

LOYOLA UNIVERSITY NEW ORLEANS
STUDENT CODE OF CONDUCT
2022-2023

V. Procedures For Cases Except Those Brought Pursuant to the University's Title IX Policy

1. Hearing bodies and disciplinary procedures

Charge(s) based on alleged Code violation(s) may be brought against any student or student group or organization by the University. The University utilizes Administrative Hearings and the Student Justice Board (SJB) in order to adjudicate student cases. The choice of which of these two to use in any particular case is left to the sole discretion of DSC or designee.

The University does not allow conflicts of interest, real or reasonably perceived, by those investigating or adjudicating allegations under this policy or its related procedures. Individuals who wish to challenge a hearing or appellate body of a conflict of interest may do so by filing a written challenge to the DSC or designee. This challenge must be filed within three business days of the individual being notified of the identity of the officer or board members.

For the sake of clarity, hearings pursuant to this Code utilize the preponderance of the evidence standard, which means whether it is more likely than not based on the full totality of the information presented that a respondent is responsible or not responsible for violation(s). The hearing bodies are not courts of law and their proceedings are not legal in nature. Formal rules of evidence applied in legal proceedings will play no role whatsoever in a hearing body's work other than the hearing body will endeavor to consider evidence which in its sole discretion is relevant.

All members of the University community with knowledge of facts pertinent to a case are encouraged to cooperate fully in student conduct proceedings. A witness's choice to not participate in student conduct proceedings will typically not result in conduct action except in instances where the University receives information that may indicate that the student allegedly engaged in violation(s) of this Code. Should a witness be unable to attend a hearing, the witness may submit a written statement in lieu of providing a personal statement.

All persons, including a complainant or respondent, who provide a statement(s) in a hearing shall be asked to affirm that their statement(s) are truthful. It is a violation of this Code to intentionally furnish false information to the University; providing false information may result in the filing of conduct charges against student(s). For the sake of clarity, no participant in the conduct process will have the right to question another witness directly.

Statements regarding the character of a complainant, respondent, or witness will not be considered unless deemed directly relevant to specific facts of the case. At the discretion of the hearing body, a respondent may be asked to provide a rationale for relevance of character witness to specific facts of the case.

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All administrative hearings will take place with or without the presence of the respondent and sanctions will be handed down should they be found responsible. Hearings will be closed to the public and will not be recorded.

If an involved party has a disability that requires accommodation(s) throughout the conduct process, they are encouraged to contact the Office of Accessible Education (OAE). All approved accommodations will be communicated to the Department of Student Conduct from OAE.

A. Hearing Bodies

i. Administrative Hearing Officer.

An Administrative Hearing is held between the respondent and a hearing officer(s), who may impose sanction(s) consistent with the Code, University policy, and the violation(s) under consideration. Decisions are final and sanction(s) are implemented pending appeals.

ii. Student Justice Board.

The Student Justice Board (SJB) consists of 10 members selected via an interview process and then vetted through the DSC or designee. All appointments are for one academic year without term limits. All SJB hearings are conducted by a panel of three persons selected by the DSC or designee, and are advised by the DSC or designee. Decisions are made by a majority vote. The DSC or designee sits in on all proceedings to ensure the proper procedures are administered and assure compliance with guidelines set forth in the Code. The SJB may recommend sanction(s) consistent with the Code, University policy, and the offense under consideration. SJB sanction recommendations are sent for review to the DSC or designee, who will make a final decision about appropriate sanction(s).

2. Selection and operating procedures of hearing bodies

The University does not allow conflicts of interest, real or reasonably perceived, by those investigating or adjudicating allegations under this Code or its related procedures. Hearing officers and board members should disqualify themselves on these grounds and will be notified of any challenges in this regard. Complainants and respondents who wish to challenge a hearing or appellate body of personal bias and/or a conflict of interest(s) may do so by filing a written challenge to the DSC or designee. This challenge must be filed within three working days of the individual being notified of the identity of the hearing officer or board members.

If the complainant or respondent fails to timely challenge board members or hearing officer(s), the complainant or respondent waives the right to challenge any findings on the basis of any personal bias and/or conflict of interest(s). The DSC has final authority to resolve any question(s) of personal bias and/or conflict of interest(s) prior to the original hearing. In cases where the DSC is the hearing officer, the VPSA or designee has final authority to resolve any question(s) or personal bias and/or conflict of interest(s).

3. Procedures for hearings

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All reports of conduct violation(s) are preliminarily reviewed by the DSC or designee to determine, assuming all of the facts presented in the reports are true, whether the conduct alleged gives rise to a potential Code violation(s). If it is determined that the allegation(s) rise to a potential Code violation(s), the conduct process will commence as follows.

A. Notice of Hearing/Preliminary Conduct Meeting

The respondent will be notified, in writing via email, about the alleged Code violation(s) and which hearing body has been assigned the case. In cases where there is a complainant, notification will include which hearing body has been assigned to the case. For the sake of clarity, electronic mail sent to the student's University designated e-mail address constitutes written notice. Moreover, failure by the respondent to open or read electronic mail does not constitute a basis for appeal.

The written notification shall include the type, date, time, and location of the hearing. It will also identify the person designated to handle the administrative hearing or the members of the SJB, as applicable. The respondent and complainant, if applicable, will be informed that they will have opportunity to respond to and/or supplement the complaint and will have an opportunity to present witnesses and/or evidence.

The respondent and complainant, if applicable, will also be informed that they have the opportunity to request a preliminary conduct meeting. The preliminary conduct meeting may be requested for one or both of the following reasons: 1) to discuss rights and responsibilities in the conduct process prior to the hearing or 2) for the respondent to accept responsibility for the violation(s) and waive their right to a hearing.

If the respondent and complainant, if applicable, requests a preliminary conduct meeting to discuss their rights and responsibilities in the conduct process, a meeting will be convened by the DSC or designee to inform the respondent and complainant, if applicable of their rights in the student conduct process per the Code. The preliminary conduct meeting is also an opportunity for the respondent and complainant, if applicable, to pose questions regarding the process.

If the respondent requests a preliminary conduct meeting to accept responsibility for the violation(s) and waive their right to a hearing, the DSC or designee at their discretion and if appropriate, will have an educational and/or accountability conversation with the respondent regarding the alleged conduct. Additionally, the DSC or designee will propose an appropriate sanction(s). If the respondent agrees to the proposed sanction(s), the respondent waives their right to a hearing and to appeal, the resolution becomes final, and the outcome is recorded on the respondent's conduct record.

If the case involves a complainant, they will be notified of the respondent's decision to accept responsibility for the violation(s) and no conduct hearing will be convened. The process is considered complete and may not be appealed as described above. If a case is not resolved at the

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preliminary conduct meeting or such a meeting is not requested, it will be referred to an Administrative Hearing or to the SJB for a hearing.

B. Hearings

The hearing not only serves as a means to address and adjudicate alleged misconduct, but also to provide the respondent with an opportunity to respond to the alleged misconduct. There is no time limit on how many days a hearing may last. Hearings are private except for necessary University officials, involved parties, and advisors. Recording devices of any kind are not permitted for use by the students, witnesses, or advisors. The following is meant to serve as a general outline followed during hearings, however, the general outline followed during hearings may vary depending on factors unique to each case:

- Overview of Conduct Process
- Overview of Student Rights in Conduct Process
- Response to Charges
- Complainant, Witness, and/or Respondent Statements
- Respondent Impact/Final Statement
- Next Steps in Conduct Process

4. Rights of Students

The following rights shall be provided to both a respondent and complainant in any administrative hearing:

- A. The right to be informed in writing of the hearing, in sufficient detail and in ample time that they may have an opportunity to prepare for the hearing. Specifically, the respondent will be given no less than three (3) days notice, including weekends and holidays, of an administrative hearing. In the case of a board hearing, the charged student and complainant will be given no less than seven (7) days notice, including weekends and holidays.
- B. The right to submit information for consideration by the applicable hearing body. The applicable hearing body has the discretion to determine the relevancy of the submitted information and whether they would consider it.
- C. The right to be accompanied to all meetings related to the conduct process, if applicable, and to the administrative hearing by an advisor of their choice and at their own expense. This does not include a right to have the advisor actively participate in the student conduct proceeding(s) by presenting statements and/or information or have the proceeding(s) scheduled around the availability of the advisor.
- D. The right to not to have irrelevant, unfairly prejudicial past history discussed during the hearing.
- E. The right to call witnesses to provide a statement at the hearing or to submit written statements from witnesses on one's behalf, including the possibility to present witnesses or written witness statements from persons, who are not affiliated with the University. The right to call witnesses or provide written witness statements shall include the right to question witnesses and/or respond to witness statements via proxy of the applicable hearing body.

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- i. Witnesses may be granted anonymity when in the reasonable discretion of the VPSA or designee it is necessary to afford the University meaningful information to investigate a Code violation(s). Anonymity will typically be granted: (a) When there is reasonable cause to believe that the safety of the witness is in jeopardy or (b) the witness may be subject to intense harassment. The respondent and complainant will be given a copy of any written statements presented by witnesses who have been granted anonymity, so they may respond to the statement and present questions to be answered by the anonymous person via proxy of the applicable hearing body.
- ii. The applicable hearing body may limit the presentation or number of witnesses in order to prevent repetition or delay. This includes the discretion to determine the relevancy of witness statements and whether they will consider the witness statements.

5. Rights of Respondent

The following rights shall be provided to a respondent in any administrative hearing:

- A. The right to be notified of the alleged violation(s) and of their right to have the alleged violation(s) adjudicated by a hearing body.
- B. The right to reasonable access to the case file will be provided at least three days prior to and during the proceeding. Case files contain student educational records. Therefore, access will be provided consistent with the Family Educational Rights and Privacy Act of 1974 (FERPA). This typically includes the ability for a student to view or listen to the entirety of documents relevant to their individual case, with the identifying information of other students redacted. The personal notes of University staff members will not be included in the case file. The case file will be retained in the Department of Student Conduct.
- C. The respondent is presumed to be not responsible until proven responsible based on a preponderance of the evidence. The evidence gathered by the University must establish that the violation(s) was committed by the respondent based on a preponderance of the evidence. Relatedly, the onus is on the respondent to build a case in response to alleged violation(s) of the Code.
- D. The right to provide a statement in response to the alleged violation(s).
- E. In cases with a complainant, the right to question the complainant, if applicable, via proxy of the applicable hearing body. This would include the right to respond to statements made by the complainant.
- F. The right to appeal the outcome of the hearing per the appellate processes outlined in this Code.

6. Rights of Complainant

The following rights shall be provided to a complainant in any university administrative hearing:

- A. The right to be informed of their right to have the alleged violation(s) adjudicated by a hearing body. This does not include the right to be informed of the alleged violation(s) charged.
- B. The right to participate or not participate in the conduct process. A complainant may elect to not attend the conduct hearing, but submit a written statement and/or evidence for consideration by the applicable hearing body.

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- i. The complainant may request to attend the hearing virtually or via teleconference. For cases heard by an administrative hearing officer, the request will be considered and approved by the administrative hearing officer in consultation with the DSC or designee. If the DSC is the hearing officer, the request will be considered and approved by the DSC in consultation with the VPSA. For cases heard by the SJB, the request will be considered by the DSC or designee.
 - ii. The complainant may also request anonymity. Complainants may be granted anonymity when in the reasonable discretion of the VPSA or designee it is necessary to afford the University meaningful information to investigate a Code violation(s). Anonymity will typically be granted:
 - (a) When there is reasonable cause to believe that the safety of the complainant is in jeopardy or
 - (b) the complainant may be subject to intense harassment. The respondent will be given a copy of any written statement(s) presented by a complainant who has been granted anonymity, so they may respond to the statement and present questions to be answered by the anonymous complainant via proxy of the applicable hearing body.
- C. The right to provide a statement.
- D. The right to question the respondent, if applicable via proxy of the applicable hearing body. This would include the right to respond to statements made by the respondent.
- E. The right to be informed of the outcome as follows:
- i. If the alleged conduct involves violence, the complainant will be notified of an in violation finding only. This means that the complainant will not be informed of specific sanction(s).
 - ii. If the respondent accepts responsibility via a preliminary conduct meeting and accepts proposed sanction(s), the complainant will be informed of the respondent's decision to accept responsibility.

7. Hearing Outcome & Notice of Outcome

Upon conclusion of the hearing, the applicable hearing body will consider all information provided in the case file, which would include, if applicable, information provided by the respondent and/or complainant in totality to make a determination whether it is more likely than not that the respondent is responsible or not responsible. The applicable hearing body will write a rationale for the decision, which will be saved in the case file. The charged student or student organization will be notified in writing via the hearing outcome letter, within 3-5 working days of the hearing, and if applicable, the sanction(s) imposed.

Though the Department of Student Conduct strives to deliver an outcome within 3-5 working days of the hearing, the time frame for outcome delivery may be longer depending on various factors unique to each case. It is to be clearly understood that the outcome of a hearing is confidential information and is not to be shared with anyone other than those involved directly with the case. However, in some cases, the appropriate University officials will be notified of the outcome of the hearing, and parents/guardians are notified in cases of suspension and/or dismissal.

8. Sanctions

Upon conclusion of the hearing and if the outcome is that the respondent is responsible, the applicable hearing body will recommend and assign appropriate sanctions. Sanctions are recommendations to the

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DSC or designee. Recommended sanctions may be approved, altered, deferred or withheld at the discretion of the DSC or designee. If no action is taken on the recommendation within five working days or during the period of time the responsible official designates in writing to the affected parties, the recommended sanction(s) shall be final.

In the assignment of sanction(s), this Code seeks to prioritize maintaining flexibility so that each respondent receives appropriate and fair treatment. This priority is balanced with the goal of holding a respondent accountable and promoting student learning in support of the University's mission as a Jesuit, Catholic institution of higher education to develop the whole person.

In determining sanction(s) in each case, the applicable hearing body will consider the following factors, which influence the degree and nature of sanctioning. While some violation(s) will have prescribed sanctioning guidelines or "typical" sanction(s), the applicable hearing body will consider the totality of the situation, including, but not limited to the following factors, which will influence the degree and nature of sanction(s) recommended/assigned:

- The nature and/or totality of the violation(s) and the alleged incident
- The impact of the alleged conduct on individual(s)
- The impact and/or implication(s) of the conduct on the campus community, including but not limited to safety of the campus community and maintenance of a safe and respectful learning environment conducive to learning
- Prior misconduct by the respondent, which would include the respondent's previous conduct history, if any
- Expression of remorse and/or acceptance of responsibility by the respondent.
 - The applicable hearing body, in their discretion, may consider actions and/or other demonstrated behaviors from the respondent that indicates that the respondent is taking accountability for their action(s).
- The necessity of any specific action(s), including interim action(s), in order to eliminate the misconduct, prevent its recurrence and remedy its effects on member(s) of the university community; and
- Any aggravating or mitigating factors that are compelling enough to reach a fair and appropriate resolution in each case

Possible sanctions for violation(s) of the Code include, but are not limited to the following. Most cases will have a status sanction and active sanction. For the purposes of this Code, a status sanction is defined as one that reflects a change in a respondent's status in the student conduct system. An active sanction is defined as sanctions that require action by the respondent in order to be completed.

A. Status Sanctions

- **Written Warning.** An official, initial written correspondence to the student that serves as directive and warning against involvement in another incident that may violate the Code. Specifically, a written warning informs a student that if they are involved in another incident

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and are found responsible for violation(s) of the Code, there are grounds for more severe disciplinary action.

- **Conduct Reprimand.** An elevated written warning that is notated on a student's student conduct record for a specified period of time. A conduct reprimand denotes that a respondent is not on good disciplinary standing with the University. It further warns that if a student is found in further violation of the Code during the time that a conduct reprimand is active on their record, there may be grounds for more severe disciplinary action, specifically a review for disciplinary probation, suspension, or dismissal depending on the factors of the case.
- **Disciplinary Probation.** Temporary suspension of a student or student organization's good standing with the University for a specified period of time where additional restrictions or conditions may be assigned (restrictions or conditions would be considered terms of disciplinary probation) as set forth in the hearing outcome letter. If a student or student organization is found responsible for violating the terms of disciplinary probation during the period set up by the applicable hearing body and/or additional violation(s) of this Code during the period of disciplinary probation, there may be grounds for more severe disciplinary action, including but not limited to removal from housing, suspension, or dismissal from the university if a student or student organization is found in violation of a new charge(s). At the end of the probationary period, the student or student organization will be returned to good standing provided that all the terms of the probation have been successfully completed. The student or student organization remains enrolled in the University under the stated terms of the disciplinary probation. A loss of privileges may occur. A letter may be written to the parents, guardians, advisors, or national office of the student or student organization explaining the terms of the probationary period.
- **Disciplinary Suspension.** Disciplinary Suspension establishes a fixed period of time during which the student or student organization may not participate in any academic or non-academic activity of the University. In cases of individual student discipline, this means that the student is physically separated from the University and must leave the campus and remain off campus during the disciplinary suspension period. Additional conditions may be imposed requiring the student to complete certain requirement(s) and/or refrain from certain actions during and/or after the disciplinary suspension period. Parents or guardians of a dependent student are informed of the disciplinary suspension. A student that is suspended during a semester will forfeit all tuition, fees, housing, and food services monies. A grade of W will be entered into the student's academic transcript for all courses enrolled in during that semester. If suspension is enacted before an enrolled student starts the semester, courses are dropped from their record. If the suspension period is less than one year and the student has a GPA above a 2.0, application for readmission is not required. However, if the suspension period exceeds one year or the student has a GPA below a 2.0, application for readmission is required. At the end of the suspension period, the student may be returned to good standing with the

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University. Academic credit received at another University during the specified period of the suspension is not transferable to Loyola University New Orleans. In cases of organizational discipline, disciplinary suspension is equivalent to student organization charter suspension. This means that an organization has no legal basis for operating on campus or at off-campus university-sponsored events, for recruiting members, or for promoting the organization, its identity, or its activities. Suspension of charter for a period of time under stated conditions means that student organizations must adhere to sanction requirements or face delay of reinstatement or permanent charter revocation for repeated non-adherence to sanction condition(s). Additional condition(s) may be imposed requiring the student organization to complete certain requirement(s) and/or refrain from certain actions during and/or after the disciplinary suspension period.

- **Disciplinary Dismissal.** Disciplinary Dismissal establishes a permanent termination of a student's or student organization's status, specifically exclusion from University privileges and activities, including access to University premises or University sponsored activities off campus. In cases of individual student discipline, parents or guardians are informed of all actions of dismissal, and the fact that a student has been dismissed becomes a permanent part of the student's conduct record. A student that is dismissed during a semester will forfeit all tuition, fees, housing, and food services monies. A grade of W will be entered into the student's academic transcript for all courses enrolled in during that semester. In cases of organizational discipline, disciplinary dismissal is equivalent to the permanent termination of the organization's charter. This means that an organization has no basis for operating on campus or at off-campus university-sponsored events, for recruiting members, or for promoting the organization, its identity, or its activities. Termination of charter is a permanent disciplinary sanction.

- **Residence Hall Suspension.** A specified period of time on a temporary basis in which a student is prohibited from residing in the residence halls. Upon completion of the suspension period, a student is eligible to reside in the residence halls again. Additional condition(s) may be imposed requiring a student to complete certain requirement(s) and/or refrain from certain actions during and/or after the residence hall suspension period in order to be eligible for readmission to live in the residence halls.

- **Residence Hall Dismissal.** A student is permanently barred from the residence halls both as a resident and visitor.

- **Other Status Sanctions.** Other sanctions may be assigned instead of, or in addition to, those specified above. For example, a separation order may be enacted instructing students to have "no contact" with other students and/or may be forbidden to access campus and/or specified areas of campus (campus ban).

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B. Active Sanctions

- **Alcohol and Drugs and Controlled Substances Sanctions.** Prescribed sanctioning guidelines for specific [alcohol](#) and [drugs and controlled substances](#) violation(s). The alcohol and drugs and controlled substances document serve as a sanctioning guide; sanctions may ultimately be applied at the discretion of the applicable hearing body. Additional sanction(s) other than those listed in the guidelines may be applied.
- **Apology.** A possible sanction when the respondent's wish to apologize is demonstrably sincere and the harmed party or parties are open to receiving the apology.
- **Behavioral Expectations.** Expectations for behavior, such as refraining from specific behaviors and/or abiding by and completing certain actions, that are communicated to the respondent to abide by.
- **Community Service.** Completion of service hours or a service project at an organization within the Loyola or New Orleans community or development of an event that positively benefits the Loyola or New Orleans community.
- **Fines or Other Fees.** A monetary payment that the respondent will make, typically to the University. Fines may be used to cover the cost of drug testing, restitution, and/or other procedures. A violation of the Alcohol and/or Drugs and Controlled Substances policies will result in fines up to and including \$500. A fine is applied if a respondent does not complete the sanction(s) assigned by a hearing body by a stated date. The respondent may also be restricted from registering or receiving transcripts until all sanctions are completed.
- **Loss of Visitation Privileges.** Temporary suspension of visitation privileges for a residential student for a specific period of time. During the allocated time for suspension of visitation privileges, the student is not allowed to host and/or check-in guests in their assigned residence hall. This includes their assigned residential hall room or suite as well as common areas in their assigned residence hall. Additionally, the student is not allowed to visit and/or be checked in as a guest in other residence halls.
- **Meetings.** An assignment to meet with a designated person or office for the purpose of specific educational topics or outcomes. The number and frequency of meetings will be determined on a case-by-case basis.
- **Parental Notification.** Notification to parents/guardians when a respondent is found responsible. Notification includes dates and sanctions prescribed, but does not provide details of the case. Loyola University reserves the right to notify parents/guardians of dependent students regarding any conduct situation. Where a student is not a dependent, Loyola

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University may contact parents/guardians to inform them of situations in which there is a health and/or safety risk, any conduct violation relating to alcohol and drug policy violations, and when a student is removed from the University.

- **Referral(s) to University Resources and/or Services.** A referral to meet with and/or research university resources or services available such as the University Counseling Center, Women's Resource Center, Resident Ministry, or the Office of Accessible Education. Referrals to university resources serve as a means of additional support and/or education to foster learning.
- **Reflection or Research Paper or Project.** A research or reflection paper by the respondent on a designated topic determined by the applicable hearing body and/or in which they reflect upon and demonstrate their learning from the incident and how they will move forward. The applicable hearing body has the discretion to allow the respondent to complete their project in the format of their choice (spoken word (recording), visual art, writing, etc.) if requested by the respondent.
- **Other Active Sanctions.** Hearing bodies are not limited to assigning the sanctions listed. Hearing bodies may impose sanctions of a less severe or more severe nature which bear a reasonable relation to the fault for which the sanction(s) is imposed. Other sanction(s) may include but are not limited to attendance at substance abuse counseling, testing and group education, research papers, required activities, counseling evaluations, and workshops. Active sanctions should always focus on helping the respondent understand the harm or impact related to their incident, how to repair that harm or impact, and how to succeed as an active and contributing citizen in the Loyola community.

5. Advisors

Legal representation is not permitted in any conduct meeting or hearing. However, a respondent or complainant may be accompanied by an advisor to any conduct meeting or hearing. The role of an advisor is limited to advice and consultation with the person(s) they are advising. An advisor is not permitted to address the hearing body, speak on behalf of or submit information or materials on behalf of the person(s) they are advising, or question witnesses. The advisor may be, but may not act in the role of, an attorney.

Advisors who violate these parameters and/or do not follow the instructions of the applicable hearing body may be removed from the proceeding at the discretion of the applicable hearing body or the DSC. A respondent or complainant must notify the applicable hearing body or the DSC if they will have an advisor during any student conduct proceeding, and if their advisor is an attorney at least two working days prior to the meeting or hearing. The University retains the right to have legal counsel present at any conduct meeting or hearing.

6. Record Retention and Expungement

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Individual student conduct files that contain cases that have suspension or dismissal as a final outcome shall be kept permanently on file. All other individual files shall be kept for five years after any sanctions expire unless they are expunged. Students may request to have their disciplinary record expunged under the conditions listed below.

Expungement shall be at the sole discretion of the VPSA or designee and shall require the entire record to be expunged or none of it to be expunged (i.e. no partial expungements shall be allowed). Conditions include:

- Request for expungement shall occur two years from the date of the hearing outcome letter;
- Expungement may occur only for students who have sanctions other than disciplinary suspension or dismissal and whose violations were determined to have not threatened or endangered the health or safety of any person. Students who have been suspended or dismissed are not eligible for expungement; and
- Expungement decisions shall be made based on obvious long-term improvement in behavior, or lack thereof, (*e.g.*, no violations of the student code for two or more consecutive semesters prior to graduation), and/or evidence, or lack thereof, of cooperation in previous student conduct matters, and/or any other reasonable factor(s).

7. Procedures for Conduct Appeals

A respondent found responsible for violating the Code may appeal the final, approved decision of any of the University's hearing bodies based on one or more of the five grounds listed below. A statement citing the basis for appeal, as well as supporting statement(s) for the basis, must be submitted via the [Appeal Submission Form](#) within five working days from the date of the hearing outcome letter. Failure to appeal within the specified time will render the decision final and conclusive with no recourse to appeal.

A. Appeal Grounds

- i. **Partiality.** The inability of the hearing board member or hearing officer to refrain from acting upon predisposed or developed bias during the hearing or the determination of its outcome.
- ii. **New Evidence.** Information or material which was unable to be known at the time of the original hearing. The student is expected to demonstrate that such evidence was unable to be known. Evidence that was known or was accessible during the original hearing, but which the student chose not to or neglected to present does not constitute a sound basis of appeal. In those cases where new evidence becomes known after the period of filing for an appeal has expired, and reasonable grounds for an appeal seem substantial, access to the appellate process may be granted by the VPSA.
- iii. **Disregard for Rights.** That a student was not afforded a right provided by this Code.
- iv. **Arbitrary and Capricious Decision.** The decision is arbitrary and capricious in that it was not made on reasonable grounds. For the sake of clarity, it is not an appropriate basis of appeal to suggest that the appellate body should replace its judgment for the judgment of the original

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hearing body. Rather, an appeal on the basis of arbitrary and capricious decision-making will only be granted if there is no reasonable basis for the original decision.

- v. **Disproportionate Sanction(s).** A sanction is disproportionate if it does not reflect a proper alignment between the nature of the offense, the student's previous disciplinary record, other factors which should be considered, and the sanction administered. Because these multiple factors are incorporated in each individual disciplinary decision, previous decisions do not establish precedent in University disciplinary hearings. In those cases where the appellate board believes the original hearing body made a substantial misjudgment of the severity of the incident or the student's record and, in turn, the sanction(s) administered, the appellate body may make its own recommendations.

The appellate review will normally occur within seven working days of a respondent filing an appeal by one of the appellate bodies listed below. The appellate body will review the appeal to determine whether the appeal can be granted on one or more of the appeal ground(s) selected by the respondent.

B. Appellate Bodies

i. **Appellate Officer**

The VPSA, or designee, is authorized to receive all appeals of disciplinary decisions from the Student Justice Board and Administrative Hearings.

ii. **University Board of Appeals**

The University Board of Appeals (UBA) consists of 15 members represented equally by faculty, staff, and students appointed by the Faculty Senate, the VPSA (who is not eligible for membership), and SGA respectively. The UBA is authorized to receive all appeals of disciplinary decisions from the Student Justice Board and Administrative Hearings. All UBA reviews are conducted by a panel of three persons and are decided by a majority vote. All appeal reviews are advised by the DSC, or designee. The DSC or designee sits in on all proceedings to ensure the proper procedures are administered and assure compliance with guidelines set forth in the Code and to answer process questions the appellate board may have about the hearing being appealed. In cases where decisions of the DSC are being appealed, the VPSA will advise the appellate board. Recommendations of the appellate body are final except in cases of dismissal.

An extension of the preparation period for the appellate review or the date of the appellate review may be granted, upon request, by the VPSA or designee. Once the appellate process has been completed, whether through an appellate decision or the expiration of time to file an appeal, the outcome is final, all sanctions go immediately into effect, and the original decision is final and conclusive.

The following procedural information is meant to serve as a general outline followed during the appellate process. The DSC, VPSA, or their designee has sole discretion to assign an appeal to an appellate body. In

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cases where the DSC served as the original hearing body, the VPSA or designee will assign the appeal to an appellate body. The applicable appellate body has the discretion to determine the means by which it will assess the appeal. For instance, the appellate body can rely solely on the written submissions contained in the submitted appeal, can solicit additional information from any relevant source(s), and/or can conduct hearings where witnesses may be questioned and/or other information is gathered.

Upon completing its review, the appellate body can either grant or deny the appeal. In the event the appeal is granted, the appellate body must elect one of the following courses of action:

- Refer the case back to a new hearing body for a rehearing; selection of a new hearing body will be determined by the DSC in consultation with the VPSA and the University's General Counsel (GC); or
- Make their own determinations, which may include, but is not limited to modifying, removing, and/or adding additional sanctions.

For appeals reviewed by the UBA, the decision to grant or deny an appeal and course(s) of action are made based on a majority vote of its members when applicable.

In the event that an appeal is denied, the decision is final except in cases of dismissal, which are forwarded to the University President for final review and disposition. A final appellate review by the University President will only occur at the request of the respondent. To request a final appellate review, a respondent must submit a request for final appeal in writing to the DSC or designee within five working days of receipt of the appeal decision letter. If a written request for final appellate review is not received within the allocated time period, there will not be a final appellate review by the University President and the decision of the appellate body, including sanction(s), immediately go into effect, rendering the decision final and conclusive.

Upon completing their review, the University President can either grant or deny the appeal. In the event the appeal is granted, the University President must elect one of the following courses of action:

- Refer the case back to a new hearing body for a rehearing; selection of a new hearing body will be determined by the DSC in consultation with the VPSA and the University's General Counsel (GC); or
- Make their own determinations, which may include, but is not limited to modifying, removing, and/or adding additional sanctions.

8. Amnesty

Loyola University strongly encourages students and individuals to report all Code violations, sex discrimination, violence in general, including sexual violence, and medical emergencies. It is likely that many students may be hesitant to report conduct that they believe violates the Code or University policies because of fear that they personally may be accused of violating the Code or University policies in connection with the incident(s) they are reporting.

Underage drinking is a common example of conduct that may have occurred during such an incident. Because of the importance of reporting serious incident(s), and in order to encourage reporting, Loyola

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will not normally charge a student who reports a violation(s) of the Code or University policy, even though the student may have participated in a non-violent violation(s) of the Code or University policy (e.g., unauthorized use of alcohol or drugs and controlled substances).

Loyola may also elect to extend amnesty to students who report medical emergencies to obtain medical assistance for another student(s) that may have occurred during an incident involving a potential conduct violation(s) (e.g., unauthorized use of alcohol or drugs and controlled substances)

In such cases, however, Loyola may exercise its discretion to impose condition(s) of amnesty that are educational in nature as a required activity or activities intended to engage the student in a positive learning experience related to the student's inappropriate behavior.

A student may accept or decline amnesty. If the student accepts amnesty and does not complete the condition(s) of amnesty, the student will be subject to student conduct action. If the student declines amnesty, the student will be subject to student conduct action. Previous student conduct history and/or lack of cooperation with University or responding officials, amongst other factors, may limit eligibility for amnesty.

9. Separation order

A Separation Order shall prohibit named students from contacting, emailing, telephoning, or otherwise disturbing each other. In situations where the DSC or their designee has reason to believe that an alleged violation of harassment, or a physical and/or sexual nature may have occurred on campus, a Separation Order can be issued. The Separation Order will not prohibit students named from attending classes or any other campus activity (even though students named may be enrolled in the same class(es)). Normally, the duration of the directive will be noted on the administrative action. Should the situation result in University disciplinary action, the administrative action will continue concurrently.

The Separation Order will not be construed as a finding of responsibility on the part of any student. It may require moving the student(s) named to another residence hall or removing the student(s) from the residence hall environment.

Violation of the terms or conditions of the on-campus Separation Order may subject the student to disciplinary action without regard to the outcome of the case that led to the issuance of the administrative action. A student seeking a Protective and/or Restraining Order from the city or state can receive assistance in the process by contacting University Police.