

# **Statement Of Student Rights**

## **2200 Faculty Staff Handbook**

Revision Date: July 1996

*PREAMBLE: The regents recognize that students enjoy the same inalienable rights as other citizens under the constitution and laws of the United States, and have, therefore, adopted the following statement, the purpose of which is to guarantee basic and fundamental rights to UI students. Except for the addition of the second sentence in IV-9, this version is identical to that which appeared in the 1979 Handbook. For purposes of this statement, a "student" is any person who is regularly enrolled in UI as an undergraduate, graduate, law, or nonmatriculated student and who is not a member of the faculty. For further information, contact the Dean of Students (208-885-6757). See also the preamble to 2300.*

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### **Section I--freedom of association.**

1. Students shall be free to organize and join associations to promote their common interests.
2. UI approval shall not be required for the organization of any student association. The operation of such an association is subject to regulations necessary for the orderly scheduling of events, but in no case shall the views or objectives of the association be a basis for exercising these or other regulatory powers. In the event that UI regulations are violated, disciplinary action will be taken only against individual students and not against the association.
3. UI may require student associations to submit a list of officers and objectives, but they shall not otherwise be required to disclose their membership.

### **Section II--freedom of inquiry and expression. [See also 6220.]**

1. Students and student associations shall be free to examine and discuss all questions of interest to them and to express their opinions publicly or privately, subject only to civil and criminal law.
2. Students shall be free to support causes by any lawful means.
3. Student associations shall be free to invite and to hear any person at their meetings.
4. All official student communications media shall have the right to establish and maintain internal control of operations and content, free from prior censorship. Only for proper and stated causes will editors and managers be subject to removal, and then only by procedures prescribed at a prior date.

### **Section III—disciplinary regulations.**

1. Disciplinary regulations may be enacted only to govern the conduct of students on campus or at authorized UI activities. Such disciplinary regulations shall be approved by the faculty and shall be codified and published under the title of a "Student Code of Conduct."
2. Internal regulations of UI residence halls need not be included in the "Student Code of Conduct," but shall otherwise conform with the provisions of this section.

3. No disciplinary regulation shall take effect until after it has been published. No ex post facto regulation shall be enacted.
4. No disciplinary regulation shall discriminate against any student because of race, color, national origin, religion, sex, age, or disability, nor shall any regulation in any way deny to any student equal protection of the laws. 15

#### **Section IV--disciplinary hearings and procedures.**

1. "Disciplinary action" is defined as any penalty imposed for misconduct, including cheating and plagiarism. Disciplinary action, except that action necessary to stop a violation, shall not be taken against any student until his or her guilt has been ascertained at a fair and impartial hearing before a body authorized by the faculty for that purpose. Basic requirements of due process and fair play must be observed.
2. Disciplinary hearings shall be commenced only for alleged violations of regulations that have been properly enacted and that are in force at the time of the violation.
3. Students who are suspected of violations may be questioned, but they must be informed at the beginning of such questioning of the right to remain silent. No form of coercion or harassment shall be used in questioning.
4. Neither the premises inhabited by students nor their personal possessions shall be searched or seized in violation of federal or state law.
5. A disciplinary hearing may be waived and informal disposition of disciplinary action may be made by agreed settlement with the student or an order by the hearing board consented to by the student. If the student pleads guilty or fails to appear after receiving proper notice, an appropriate penalty may be imposed.
6. Except as provided in paragraph 5, the student charged with the violation shall: (a) be entitled to prompt hearing, (b) be informed in writing of the specific charges for proposed disciplinary action, (c) be given sufficient time to prepare for the hearing, and (d) state in writing whether he or she wishes the disciplinary hearing to be public or private.
7. During the disciplinary hearing and except as provided in paragraph 5, the student charged with the violation: (a) may be assisted by an adviser of his or her choice, (b) shall be given the opportunity to testify and to present evidence and witnesses on his or her behalf, (c) shall have the opportunity to hear and question adverse witnesses, (d) must have all testimony or evidence introduced in his or her presence unless he or she refuses to appear or fails to appear after having received proper notice, and (e) shall not be forced to testify against himself or herself and his or her refusal to testify shall not be considered as evidence against him or her.
8. The hearing board: (a) shall disregard any evidence secured by improper questioning or by illegal search and seizure, (b) shall assume the innocence of the student charged with the violation and shall place the burden of proof upon the party seeking disciplinary action, (c) shall base its findings and decision exclusively upon proper evidence and testimony and upon facts that are universally regarded as true (hearing boards should hear evidence on any disputed points; however, the board may itself take notice of facts that everyone agrees are true; for example, evidence does not have to be introduced to show it was dark if the act in question is clearly shown to have occurred at midnight), and (d) must state its findings and its decision in writing.
9. A student may be expelled or suspended from UI as a penalty for violating disciplinary regulations only if his or her misconduct seriously and critically endangers the essential operation of UI or the safety of members of the university community. By action of the regents, violations of alcohol related disciplinary regulations may lead to suspension or expulsion even without a showing that the misconduct seriously and critically endangers the essential operation of UI or the safety of members of the university community. (See 2300 XI-10.)

10. No student shall be tried twice for the same offense within the UI system of disciplinary hearings.

11. Any party to a disciplinary hearing shall have the right to appeal the decision to the faculty or its duly authorized representative. Subsequent appeals may be taken to the president and to the regents when the president and the regents agree to hear the appeal.

a. A student found guilty of a disciplinary violation will be entitled to a new hearing if prejudicial error is found on appeal. If the appellate body affirms the action of the hearing body, the severity of the penalty shall not be increased.

b. Except in extraordinary circumstances, any disciplinary action shall be held in abeyance until appeals have been completed.

c. Appellate bodies may consider the validity of the regulations under which a disciplinary hearing was held, the compliance of the hearing body with provisions of this statement, and the adequacy of the hearing body's findings and decision.

d. Appellate bodies shall establish their own procedures; these must include adequate notice to the parties and sufficient opportunity for the parties to prepare their arguments.

### **Section V--protection against improper disclosure. [See also 2600.]**

1. Students shall be protected from improper disclosure of data from their disciplinary records. Such data shall only be made available: (a) in cases of legal compulsion, (b) when the student's written permission is secured, or (c) to persons within UI who are directly involved in the disciplinary proceedings established in this statement, and then only to the extent that consultation of the record is essential to determine the charge against the student or to determine penalties, and (d) provided that transcripts of academic records shall not contain information about disciplinary action except when such action affects the eligibility of the student to continue as a member of the academic community. 2. Information about a student contained in academic and counseling records shall be considered confidential. Information about the views, beliefs, and associations of students acquired by instructors and advisers may be released only with the written consent of the student. Judgments of ability and character may be provided, however. Information accumulated in counseling students on personal problems of a private or confidential nature shall be available only to those persons authorized by the student's written permission. 3. Information in academic and counseling records may be released only when: (a) such release is legally compelled, (b) the student gives written authorization for such release, (c) faculty and staff members have adequate reasons, as defined by the faculty, to consult academic records, or (d) individual students are neither identified nor identifiable in statistical summaries of academic records.

### **Section VI—construction and amendment.**

1. The enumeration of rights in this statement shall not be construed to deny or disparage other rights retained by students.

2. This statement may be amended by the regents. Proposals for amendments from the university community will be made upon a two-thirds 16 affirmative vote of the students voting in an election in which at least 35 percent of the students vote, together with the affirmative vote of a majority of the university faculty at a meeting at which a quorum is present.

3. No legislation enacted by students or by the faculty shall supersede or conflict with the provisions of this statement.

# Student Code Of Conduct

## 2300 Faculty Staff Handbook

**Revision Date: August 2007**

*PREAMBLE. The university disciplinary system is part of the educational process of students focusing on behavior within a community. Sanctions are imposed for violations to the Student Code of Conduct to teach students how to be better and more responsible members of a community. Sanctions also serve to protect the UI community. The student Code of Conduct is UI "s manifestation of Section III, P-12, of the State Board of Education "s Governing Policies and Procedures which states: Each institution will establish and publish a statement of student rights and a code of conduct. The code of student conduct must include procedures by which a student charged with violating the code receives reasonable notice of the charge and is given an opportunity to be heard and to present testimony in his or her defense. Such statements of rights and codes of conduct, and any subsequent amendments, are subject to review and approval by the chief executive officer. The original of this code was created during the 1969-1970 school year. It was amended, at the suggestion of an ad hoc Faculty Council committee in July 1992, July 1993, July 1998 (Article II), and July 2005 (Article II, Section 2). Unless otherwise noted, the text is as of July 1996. For further information, contact the Dean of Students (208-885-6757). [rev. 7-98, 7-05]*

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### **Article I--scope of the code.**

**1.** This document is a codification of disciplinary regulations enacted to govern the conduct of students on campus or at authorized UI activities. Disciplinary regulations govern the conduct of students on campus and/or at authorized UI activities [see 2200, Section III]. The inclusion of, or failure to include, regulations herein pertaining to academic matters or to motor vehicles shall not affect any regulation, or the enforcement of any regulation, now or hereafter enacted by UI or any college or department thereof pertaining to academic matters or to motor vehicles.

**2.** Concurrent Jurisdiction.

**a.** Acts in violation of federal, state, or municipal laws come under the jurisdiction of UI only when they are also in violation of this code.

**b.** When Dean of Students (hereafter DOS) is informed that criminal charges are being brought against a student for conduct that also violates the Student Code of Conduct, DOS may file disciplinary charges against a student and investigate the incident. DOS has discretion to wait a reasonable period of time before requesting a hearing or final resolution of the disciplinary charges if it is in the best interest of the university disciplinary process to await the outcome of the criminal charges. [ed. 8-07]

- c. If a student is convicted of a crime prior to the university disciplinary hearing, the University Judicial Council (hereafter UJC) shall accept as fact that the student had engaged in conduct that constitutes the crime.
- d. The disposition of criminal charges against the student, if determined prior to the university disciplinary hearing, shall be taken into account by the UJC in determining sanctions against that student. [See 2300, Article XI, Section 5.]

**3. Definitions:**

- a. Student. Student as used in this code means:
  - 1. all persons taking UI courses, both full-time and part-time and/or
  - 2. all persons who are not officially enrolled for a particular term but have a continuing relationship with UI or intend to enroll in the next semester. [This provision is intended to include within the definition of students, those persons enrolled in the spring and fall semesters who engage in misconduct during the summer and students who are first time enrollees who engage in misconduct prior to the time of enrollment.]
- b. Campus. Campus means:
  - 1. all land, buildings, facilities, and other property -- including adjacent streets and sidewalks -- in the possession of or owned, used, or controlled by UI.
  - 2. all land, buildings, facilities, and other property -- including adjacent streets and sidewalks -- used as residences in the possession of or owned, used, or controlled by student associations recognized by UI.
- c. Knowingly. As used in this code, the terms "knowledge" and "knowingly," when referring to causing consequences, means that the person is aware that his or her conduct will probably cause the consequence described in the code.

**Article II--academic honesty. [Section renumbered 8-07]**

- 1. Cheating on classroom or outside assignments, examinations, or tests is a violation of this code.
- 2. Plagiarism, falsification of academic records, and the acquisition or use of test materials without faculty authorization are considered forms of academic dishonesty and, as such, are violations of this code.
- 3. Because academic honesty and integrity are core values at a university, the faculty finds that even one incident of academic dishonesty seriously and critically endangers the essential operation of the university and may merit expulsion. [rev. 7-98]
- 4. The operation of UI requires the accuracy and protection of its records and documents. To use, make, forge, print, reproduce, copy, alter, remove, or destroy any record, document, or identification used or maintained by UI violates this code when done with intent to defraud or misinform.
- 5. All data acquired through participation in UI research programs is the property of the university and must be provided to the principal investigator. In addition, collaboration with the University Research Office for the assignment of rights, title, and interest in patentable inventions resulting from the research is also required [see 5400 A through E].
- 6. Entrance without proper authority into any private office or space of a member of the faculty, staff, or student body is a violation of this code.
- 7. It is also a violation to "hack" or make unauthorized use of any computer or information system maintained by the university or a member of the faculty, staff, or student body. [rev. 7-05]
- 8. Instructors and students are responsible for maintaining academic standards and integrity in their classes. Consequences for academic dishonesty may be imposed by the course instructor. Such consequences may include but cannot exceed a grade of AF@ in the course. The

instructor should attempt to notify the student of the suspected academic dishonesty and give the student an opportunity to respond. The notice and the opportunity may be informal and need not be in writing. Penalties for any disciplinary infraction must be judicially imposed. [See 640.02 C-5] [rev. 7-98]

9. Instructors may report incidents of academic dishonesty to the dean of students. Upon receiving such a report, the dean of students shall provide the student with written notice that a report has been made and an opportunity to meet with the dean to discuss the report. The dean of students shall maintain the report and any record of the meeting for a period of time deemed appropriate by the dean. The dean of students may file a complaint against the student after the meeting has taken place or the student has elected, either affirmatively or through inaction, not to meet with the dean. [add. 7-98]

### **Article III--physical abuse, hazing, or harassment. [Section renumbered 8-07]**

1. Living together in a university community requires respect for the rights of fellow members of that community to pursue their academic goals and to participate in lawful campus or UI activities.

2. Harassment;

3. Hazing;

4. Detention;

5. Threats;

6. Intimidation;

7. Coercion;

8. Physical abuse; or

9. Similar actions, undertaken knowingly, are violations of this code.

### **Article IV--campus disorders and disruption.**

1. Members of the UI community have the right to lawful freedom of movement on campus; to lawful use of property, facilities, or parts of UI; and to lawful ingress to and egress from the institution's physical facilities. It is a violation of this code to violate the above rights of the university community by:

a. knowingly hindering entrance to, exit from, or normal use of any UI facility or part thereof;

b. remaining in any UI building or failing to disperse from a crowd or group after being advised by any law enforcement personnel or UI official to leave or disperse (see Appendix, paragraph 5);

c. knowingly creating noise, including the use of noisemaking or amplifying devices, which interferes with the academic process or violates another person's privacy;

d. knowingly interfering with reasonable use of UI driveways, parking lots, or sidewalks;

e. knowingly interfering with authorized events on property owned or controlled by UI or in UI facilities;

f. knowingly interfering with law enforcement personnel, public safety personnel, or UI officials in the lawful conduct of their duties; or

g. knowingly obstructing or disrupting teaching, research, or other academic activities.

[Idaho Code 33-3715 and 33-3716, though not part of this code, are appended for information.]

### **Article V--housing and living groups. [Section renumbered 8-07]**

1. The internal regulation of residence halls shall primarily be the responsibility of the individual living-group organization. Such regulations must conform to the Statement of Student Rights; violations of those regulations may also be violations of this code.
2. Living groups may also set internal regulations governing hours and areas of public access provided that such regulations do not condone the violation of a student's right to privacy in his or her own rented space.
3. UI dwellings are regulated only by this code and the housing contract. Provisions of the housing contract may not violate the Statement of Student Rights or the stipulations of this code. [It must be recognized, nonetheless, that UI dwellings are also regulated by applicable municipal, state, and federal laws and regulations.]
4. Sanctions available to the living groups range from warning through probation. In addition, fines not in excess of \$200 and/or restitution for damage or loss may be levied. Sanctions affecting the student's residence in UI housing may also be imposed as outlined in Article XI.

## **Article VI--physical safety and welfare. [Section renumbered 8-07]**

1. As in any community, certain forms of responsible conduct must be adhered to in order to ensure the physical functioning and safety or security of that community. 18
2. The need to safeguard the property of the university community requires that it is a violation of this code to engage in the unauthorized entry or unauthorized attempted entry into or on any facility or area on campus, including but not limited to heating tunnels, elevator shafts, shops, mechanical rooms, trunk rooms, storerooms, roofs, and fire escapes.
3. Possessing, giving to another, making, or causing to be made any key or other access device to UI property or facilities without proper authorization is a violation of this code.
4. Theft or misappropriation of UI property and theft or misappropriation of the private property of any person occurring on campus are violations of this code.
5. Knowingly damaging, destroying, or defacing UI property or property that is owned by others and located on campus are violations of this code.
6. Protecting the university community against fire is a major concern. Smoking is prohibited in all university buildings except full-time residential facilities. It is also prohibited in official meetings and hearings of UI units and bodies. [For details of the UI policy on smoking, see Section 6380 of the Faculty-Staff Handbook.]
7. Building or setting fires on property owned or controlled by UI without proper authorization, are a violation of this code. [ed. 8-07]
8. Removing or tampering with fire equipment or fire-alarm systems, or failure to vacate buildings promptly when fire alarms sound are violations of this code.
9. Firearms also may endanger the safety of the university community when improperly handled. "Firearms" as used in the code means any instrument used in the propulsion of shot, shell, or bullets, or other harmful objects by the action of gunpowder exploded within it, by the action of compressed air within it, by the power of springs and including what are commonly known as air rifles, BB guns, and pellet guns.
10. No firearm may be brought onto campus unless it is encased and has a trigger lock attached. ("Encased" is defined as placing a gun with a trigger lock in some sort of container--hard or soft, and including, but not limited to, such materials as aluminum, plastic, wood, leather, and cloth--that is fastened by means of a snap lock, zipper, tie, etc.).
11. In UI residence halls firearms must be kept in an area authorized by the Housing Office.
12. Loaded guns are not permitted on campus. A "loaded gun" is defined as one containing live ammunition either in the chamber or in the magazine. Possession and storage of gunpowder must comply with federal, state, and municipal laws. No ammunition will be allowed on campus except that designated for firearms that are properly stored on campus.

13. Other explosive substances are also prohibited on campus, except as approved by the safety officer. Exceptions to the above may be made for supervised UI courses.
14. Unauthorized uses of dangerous projectile or explosive devices, including but not limited to sling shots, crossbows, catapults, and devices which cause dangerous chemical reactions, are violations of this code.
15. It is a violation of this code to:
  - a. knowingly gain unauthorized access to computer-based information or information resources;
  - b. knowingly, without authorization, destroy, alter, dismantle, disfigure, prevent rightful access to, or otherwise interfere with computer-based information or information resources; or
  - c. knowingly invade, without authorization, the privacy of individuals or entities that are creators, authors, users, or subjects of the information resources.

## **Article VII--discrimination.**

1. Any violation of the basic rights of a human being is contrary to the very nature of a university. The regents' antidiscrimination policy is as follows:
  - a. Practices or regulations that discriminate on the basis of race, color, national origin, religion, sex, age, disability, or status as a Vietnam-era veteran, as each of these bases is defined by law, are neither condoned nor permitted in any area of UI operations, including personnel appointments, student admissions, housing assignments, use of dining halls, classrooms, or other facilities, or in any activities of the faculty, staff, or students that may be commonly regarded as sponsored or sanctioned by UI.
  - b. Nothing herein shall be deemed to affect the classification of persons based on the differences between males and females or between other classes or groups that is not irrational, capricious, or arbitrary, and that is intended to accomplish a lawful purpose (e.g., women's or men's living groups may exclude persons of the opposite sex, and students with substandard grades may be denied membership in honor societies and other groups having minimum grade requirements).
2. Any student conduct that violates this policy shall, upon due proof, be a violation of this code.

## **Article VIII--drugs and alcohol. [Section renumbered 8-07]**

1. The sale, use, or possession of illegal drugs is a violation of this code.
2. Sale or illegal possession or illegal consumption of alcoholic beverages is prohibited in facilities owned, leased, or operated by UI and on campus grounds.
3. Alcoholic beverages may not be possessed or consumed under any circumstances in areas open to and most commonly used by the general public. These areas include, but are not limited to, lounges, student union buildings, recreation rooms, conference rooms, athletic facilities, and other public areas of UI-owned buildings or grounds.
4. UI's primary role in handling matters involving the use or potential use of drugs or alcohol by its students is that of counseling. However, in appropriate situations, the full range of sanctions may be applied.

## **Article IX--aiding, solicitation and attempt.**

A person is in violation of this code if he or she:

1. intentionally aids or abets another in the commission of any offense(s) mentioned in this code;



2. requests, hires, encourages, or otherwise solicits another person to commit any offense mentioned in this code, either intending that the other person commit the offense or with the knowledge that the other person intends to commit the offense; or 19
3. attempts to commit any offense mentioned in this code.

### **Article X--judicial proceedings.**

1. Any member of the university community may file a complaint against any student for misconduct. Such complaints shall be prepared in writing and directed to the office of Dean of Students (DOS). Any complaint should be submitted as soon as possible after discovery of the alleged misconduct, preferably within thirty days. DOS may investigate to determine if the complaint has merit. [ed. 8-07]
2. DOS, or its representatives, may file charges on behalf of the university against a student accused of violating the Student Code of Conduct. In no event shall DOS file charges more than one year after DOS has discovered the alleged misconduct, although the summons can be served after the one year period if the charges were filed within the one year period. [ed. 8-07]
3. All charges, including amended charges, shall be presented to the accused student in writing. The accused student shall be deemed to have been "notified" of the charges, amended charges, notice of the hearing date and any changes in the hearing date, by any of the following methods:
  - a. hand-delivered notice; or
  - b. proof of the mailing of a certified, registered letter containing such information, sent to either the campus address or the home address that the student provided the university registrar in the student's registration documents; or
  - c. if receipt for the certified, registered letter is not returned with a signature within three weeks, then the accused student may be notified by proof of the mailing of a certified, nonregistered letter to the student's campus or home address; and the hearing date shall be set not less than five nor more than fifteen calendar days after the last date that the postal service attempted to deliver the certified, nonregistered letter.
4. A disciplinary hearing may be waived and informal disposition of disciplinary action may be made by an agreed settlement, in writing, between the student charged with code violations and the dean for Dean of Students or the dean's designee. The sanctions imposed in the agreed settlement will be effective upon signature of the parties, do not depend upon the approval of the UJC, and shall have full force and effect as if the sanctions had been imposed by the UJC. The Dean of Students shall, on a regular basis, inform the UJC of the agreed settlements entered into with students during the academic year. [ed. 8-07]
5. A student suspected of violating this code shall be informed of the right to remain silent. This information shall be provided in the notice of the charges, in any summons, at any meeting with DOS, and at any hearing conducted by the UJC. [ed. 8-07]
6. The disciplinary hearing shall occur not less than five nor more than fifteen calendar days after the accused student has been notified in writing of all charges, including amended charges. Maximum time limits for scheduling of hearings may be extended at the discretion of the Dean of Students, or the dean's designee, as long as the hearing will be prompt. The accused student and DOS may agree to a specific hearing date. The accused student may waive his or her right to a prompt hearing. The accused student may request the chairperson of the UJC to reschedule the hearings. [ed. 8-07]
7. Hearings shall be conducted in private unless the student charged with the violation states on the record that he or she wishes the disciplinary hearing to be public. The student charged with the violation can request the chairperson of the UJC to order that the disciplinary hearing be open only to specified members of the public. Otherwise, the only persons permitted to attend the "private" hearing will be the members of the UJC, the Dean of Students and/or the dean's

designee, the university counsel or the university counsel's designee, the party bringing the charges against the student, the accused student, the accused student's advisor, and witnesses. Although the student charged with a violation has the right to a public hearing, the chairperson of the UJC has the discretion to refuse to admit to the hearing any person whose conduct interferes with the hearing. Any party can request that witnesses be removed from the hearing when they are not giving testimony. In hearings involving more than one accused student, the chairperson of the UJC has the discretion to permit the hearings concerning each student to be conducted separately. [ed. 8-07]

**8.** The university, if it is filing charges against the student, may be represented by any advisor it chooses. The student charged with the violation has the right to be assisted by any advisor he or she chooses at his or her own expense. The advisor may be an attorney. The advisor will be permitted to speak and to participate directly in the hearing.

**9.** The accused student, the party filing charges against the accused student, and the UJC shall have the right to present witnesses and evidence and shall have the right to be present and hear and question adverse witnesses, as well as the right to object to the admission of testimony and evidence.

**10.** Irrelevant evidence is not admissible. All evidence, pertinent records, exhibits, and written statements, as well as copies or recordings of such evidence, may be accepted as evidence at the discretion of the chairperson of the UJC. Hearsay evidence is admissible if it is of the type commonly relied upon by prudent persons in the conduct of their affairs.

**11.** All questions of procedure and evidence are subject to the final decision of the chairperson of the UJC.

**12.** Generally, the hearing shall be conducted in the following order:

**a.** The chairperson of the UJC shall determine whether the accused student has requested a public or a private hearing, shall state for the record the names and roles of the persons present at the hearing, and shall remind the accused student of the right to have an advisor, of the right to refuse to testify, and that the refusal to testify shall not be considered as evidence against him or her. [See 2200.]

**b.** The party filing charges and the accused student shall have the opportunity to present opening statements in which they summarize the evidence they intend to present to the UJC.

**c.** The party filing charges shall present its evidence first, and the accused student shall have the right to present his or her evidence afterwards.

**d.** Following the presentation of evidence the party filing charges shall have the opportunity to summarize the evidence presented. Afterwards, the accused student shall have the opportunity to summarize the evidence presented.

**e.** After the presentation of evidence and summaries, the UJC shall make its decision in a closed session.

**13.** The UJC shall determine by majority vote whether the student has violated each section of the Student Code of Conduct which the student is charged with violating. The chairperson of the UJC, or the designee in the event of absence of the chairperson, is permitted to vote only in the event of a tie ballot. The burden of proof shall be upon the party bringing the charges against the accused student. The UJC's conclusion shall be made on the basis of whether it is more likely than not that the accused student violated a specific provision or provisions of the Student Code of Conduct.

**14.** If the UJC concludes that the accused student did violate a provision or provisions of the Student Code of Conduct, the UJC must state in writing the facts, conduct, or circumstances it has found to support its conclusion. These "findings of fact" must be based exclusively upon the evidence and testimony properly presented to the UJC and upon facts that are universally regarded as true. The UJC shall inform the parties in writing of its "findings of fact," its

conclusion that the student has violated the Student Code of Conduct, and the right of the student to appeal the decision of the UJC.

**15.** The UJC shall maintain a single verbatim record, such as a tape recording, of all hearings. The record shall be the property of the university.

**16.** The failure of an accused student to appear at a hearing after notification is neither an admission nor evidence as to the charges. No accused student may be found to have violated the Student Code of Conduct solely because the student failed to appear before the UJC. [Failure to appear after being summoned may be a separate violation of the Student Code of Conduct; see below.] If the accused student fails to appear at the hearing after proper notification, the party filing charges against the accused student shall present the evidence in support of the charges, and the UJC shall conclude based on the evidence whether it is more likely than not that the accused student had violated the Student Code of Conduct. If the UJC concludes that the student had violated the Student Code of Conduct, the UJC shall inform the parties in writing of its conclusion, its "findings of fact," and the right of the student to appeal the decision of the UJC.

**17.** Failure to comply with any procedural rule may render invalid the decision of the UJC if such failure materially prejudiced the rights of a party.

**18.** All members of the university community are encouraged to assist the parties and the UJC in determining whether the accused student violated the Student Code of Conduct. The chairperson of the UJC, or the chairperson's designee, shall have the authority to issue a summons commanding a student to appear at a hearing and to testify. Such a summons may be requested by any party to the hearing or by any member of the UJC. The summons may be served either by hand-delivery or be certified, registered mail sent to the campus or the home address that the student provided to the university registrar. The summons shall inform the student that it is a violation of the Student Code of Conduct to fail to appear or to refuse to testify, unless such testimony would force the student to testify against himself or herself.

**19.** It is a violation of this code for a student to fail to appear at a hearing after proper service of a summons to appear. It is also a violation of this code for a student to refuse to give testimony at a hearing after proper service of a summons to appear, unless such testimony would force the student to testify against himself or herself. It is a violation of this code to knowingly disrupt, impede, threaten, or disregard the lawful procedures or sanctions of the UJC. It is a further violation of this code to knowingly provide false information to the UJC.

## **Article xi--range of sanctions.**

**1.** When the Dean of Students determines it is necessary to stop a violation of the Student Code of Conduct, as permitted under the Statement of Student Rights [2200, Section IV, Para. 1], the Dean of Students (or a designee), with the concurrence of the chair of the UJC, if and when he or she is available, may impose an interim university or residence hall suspension prior to the hearing before the UJC. [ed. 7-00, 8-07]

**a.** Interim suspension may be imposed only to ensure the safety and well-being of members of the university community or preservation of property, to ensure the student's own physical or emotional safety and well-being, or if the student poses a definite threat of disruption of or interference with the normal operations of the university.

**b.** During the interim suspension, the student shall be denied access to the residence halls and/or the campus (including classes) and/or all other university activities or privileges for which the student might otherwise be eligible, as the Dean of Students (or a designee), with the concurrence of the chair of the UJC, if and when he or she is available, may determine to be appropriate. [ed. 8-07]

**c.** As soon as is practicable, the student subjected to an interim suspension shall be provided notice of the reasons for the university's action and shall be accorded the

normal procedures of the UJC, including the filing of a complaint and the right to a hearing.

2. Sanctions that may be imposed are listed here in order of their severity:

- a. warning;
- b. probation (with terms and length as determined by the UJC);
- c. withheld suspension (failure to comply with the terms of probation results in immediate suspension from UI);
- d. suspension (removal from UI for a specific length of time, e.g., semester or academic year);
- e. expulsion (indefinite removal from UI).

3. Before the UJC may impose a sanction of withheld suspension, suspension, or expulsion, the UJC must make a specific finding in writing that the student's misconduct seriously and critically endangered the essential operation of UI or the safety of members of the university community [see 2200, IV-9].

4. In addition to the sanctions enumerated in paragraph 1, the UJC may impose any combination of the following and may include them as terms of probation:

- a. community service (to be performed for a specified period of time under the direction of the Dean of Students); [ed. 8-07]
- b. restitution of damages;
- c. special sanctions deemed appropriate and reasonable by the UJC (e.g., counseling, restrictions on behavior, or requiring letters of apology to be written);
- d. administrative fees not exceeding \$25.
- e. penalties for disruption of the judicial process range from warning through suspension, depending on the severity of the offense.

5. When appropriate, a student may be given the option of working off the equivalent of restitution for UI at the minimum wage.

6. If sanctions, including community service hours and restitution imposed by the UJC, have not been completed or if sanctions agreed to by a student in an agreed settlement have not been completed, UI, at the discretion of the Dean of Students or the dean's designee, may deny a student the privilege of reregistering, may hold transcripts and/or diplomas, and may refuse to release information based on the student's record. [ed. 8-07] 21

7. Sanctions affecting a student's residence in UI-controlled housing may be imposed. These sanctions are loss of privileges within the living group and temporary or permanent removal from UI-controlled housing.

8. Sanctions already imposed by civil or criminal process are taken into account when any UI sanction is imposed.

9. Extensive, organized, serious, or repeated violations of this code are taken into account when determining the appropriate sanction.

10. The Regents of UI adopted guidelines for enforcing campus alcohol regulations which include sanctions for violation of these regulations. Minimum sanctions for violations of Article VIII, Sections 1 and 2 of the Student Code of Conduct are listed below. These sanctions will be minimum standards and more severe sanctions may be applied. [See next page.]

**a. First Infraction**

**Infraction Sanction**

- 1. Open container or minor in possession violations.
  - 1. Referral to judicial council for education programs & payment of administrative costs.
- 2. Illegal distribution of alcohol.
  - 2. Referral to judicial council with sanctions to include community service, period of probation, administrative costs, and education programs.

**b. Second Infraction**

### **Infraction Sanction**

1. Without injury; or without conduct likely to lead to injury.
  1. Referral to judicial council or similar authority for action which must include a treatment and/or education program.
2. With injury; or conduct likely to lead to injury.
  2. Referral to the proper administrative body of the institution for action must include notification to the criminal justice system, strict probation, and, a treatment or education program.

### **c. Third Infraction**

#### **Infraction Sanction**

1. Without injury; or without conduct likely to lead to injury.
  1. Referral to the appropriate administrative body of the institution for appropriate action, which must include, at least, suspension from school for one semester.
2. With injury; or conduct likely to lead to injury.
  2. Referral to the appropriate administrative body of the institution for appropriate action, which must include, at least, referral to the criminal justice system and expulsion from the institution for one year.

### **APPENDIX TO THE STUDENT CODE OF CONDUCT:**

(1) **Idaho Code, section 33-3715:** *"The legislature, in recognition of unlawful campus disorders across the nation which are disruptive of the educational process and dangerous to the health and safety of persons and damaging to public and private property, establishes by this act criminal penalties for conduct declared in this act to be unlawful. However, this act shall not be construed as preventing institutions of higher education from establishing standards of conduct, scholastic and behavioral, reasonably relevant to their lawful missions, process, and functions, and to invoke appropriate discipline for violations of such standards."*

(2) **Idaho Code, section 33-3716:** *"No persons shall, on the campus of any community college, junior college, college, or university in this state, hereinafter referred to as „institutions of higher education,“ or at or in any building or other facility owned, operated, or controlled by the governing board of any such institution of higher education, willfully deny to students, school officials, employees, and invitees: (a) lawful freedom of movement on campus; (b) lawful use of property, facilities, or parts of any institution of higher education; or (c) the right of lawful ingress [to] and egress [from] the institution "s physical facilities.*

(3) *"No person shall, on the campus of any institution of higher education, or at or in any building or other facility owned, operated, or controlled by the governing board of any such institution, willfully impede the staff or faculty of such institution in the lawful performance of their duties, or willfully impede a student of such institution in the lawful pursuit of his educational activities, through the use of restraint, abduction, coercion, or intimidation, or when force and violence are present or threatened.*

(4) *"No person shall willfully refuse or fail to leave the property of, or any building or other facility owned, operated, or controlled by the governing board of any such institution of higher education upon being requested to do so by the chief administrative officer, his designee charged with maintaining order on the campus and in its facilities, or a dean of such college or university, if such person is committing, threatens to commit, or incites others to commit, any act which would disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures, or functions of the institution.*

(5) *"Nothing in this section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between the institution of higher education and its employees.*

*(6) "Any person who violates any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500), or imprisoned in the county jail for a period not to exceed one (1) year, or by both such a fine and imprisonment."*

# Sexual Harassment and Sexual Violence Policy Pertaining Specifically to Students

## 2350 Faculty Staff Handbook

Revision Date: May 2012

*PREAMBLE. In March of 2012 President Nellis, enacted the following policy (in the form of an emergency policy pursuant to FSH 1460 C-3) to implement revisions to University Policy addressing claims of Sexual Harassment (including Sexual Violence) and claims of Gender-Based Harassment to conform to legal requirements promulgated by the U.S. Department of Education. [rev. 5-12]*

**NOTE:** The following policy will apply to claims of Sexual Harassment (including Sexual Violence) and claims of Gender-Based Harassment whether occurring on or off campus. The terms of this policy supplement current University policy regarding Sexual Harassment, and supersede any contrary terms in any current University policy (including any contrary terms in FSH [2200](#) - Statement of Student Rights; FSH [2300](#) - Student Code of Conduct; FSH [2450](#) - Appeals to Faculty Senate in Disciplinary Cases; FSH [3215](#) – Non-Discrimination on the Basis of Sexual Orientation and Gender Identity/Expression; FSH [3220](#) – Sexual Harassment). [rev. 5-12]

### A. DEFINITIONS:

**A-1.** “Gender-Based Harassment” includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

**A-2.** “Sexual Harassment” is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual Violence is a form of Sexual Harassment.

**A-3.** “Sexual Violence” refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. A number of different acts fall within the definition of Sexual Violence, including but not limited to rape, sexual assault, sexual battery, and sexual coercion. All such acts of Sexual Violence are forms of Sexual Harassment.

**A-4.** “Educational Setting” refers to all the academic, educational, extracurricular, athletic and other programs of the University of Idaho, whether those programs take place in a University facility, at a University class or training program, or elsewhere.

**B. REPORTING SEXUAL VIOLENCE.** For information and resources available for survivors of sexual violence, please see the Administrative Procedure Manual (APM) [95.20](#).

**C. JURISDICTION.** The jurisdiction of University of Idaho disciplinary regulations shall expand to govern off-campus conduct when such off-campus conduct constitutes Sexual Harassment or Gender-Based Harassment that may have continuing adverse effects in the Educational Setting.

### D. VIOLATIONS OF THE STUDENT CODE OF CONDUCT:

**D-1.** Sexual Harassment and Gender-Based Harassment are violations of the Student Code of Conduct (see [FSH 2300](#)).

**D-2.** Because campus security and safety are critical to the essential operation of the University, even a single violation of the Student Code of Conduct's prohibition of Sexual Harassment or Gender-Based Harassment may merit expulsion.

**E. CHARGES OF SEXUAL HARASSMENT OR GENDER BASED HARASSMENT:**

**E-1.** When the allegations in a student's complaint include Sexual Harassment or Gender-Based Harassment, the Dean of Students office ("DOS") must investigate the incident and take immediate steps to protect the complainant in the Educational Setting. This applies whether the alleged conduct occurred on or off campus.

**E-2.** A preponderance of the evidence (more likely than not) standard will be used to evaluate allegations of Sexual Harassment or Gender-Based Harassment.

**E-3.** The DOS may determine to temporarily delay fact-finding in an investigation regarding Sexual Harassment or Gender-Based Harassment while law enforcement authorities are gathering evidence; but once notified that law enforcement has completed gathering evidence, the DOS must promptly resume fact finding. The DOS may not await the ultimate outcome of a law enforcement investigation or the filing of charges before resuming or beginning fact finding. *[ed. 5-12]*

**E-4.** Both parties must be afforded similar and timely access to any information that will be used at the hearing, other than each party's work product (or that of the party's advisor), consistent with FERPA and other relevant laws, including any recognized privilege.

**F. RIGHT TO A HEARING:**

**F-1.** The University Judicial Council ("UJC") (see FSH [2400 B-2](#) & [1640.93](#)) hearing shall be private when the matter involves charges of Sexual Harassment or Gender-Based Harassment.

**F-2.** During a hearing involving charges of Sexual Harassment or Gender-Based Harassment, neither the accused student nor his or her representative will be permitted to directly question the complainant(s). Instead, such persons may submit written questions to the chair of the UJC ("Chair"), who will ask questions the Chair determines to be appropriate. *[rev. 5-12]*

**G. TYPICAL TIMEFRAME OF THE PROCESS:** (see [FSH 2300 X](#)). A typical timeframe for the complaint investigation and hearing procedure is as follows: (1) The University investigation of the complaint is generally completed within 60 calendar days following receipt of a complaint; (2) Both parties receive a response regarding the outcome of the complaint within 10 business days following the UJC's decision; (3) Either party may appeal the UJC's decision within 14 calendar days in accordance with the Appeals provision below. Both parties should receive periodic updates from the DOS. A number of factors may influence the timeframe of any particular complaint investigation and hearing procedure; this typical timeframe is provided for informational purposes only and does not bind the University to this timeframe for any particular complaint. *[rev. 5-12]*

**H. APPEALS: (see [FSH 2450](#))**

**H-1.** Either party has the right to appeal the decision of the UJC by notifying the Office of the Faculty Secretary to that effect in writing, within 14 calendar days following receipt by the party of the written decision of the UJC. Parties wishing to appeal must include valid contact information. Appeals may be sent to: Office of the Faculty Secretary, P.O. Box 441106, Moscow, ID 83844-1106.



**H-2.** A subsequent hearing before the UJC or another board as the result of an appeal by either party, shall not be considered a second “trial” for purposes of [FSH 2200](#) IV(10).

**H-3.** This Section H specifically supersedes any contrary provision of [FSH 2450](#), including, specifically, subsection D-10.

**I. DISCLOSURE OF OUTCOME OF DISCIPLINARY PROCEEDING:**

**I-1.** Both the complainant and the accused student will be notified, in writing, of the outcome of a complaint and any appeal. “Outcome” for these purposes means whether the harassment was found to have occurred. The University will only disclose information about the sanctions imposed when they directly relate to the harassed student, such as a sanction of no contact with the complainant.

**I-2.** When the allegations include a crime of violence or a non-forcible sex offense (as defined by FERPA), the University will, disclose to the alleged victim of such crime or offense the final results of any disciplinary proceeding conducted by the University against a student who is an alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph. The University may disclose to anyone, upon written request, the final results of a disciplinary proceeding if the University determines that the student is an alleged perpetrator of a crime of violence or a non-forcible sex offense, and, with respect to the allegation made, the student has committed a violation of the institution’s rules or policies. “Final results” for these purposes means the name of the accused student, any violation found to have been committed, and any sanction imposed against the accused student by the University.

*[rev. 5-12]*

**I-3.** When the allegations include a sex offense (as defined by FERPA), both the complainant and the accused student must be informed of the outcome of any institutional disciplinary proceeding (APM [95.20](#) G-2) brought against the accused student. “Outcome” for these purposes means the University’s final determination with respect to the alleged sex offense and any sanctions imposed against the accused student. *[ed. 5-12]*

# Student Judicial System

## 2400 Faculty Staff Handbook

Revision Date: July 2008

*PREAMBLE: This section outlines UI's student judicial system. This section dates from the 1979 Handbook with relatively minor revisions, the last of which, in July 1993, changed the membership and the quorum of the University Judicial Council. In 2008 the committee composition previously in B-2 was moved into FSH 1640 Committee Directory. For further information, contact the Dean of Students (208-885-6757). [rev. 7-08] 22*

### Contents:

A. Introduction

B. Judicial and Disciplinary Bodies

**A. INTRODUCTION.** UI's student judicial system is established and maintained for the prosecution and handling of disciplinary matters concerning UI students (as "student" is defined in the preamble to the Statement of Student Rights [2200]). Any and all matters consistent with the Student Code of Conduct [2300] and the Statement of Student Rights are handled by the system under the following rules and regulations. [ed. 7-00]

**B. JUDICIAL AND DISCIPLINARY BODIES.** The system consists of the following: living-group disciplinary bodies, University Judicial Council (UJC), Faculty Council, president, and regents.

#### **B-1. Living-Group Disciplinary Bodies.**

**a. Composition.** Each living group has a disciplinary body, the composition of which is to be determined by the group.

**b. Jurisdiction.** Each living-group disciplinary body has jurisdiction only over those violations that are primarily internal in cause and effect. If the offense also violates the Student Code of Conduct, the living group must communicate with the ASUI student defender and the judicial officer in Student Advisory Services before taking jurisdiction. The determination of jurisdiction is decided by mutual agreement of the ASUI student defender, the judicial officer, and the complaining party. If the ASUI student defender, the judicial officer, and the complaining party fail to agree unanimously on the proper hearing body, the matter is referred to UJC, which decides the case on the merits. However, the living-group disciplinary body at all times has the right to decline to hear a case brought before it, in which instance the matter is referred to UJC, which will hear the case on the merits. If a living-group disciplinary body proceeds without jurisdiction, its proceedings, findings, and sentence are void and are no bar to a new trial.

**c. Range of Sanctions.** The living-group disciplinary body may order any sanction it deems just, so long as it is consistent with those stated in articles V and XI of the Student Code of Conduct and in the Statement of Student Rights.

#### **B-2. University Judicial Council. (see 1640.93)**

##### **a. Jurisdiction. [ren. 7-08]**

**(1)** UJC has original jurisdiction in the following instances:

**(a)** Any violation of the Student Code of Conduct that may not be appropriately handled within the living-group disciplinary body.

[See B-1-b.]

**(b)** Any violation of ASUI rules and regulations not specifically designated to be heard elsewhere.

**(c)** Any matter that a living-group disciplinary body declines to hear. [See B-1-b.]

**(2)** UJC has appellate jurisdiction over decisions of living-group disciplinary bodies and decisions of the ASUI Judicial Council. (The ASUI

Judicial Council is an internal council of the ASUI. Please refer to ASUI governing policies for further information.)

**b. Range of Sanctions.** The UJC has the full range of sanctions set forth in the Student Code of Conduct. [ren. 7-08]

**B-3. Faculty Council.** The Faculty Council has appellate jurisdiction over all student disciplinary proceedings and must comply with section IV, paragraph 11, item (d), of the Statement of Student Rights. [See 2450.]

**B-4. President.** The president has appellate jurisdiction over the Faculty Council.

**B-5. Board of Regents.** The regents have final appellate jurisdiction within the UI system.

# Appeals To Faculty Council In Disciplinary Cases

## 2450 Faculty Staff Handbook

Revision Date: June 2009

*PREAMBLE: This section, added to the Handbook in May, 1984, outlines the appeal process in student disciplinary cases. For further information, contact the Dean of Students (208-885-6757).*

### Contents:

- A. Right of Appeal
- B. Appellate Jurisdiction
- C. Procedural Requirement
- D. Procedures

**A. RIGHT OF APPEAL.** "Any party to a disciplinary hearing shall have the right to appeal the decision to the faculty or its duly authorized representative. Subsequent appeals may be taken to the president and to the regents when the president and the regents agree to hear the appeal." [2200 IV-11]

**B. APPELLATE JURISDICTION.** "The Faculty Council has appellate jurisdiction over all student disciplinary proceedings and must comply with section IV, paragraph 11, item (d), of the „Statement of Student Rights.“ [2400 B-3]

**C. PROCEDURAL REQUIREMENT.** "Appellate bodies shall establish their own procedures; these must include adequate notice to the parties and sufficient opportunity for the parties to prepare their arguments." [2200 IV-11(d)]

**D. PROCEDURES.** Pursuant to the authority and responsibility cited above, the Faculty Council has established the following procedures for the exercise of its appellate jurisdiction over student disciplinary proceedings:

**D-1.** If a party to a disciplinary proceeding desires to lodge an appeal with the Faculty Council, the party must notify the Faculty Council to that effect, in writing, within two weeks following receipt by the party of the written decision of the University Judicial Council (UJC).

**D-2.** Within two weeks after receiving a notice of appeal, the Faculty Council appoints five of its members, including one student, to constitute a panel with power to act on its behalf in hearing and deciding the appeal; one of the members is designated as chair. Persons appointed to the panel must have no interest in or involvement with the parties to or the subject matter of the case under appeal. 23

**D-3.** The panel, as soon as possible after its appointment, sets the date, time, and place for the hearing and provides notice thereof, in writing, to both parties. The time set must provide the appellant with adequate opportunity to comply with the requirement stated immediately below.

**D-4.** The appellant must submit a brief to the panel, and see that a copy is delivered to the appellee, at least one week before the hearing date; a copy must be provided for each member of the panel.

**D-5.** The appellee must submit a brief to the panel, and see that a copy is delivered to the appellant, at least one day before the hearing date; a copy must be provided for each member of the panel.

**D-6.** A transcript of the UJC hearing is provided to the panel and to both parties by Student Advisory Services.

**D-7.** At the hearing, the appellant is allowed 15 minutes for oral argument; the appellant may reserve a maximum of 5 minutes for rebuttal following the appellee's argument. The appellee is allowed 15 minutes for oral argument and may not reserve any time.

**D-8.** Oral arguments are recorded on tape and the tape is stored in Student Advisory Services.

**D-9.** As to questions of law, the panel may review the record of the UJC hearing and all the evidence presented therein and may make an independent resolution of those questions of law.

**D-10.** As to questions of fact, the panel may reverse the decision of the UJC only on a showing of clear error. Further, on appeal by the university of an adverse UJC ruling, the defendant may not be placed in jeopardy a second time; the purpose of such an appeal is the clarification of rules and establishment of precedent.

**D-11.** The findings and decision of the panel must be based on concurrence of a majority of its members; these are issued in writing to the parties.