, environmental factors such as isolation, and the initiator's knowledge.

7. Additional Clarifying Rules of Consent.

- (a) A person who is the object of sexual aggression is not required to physically or otherwise resist a sexual aggressor.
- (b) Silence, previous sexual relationships, and/or the existence of a current relationship with the respondent do not imply consent.
- (c) Consent cannot be implied by attire, or inferred from the giving of gifts, money or other items.
- (d) Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly. Withdrawal of consent can be done in numerous ways and need not be a verbal withdrawal of consent.
- (e) A respondent's intentional use of alcohol/drugs does not excuse a violation of policy.

B. Definitions – Sexual Harassment

1. Sexual Harassment. Interaction between individuals of the same or opposite sex that is characterized by unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, living conditions and/or educational evaluation; (2) submission to or rejection of such conduct by an individual is used as the basis for tangible employment or educational decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or educational environment.

2. Hostile Environment Sexual Harassment. Unwelcome sexual conduct that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive. The determination of whether an environment is "hostile" must be based on all of the circumstances. These circumstances could include the frequency of the conduct, its severity, and whether it is threatening or humiliating. Simple teasing, off hand comments and isolated incidents (unless extremely serious) will not amount to hostile environment harassment.

C. Definitions – Protected Class Discrimination and Harassment

1. Protected Classes. Class based on race, color, national origin, sex, age, disability, creed, religion, sexual orientation, and veteran status.

2. Discrimination. Occurs when an individual suffers an adverse consequence, such as failure to be hired or promoted, denial of admission to an academic program, etc., on the basis of her/his Protected Class.

3. Harassment. Verbal or physical conduct based upon an individual's Protected Class that unreasonably interferes with that individual's work or academic performance or creates an intimidating or hostile work or educational environment.

4. Hostile Environment. Unwelcome conduct by an individual(s) against another individual based upon her/his Protected Class that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive. The determination of whether an environment is "hostile" must be based on all of the circumstances. These circumstances could include the frequency of the conduct, its severity, and whether it is threatening or humiliating. Simple teasing, offhand comments and isolated incidents (unless extremely serious) will not amount to hostile environment harassment.

D. Investigation Process for Resolving Complaints or Reports of Sexual Misconduct, Sexual Harassment, and Protected Class Discrimination and Harassment

1. All reports or complaints shall be made as promptly as feasible after the occurrence. A delay in reporting may be reasonable under some circumstances, as determined on a case-by-case basis. An unreasonable delay in reporting, however, is an appropriate consideration in evaluating the merits of a complaint or report.

2. It is the responsibility of Judicial Affairs to determine the most appropriate means for addressing the report or complaint. Options include: 1) investigating the report or complaint as described below; 2) resolving the situation through an informal resolution process including but not limited to mediation or a meeting between the alleged offender and a judicial affairs officer or a third party; or 3) determining that the facts of the complaint or report, even if true, would not constitute a violation of the conduct code or applicable policy.

3. Judicial Affairs shall resolve these reports or complaints as promptly as practicable. Ordinarily, investigations shall be concluded and investigative reports submitted to the reviewing committee no later than 90 days following the receipt of a complaint. Ordinarily, the final report shall be sent to the Chancellor no later than 30 days after the committee's receipt of the draft report of the investigation.

4. If an investigation is conducted, the conduct officer will send the respondent a notice of investigation as soon after the commencement of the investigation as is practical and to the extent permitted by law. The notice of investigation will include a description of the alleged misconduct, the conduct code provisions that are alleged to have been violated, and the requirement that the student must set up a meeting with the conduct officer within the time frame designated in the notice. At the conference, the respondent will have the opportunity to respond to the allegations, present relevant information, and identify relevant witnesses.

The notice shall be sent to the student's mailing address appearing in the university's Student Information System, as well as by an email notifying the student to expect the notice. If the mailing address is no longer current or no mailing address is given, the permanent address may be used. Notice to the student will be considered furnished once the Office of Judicial Affairs follows these mailing guidelines.

5. If the respondent does not schedule or attend a meeting by the date specified in the notice, or if the student schedules a meeting but does not attend, the conduct officer may complete the investigation based on the information obtained.

6. The Chancellor shall be notified when an investigation occurs.

7. Judicial Affairs may use police investigation reports and may designate another individual (either from within the University, including an administrator, or from outside the University) to conduct or assist with an investigation or to manage an alternative dispute resolution process. Outside investigators shall have training, qualifications and experience as will, in the judgment of the Director of Judicial Affairs, facilitate the investigation. Anyone designated to address an allegation must adhere to the requirements of the conduct code and applicable policy and confer with the Director of Judicial Affairs about his or her progress.

8. If the complainant resides in University housing, the Office of Judicial Affairs shall consult Housing about whether either the respondent or the complainant, or both, should be moved during the investigation and review. If complainant and respondent are taking the same class or other educational activity, the Office of Judicial Affairs shall consult with the responsible faculty member about any arrangements needed to separate the two during the investigation and review.

9. At the conclusion of an investigation, the investigator shall prepare a written report

that shall include a statement of factual findings and a determination as to whether or not there was a violation of the Student Conduct Code or university policy. The standard of proof shall be preponderance of the information as defined in section I. The report shall be presented for review to the standing review committee.

10. The standing review committee may consult with the Office of Judicial Affairs; may consult with the parties; request that further investigation be done by the same or another investigator; or request that the investigation be conducted again by another investigator. The standing review committee may adopt the investigator's report as its own or may prepare a separate report based on the findings of the investigation. The standing review committee may not, however, conduct its own investigation or hearing.

11. Judicial Affairs shall advise the complainant and respondent of the resolution of any investigation conducted under this conduct code. A copy of the investigator's written report as approved by the standing review committee shall be provided to: (1) the complainant; (2) the respondent; (3) the Director of Judicial Affairs; and (4) the Chancellor.

12. In cases where the investigation results in a determination that the Student Conduct Code or university policy has been violated, the case will then given to the Director of Judicial Affairs (or his designee) who will determine an appropriate sanction. Within two (2) weeks of the date of the investigative report, the respondent may meet with the Director (or designee) to discuss mitigating or aggravating circumstances related to the incident that may impact a sanction. It is the responsibility of the respondent to set the appointment and meet within the time prescribed. If no meeting occurs, the Director or designee will determine the sanction without the respondent's input. The complainant may also submit an impact statement within the time prescribed for consideration in the sanction.

13. In all cases, Judicial Affairs shall retain the investigator's report and final sanction decision for a minimum of seven years after the respondent graduates or permanently withdraws from the University.

14. All records, reports and investigations obtained pursuant to this process shall be considered confidential and shall not be disclosed publicly except to the extent required by law.

15. Complaints Involving Two or More University of Colorado Campuses. When an alleged violation involves more than one University of Colorado campus, the complaint shall be handled by the campus with disciplinary authority over the respondent. The campus responsible for the investigation may request the involvement or cooperation of any other affected campus and should advise appropriate officials of the affected campus of the progress and results of the investigation.

16. Complaints By and Against University Employees and Students Arising in an

Affiliated Entity. University employees and students sometimes work or study at the worksite or program of another organization affiliated with the University. When a violation is alleged by or against University students in those circumstances, the complaint shall be handled as provided in the affiliation agreement between the University and the other entity. In the absence of an affiliation agreement or a provision addressing this issue, the University may, in its discretion, choose to: 1) conduct its own investigation; 2) conduct a joint investigation with the affiliated entity; 3) defer to the findings of an investigation by the affiliated entity where the University has reviewed the investigation process and is satisfied that it was fairly conducted; or 4) use the investigation and findings of the affiliated entity as a basis for further investigation.

17. The investigator will discuss with the complainant the support services available to him or her (*e.g.* the offices of Victim Assistance, Counseling and Psychological Services, etc.) The investigator will also discuss with the complainant whether s/he resides in the same housing or has classes with the charged student.

Appendix 2: Colorado Law Regarding Hazing

Section 18-9-124 (2), C.R.S defines hazing as follows:

“(2) As used in this section, unless the context otherwise requires:

(a) ‘Hazing’ means any activity by which a person recklessly endangers the health or safety of or causes a risk of bodily injury to an individual for purposes of initiation or admission into or affiliation with any student organization; except that ‘hazing’ does not include customary athletic events or other similar contests or competitions, or authorized training activities conducted by members of the armed forces of the state of Colorado or the United States.

(b) ‘Hazing’ includes but is not limited to:

(I) Forced and prolonged physical activity;

(II) Forced consumption of any food, beverage, medication or controlled substance, whether or not prescribed, in excess of the usual amounts for human consumption or forced consumption of any substance not generally intended for human consumption;

(III) Prolonged deprivation of sleep, food, or drink.”

Appendix 3: Good Samaritan Provision

The health and safety of members of the University of Colorado at Boulder are the primary concerns of the University. The University is committed to ensuring that students obtain timely medical assistance for themselves and for their peers. To this end, we have instituted a “Good Samaritan” Provision.

The University of Colorado at Boulder Police department and City of Boulder Police department will assist those individuals whose judgment or health is severely affected due to alcohol consumption by facilitating transport to the Addiction Recovery Center, Boulder Community Hospital, Wardenburg Health Center, or by taking other protective measures. Students are encouraged to inform local or state police, Residence Life Staff, or CU night security when assistance is needed.

Whenever a student assists an intoxicated individual in procuring the assistance of local or state police, CU night security, residence life staff, or other medical professionals, neither the intoxicated individual, nor the individual who assists may be subject to formal University disciplinary actions for (1) being intoxicated or (2) having provided that person alcohol. **This provision does not excuse or protect those individuals or organizations that deliberately or repeatedly violate the University’s Alcohol Policy.**

In order for this policy to apply, the intoxicated student(s) must agree to timely completion of recommended alcohol education activities, assessment, and/or treatment depending on the level of concern for student health and safety. Serious or repeated incidents will prompt a higher degree of medical concern. Failure to complete recommended follow-up will normally result in disciplinary action and could prompt the imposition of a medical withdrawal. Likewise, organizations involved in an incident must agree to take recommended steps to address concerns.

This provision only governs the application of the University’s Student Code of Conduct and has no status in other jurisdictions such as local or state courts. It should also be noted that this provision may only be invoked by a student at the time when his or her case is being heard or investigated by a conduct officer or investigator. Based on the totality of the incident, the conduct officer will make the final determination as to the applicability of this provision and reserves the right to reduce sanctions or dismiss charges.

The Good Samaritan provision does not limit the authority of law enforcement personnel or University staff to act as required at the time of an alleged violation of university standards or state or local laws.

Appendix 4: Colorado Law Regarding Riots

Section 18-9-101(2), Colorado Revised Statutes states:

“Riot means a public disturbance involving an assemblage of three or more persons which by tumultuous and violent conduct creates grave danger of damage, destruction or death.”

Section 18-9-102, C.R.S. states:

“Inciting riot.

(1) A person commits inciting riot if he:

(a) Incites or urges a group of five or more persons to engage in a current or impending riot; or

(b) Gives commands, instructions, or signals to a group of five or more persons in furtherance of a riot.

(2) A person may be convicted under sections 18-2-101, 18-2-201, or 18-2-301 of attempt, conspiracy, or solicitation to incite a riot only if he engages in the prohibited conduct with respect to a current or impending riot.

(3) Inciting riot is a class 1 misdemeanor, but, if injury to a person or damage to property results therefrom, it is a class 5 felony.”

Section 18-9-103, C.R.S. states:

“Arming rioters.

(1) A person commits arming rioters if he:

(a) Knowingly supplies a deadly weapon or destructive device for use in a riot; or

(b) Teaches another to prepare or use a deadly weapon or destructive device with intent that any such thing be used in a riot.

(2) Arming rioters is a class 4 felony.”

Section 18-9-104, C.R.S. states:

“Engaging in a riot.

(1) A person commits an offense if he or she engages in a riot. The offense is a class 4 felony if in the course of rioting the actor employs a deadly weapon, a destructive device, or any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or if in the course of rioting the actor represents verbally or otherwise that he or she is armed with a deadly weapon; otherwise, it is a class 2 misdemeanor.

(2) The provisions of section 18-9-102 (2) are applicable to attempt, solicitation, and conspiracy to commit an offense under this section.”

Section 23-5-124, C.R.S. states:

“Student enrollment - prohibition - public peace and order convictions.

(1) No person who is convicted of a riot offense shall be enrolled in a state-supported institution of higher education for a period of twelve months following the date of conviction.

(2) A student who is enrolled in a state-supported institution of higher education and who is convicted of a riot offense shall be immediately suspended from the institution upon the institution's notification of such conviction for a period of twelve months following the date of conviction; except that if a student has been suspended prior to the date of conviction by the state-supported institution of higher education for the same riot activity, the twelve month suspension shall run from the start of the suspension imposed by the institution.

(3) Nothing in this section shall be construed to prohibit a state-supported institution of higher education from implementing its own policies and procedures or disciplinary actions, in addition to the suspension in subsection (2) of this section, regarding students involved in riots.

(4) (a) The court in each judicial district shall report to the Colorado commission on higher education the name of any person who is convicted in the judicial district of a riot offense.

(b) The Colorado commission on higher education shall make the conviction reports received pursuant to paragraph (a) of this subsection (4) available to all state-supported institutions of higher education with the notification that the persons included in the conviction reports are subject to the provisions of this section and that the state-supported institution of higher education in which any of such persons are enrolled shall consider appropriate disciplinary action against the student.

(5) Each state-supported institution of higher education shall notify its students and prospective students of the requirements of this section. The governing board of each state-supported institution of higher education shall prescribe the manner in which this information shall be disseminated.

(6) For purposes of this section, unless the context otherwise requires:

(a) ‘Convicted’ means having received a verdict of guilty, pleaded guilty or nolo contendere, or having received a deferred judgment and sentence.

(b) ‘Riot offense’ means:

(I) Inciting riot, as described in section 18-9-102, C.R.S.;

(II) Arming rioters, as described in section 18-9-103, C.R.S.;

(III) Engaging in a riot, as described in section 18-9-104, C.R.S.”