

DRAFT – December 19, 2013  
STUDENT CODE OF CONDUCT

PREAMBLE

We the students of the University of Nebraska-Lincoln, as the Cornhusker community, are true to the values we uphold. We treat each other and ourselves with respect; we are dependable, following through on obligations; we are committed, faithful to a cause that is greater than ourselves; we are diligent citizens, engaging in service and our community; we share a caring spirit, demonstrating interest and concern; and we are open-minded, valuing the ideas of others; we engage in responsible social conduct that reflects credit upon the University community and model good citizenship in any community. We work with integrity to fulfill the mission of higher education and strive for excellence while forever carrying the banner of UNL.

Still, on our journeys toward becoming the best versions of ourselves, we learn from the mistakes we make. Furthermore, we understand that rules, regulations, and sanctions do not exist merely as punitive measures, but rather as guiding principles leading us toward success. This Code of Conduct seeks to create standards, consistent with our values, of the highest order to which we hold our peers and ourselves.

ARTICLE I: DEFINITIONS

1. The term University means the University of Nebraska-Lincoln.
2. The term “student” includes all persons taking courses from the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies. Persons who withdraw after allegedly violating the Student Code, who are not officially enrolled for a particular term but who have a continuing relationship with the University are considered “students” as are persons who are living in University residence halls, although not enrolled in this institution. This Student Code does apply at all locations of the University, including the physical campuses or any other locations in Nebraska, or in another state.
3. The term “faculty member” means any person hired by the University to conduct classroom, research, or teaching activities or who is otherwise considered by the University to be a member of its faculty.
4. The term “University official” includes any person employed by the University, performing assigned administrative or professional responsibilities.
5. The term “member of the University community” includes any person who is a student, faculty member, University official or any other person employed by the University. A person’s status in a particular situation shall be determined by the Dean of Students.

6. The term “University premises” includes all land, buildings, facilities, and other property in the possession of or owned, used, or affiliated with the University (ex. Greek Houses, Residence Halls, University vehicles, or off-campus research facilities, including adjacent streets and sidewalks).

7. The term “organization” means any recognized student organization (RSO) with any number of persons who have complied with the formal requirements for University recognition.

8. The term “shall” is used in the imperative sense.

9. The term “may” is used in the permissive sense.

10. The Dean of Students is that person designated by the University to be responsible for the administration of the Student Code.

11. The term “policy” means the written regulations of the University as found in, but not limited to, the Student Code, Residence Life Handbook, the University web page and computer use policy, and Graduate/Undergraduate Bulletins.

12. The term “Complainant” means any person who submits a charge alleging that a student violated this Student Code. When a student believes that s/he has been a victim of another student’s misconduct, the student who believes s/he has been a victim will have the same rights under this Student Code as are provided to the Complainant, even if another member of the University community submitted the charge itself.

13. The term “Respondent” means any student accused of violating this Student Code.

14. Conduct Officer. The Conduct Officer shall mean the Dean of Students or a University official authorized by the Vice Chancellor for Student Affairs to impose sanctions upon students or organizations found to have violated the Student Code of Conduct or other published University policies and regulations prescribing standards of student conduct.

## ARTICLE II: STUDENT CODE AUTHORITY

1. The Dean of Students is the person authorized by the Vice Chancellor for Student Affairs to impose sanctions upon students or organizations found to have violated the Student Code of Conduct or other published University policies and regulations prescribing standards of student conduct.

2. Decisions made by the University Conduct Board shall be final, pending the normal

appeal process.

### ARTICLE III: PROSCRIBED CONDUCT

#### A. Jurisdiction of the University Student Code

The University Student Code shall apply to conduct that occurs on University premises, at University sponsored activities, and to off-campus conduct that adversely affects the University Community and/or the pursuit of its objectives. Each student or RSO shall be responsible for his/her/their members' conduct from the time of enrollment through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is not discovered until after a degree is awarded). The Student Code shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending. This Student Code does apply at all locations of the University, including the physical campuses, and University affiliated programs in another state.

#### B. Conduct—Rules and Regulations

Any student found to have committed or to have attempted to commit the following misconduct is subject to the disciplinary sanctions outlined in Article IV:

##### 1. Acts of academic dishonesty, including but not limited to the following:

Cheating: Copying or attempting to copy from an academic test or examination of another student; using or attempting to use unauthorized materials, information, notes, study aids or other devices for an academic test, examination or exercise; engaging or attempting to engage the assistance of another individual in misrepresenting the academic performance of a student; or communicating information in an unauthorized manner to another person for an academic test, examination or exercise.

Fabrication or Falsification: Falsifying or fabricating any information or citation in any academic exercise, work, speech, research, test or examination. Falsification is the alteration of information, while fabrication is the invention or counterfeiting of information.

Plagiarism: Presenting the work of another as one's own (i.e., without proper acknowledgment of the source) and submitting examinations, theses, reports, speeches, drawings, laboratory notes or other academic work in whole or in part as one's own when such work has been prepared by another person or copied from another person. Materials covered by this prohibition include, but are not limited to, text, video, audio, images, photographs, websites, electronic and online materials, and other intellectual property.

Abuse of Academic Materials: Destroying, defacing, stealing, or making inaccessible library or other academic resource material.

Complicity in Academic Dishonesty: Helping or attempting to help another student to commit an act of academic dishonesty.

Falsifying Grade Reports: Changing or destroying grades, scores or markings on an examination or in an instructor's records.

Impermissible Collaboration: Collaborating on any academic exercise, work, speech, test or examination unless expressly authorized by the faculty member. It is the obligation of the student to know whether collaboration is permitted.

Misrepresentation to Avoid Academic Work: Misrepresentation by fabricating an otherwise justifiable excuse such as illness, injury, accident, etc., in order to avoid or delay timely submission of academic work or to avoid or delay the taking of a test or examination.

Other: Academic units and members of the faculty may prescribe and give students prior notice of additional standards of conduct for academic honesty in a particular course, and violation of any such standard of conduct shall constitute misconduct under this Code of Conduct and the University Disciplinary Procedures.

Any student found guilty of academic dishonesty may be subject to both academic and disciplinary sanctions.

- a. In cases where an instructor finds that a student has committed any act of academic dishonesty, the instructor may, in the exercise of his or her professional judgment, impose an academic sanction as severe as giving the student a failing grade in the course. Before imposing an academic sanction the instructor shall first attempt to discuss the matter with the student. If deemed necessary by either the instructor or the student, the matter may be brought to the attention of the student's major adviser, the instructor's department chairperson or head, or the dean of the college in which the student is enrolled. When academic sanction is imposed which causes a student to receive a lowered course grade, the instructor shall make a report in writing of the facts of the case and the academic sanction imposed against the student to the instructor's department chairperson or head and to the Conduct Officer. The student shall be provided with a copy of this report. Further, the instructor may recommend the institution of disciplinary proceedings against the student for violation of this Code, if the instructor in the exercise of his or her professional judgment believes that such action is warranted.
- b. In cases where an instructor's finding of academic dishonesty is admitted by the student and an academic sanction is imposed by the instructor which the student believes to be too severe, the student shall have the right to appeal the severity of the academic sanction through the applicable grade appeal procedure.

- c. In cases where an instructor's finding of academic dishonesty is disputed by the student, the matter shall be referred to the Conduct Officer for disposition in accordance with the University Disciplinary Procedures. Any academic sanction imposed by the instructor shall be held in abeyance pending a final decision under the University Disciplinary Procedures. If it is determined through these procedures that the student did not commit academic dishonesty, the instructor's academic sanction shall be set aside. If it is determined that the student committed academic dishonesty, the instructor's academic sanction shall be imposed in addition to any disciplinary sanction which may be imposed under the University Disciplinary Procedures.
  - d. The provision of this Code relating to academic dishonesty and the procedures applicable thereto do not apply to law students in the College of Law, who are governed by the Honor Code of the College of Law.
2. Furnishing false information to any University official, faculty member, or office.
  3. Forgery, alteration, or misuse of any University document, record, or instrument of identification.
  4. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, and other University activities on or off campus, including its public service functions on or off campus, or of other authorized non-University activities.
  5. Physical abuse, verbal abuse, threats, intimidation, harassment, coercion, and/or other conduct that threatens or unreasonably endangers the mental or physical health, safety or reputation of any person or oneself. This rule also applies to online or other electronic conduct.
  6. Attempted or actual theft of and/or damage to property of the University or property of a member of the University community on or off campus.
  7. Hazing, defined as an act which could reasonably be expected to adversely affect the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are violations of this rule.
  8. Failure to comply with directions of University officials or law enforcement officers acting appropriately in performance of their duties and/or failure to identify oneself to these persons when requested to do so.

9. Unauthorized possession, duplication or use of keys and/or keycards to any University premises or unauthorized entry to or use of University premises.
10. Violation of any University policy, rule, or regulation published in hard copy or available electronically on the University website.
11. Violation of any federal, state or local law.
12. Use, possession, manufacturing, or distribution of marijuana, heroin, narcotics, or other controlled substances, or drug paraphernalia, except as expressly permitted by law.
13. Use, possession, manufacturing, or distribution of alcoholic beverages (except as expressly permitted by University regulations), or public intoxication. Alcoholic beverages may not, in any circumstance, be used by, possessed by or distributed to any person under twenty-one (21) years of age.

a. Good Samaritan Policy

1. Students calling 911 to assist another student experiencing adverse drug reactions or acute alcohol poisoning or other serious alcohol-related injury are eligible for an alternative to normal Student Code of Conduct procedure. This alternative will be to meet with a designated Dean of Students staff member to discuss the incident and the effect of this policy in the decision to call 911.
2. Students who receive emergency medical assistance for acute alcohol poisoning or a serious alcohol-related injury are eligible for an alternative to the normal Student Code of Conduct procedure. This alternative will require payment for and completion of Brief Alcohol Screening and Intervention for College Students (BASICS) program and completion of further recommendations made by professional staff as a result of BASICS evaluation.
3. Students who qualify for and complete these alternative requirements will have their Student Code of Conduct charges set aside and the incident will not be recorded in the behavioral conduct record of the student, provided the student commits no additional major violations of the Student Code of Conduct within a twelve month period.

b. Procedure

1. In order for this policy to be in effect, Emergency Medical Services (911) must be summoned and must respond directly to the situation.
2. Students will receive a letter from the Dean of Students or appropriate Residence Hall Director informing them of misconduct charges. Upon meeting with the Dean of Students, it will be determined if the student may be eligible for the

UNL student diversion policy.

3. If the student is deemed eligible for the UNL student diversion policy by the Dean of Students, then upon the student fulfilling the requirements of the policy, the student's record will indicate no violation of the Student Code of Conduct.

While the policy diverts penalties within the UNL student disciplinary process, students may still be charged by law enforcement officials if violations of federal, state or local laws have occurred.

14. Illegal or unauthorized possession of firearms, explosives, other weapons, or dangerous chemicals on University premises or, the use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others.
15. Participating in an on-campus demonstration, riot or activity that infringes on the rights of other members of the University community.
16. Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University sponsored or supervised functions.
17. Conduct that is disorderly, lewd, or indecent including public urination; breach of peace; or aiding, abetting, or procuring another person to breach the peace on University premises or at functions sponsored by, or participated in by, the University or members of the university community.
  - a. Disorderly behavior includes: A person who recklessly, knowingly or intentionally:
    1. Engages in fighting, assault and battery.
    2. Makes unreasonable noise and continues to do so after being asked to stop;
    3. Disrupts a lawful assembly of persons;
  - b. Lewd Conduct includes but is not limited to: all unwanted verbal or electronic interaction that is sexual in nature, any unauthorized use of electronic or other devices to make an audio or video record of any person while on University premises without his/her prior knowledge, or without his/her effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.
18. Theft or other abuse of computer facilities and resources, including but not limited to:

- a. Unauthorized entry into a file, to copy, use, read, or change the contents, or for any other purpose.
- b. Unauthorized transfer of a file.
- c. Use of another individual's identification and/or password.
- d. Use of computing facilities and resources to interfere with the work of another student, faculty member or University Official.
- e. Use of computing facilities and resources to send obscene or abusive messages.
- f. Use of computing facilities and resources to interfere with normal operation of the University computing system.
- g. Use of computing facilities and resources in violation of copyright laws.
- h. Any violation of the University Computer Use Policy.

19. Smoking in any University facility or vehicle.

20. Turning in false fire alarm or bomb threat or misusing fire safety equipment on the campus or on the premises of any student housing unit is a Code violation.

21. Failing to report a fire or any other extremely dangerous condition when known or recognized on the campus

22. Violation of any student housing unit policy or regulation.

23. Sexual assault or any other uninvited behavior of a sexually explicit nature including but not limited to sexual harassment, dating or domestic violence, and stalking. Allegations of sexual harassment are investigated and addressed following the procedures in the Board of Regents policy "University of Nebraska-Lincoln Response to Allegations of Student Sexual Conduct".

24. Abuse of the University Disciplinary Proceedings, including but not limited to:

- a. Failure to obey the notice from a Conduct Board or University official to appear for a meeting or hearing as part of the Disciplinary Proceedings.

- b. Falsification, distortion, or misrepresentation of information before a Conduct Board.
- c. Disruption or interference with the orderly conduct of a Conduct Board proceeding.
- d. Institution of a student conduct code proceeding in bad faith.
- e. Attempting to discourage an individual's proper participation in, or use of, the disciplinary system.
- f. Attempting to influence the impartiality of a member of a Conduct Board prior to, and/or during the course of, the Conduct Board proceeding.
- g. Harassment (verbal or physical) and/or intimidation of a member of a Conduct Board prior to, during, and/or after a disciplinary proceeding.
- h. Failure to comply with the sanction(s) imposed under the Student Code.

#### C. Violation of Law and University Discipline

When a student is charged by federal, state, or local authorities with a violation of law, the University will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also being processed under the Student Code, the University may advise off-campus authorities of the existence of the Student Code and of how such matters are typically handled within the University community. The University will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators. Individual students and other members of the University community remain free to interact with governmental representatives as they deem appropriate.

#### D. Referral to Civil Authorities

When circumstances warrant, the University administration will refer acts of misconduct to appropriate civil or criminal justice authorities.

### ARTICLE IV. Student Code of Conduct Disciplinary Procedures

#### 1. General.

1. Right to Disciplinary Proceeding. Except in cases of temporary suspension ordered by the Chancellor or Vice Chancellor for Student Affairs as hereafter provided, suspension, expulsion or other disciplinary sanction for misconduct may not be imposed without a disciplinary proceeding in accordance with the following University Disciplinary Procedures, hereafter referred to as these Disciplinary Procedures.
2. Student Court Jurisdiction. Nothing in these Disciplinary Procedures shall affect the jurisdiction of the Student Court of the Association of Students of the University of Nebraska (ASUN) with respect to ASUN constitutional matters, student organizations and other non-disciplinary student matters.
3. Disciplinary Procedures of Subordinate Conduct Boards. All subordinate conduct boards shall model their disciplinary procedures insofar as possible after these Disciplinary Procedures. See Sections 13.1 and 13.2 relating to subordinate conduct boards.
4. Conduct Officer. The Conduct Officer shall mean the Dean of Students or a University official authorized by the Vice Chancellor for Student Affairs to impose sanctions upon students or organizations found to have violated the Student Code of Conduct or other published University policies and regulations prescribing standards of student conduct.

## 2. Rights of the Complainant and the Respondent

2.1 Complaint. Any member of the University community may file a written misconduct complaint against a student or organization alleging misconduct under the Student Code of Conduct or other published University policy or regulation prescribing a standard of student conduct. Misconduct complaints shall be filed in the Office of Student Affairs.

2.2 Responsibility of the Conduct Officer. If the Conduct Officer determines that the misconduct alleged in a complaint warrants the institution of disciplinary proceedings, he or she shall insure compliance with these Disciplinary Procedures.

2.3 Disqualification of Conduct Officer. In the event the Conduct Officer may be a material witness in any disciplinary proceeding or for any reason cannot perform his or her duties under these Disciplinary Procedures, the Vice Chancellor for Student Affairs shall appoint an acting Conduct Officer to perform such duties.

2.4 Review of Complaint. The Conduct Officer shall make a preliminary investigation of each complaint to determine whether it may be disposed of without institution of disciplinary proceedings. Within 20 school days after receipt of a written misconduct complaint against a student or student organization, the Conduct Officer must decide on

one of three courses of action: (a) dismiss the complaint, (b) propose an administrative disposition to the student, or (c) initiate a disciplinary proceeding before the University Conduct Board or a subordinate conduct board.

2.5 Informal Meeting. The Conduct Officer may conduct an informal meeting with a student or organization accused of misconduct to discuss the misconduct alleged. Prior to any such informal meeting the student or organization accused of misconduct shall be appraised in writing of the following:

- a. The source and nature of the misconduct complaint which has been filed.
- b. That the student or organization is entitled to be accompanied by counsel or an adviser at the expense of the student or organization at any meeting or hearing relevant to the misconduct alleged in the complaint.
- c. That the student or organization is under no obligation at any time to admit the misconduct alleged or to make any other statement at any meeting or hearing relevant to the misconduct alleged.
- d. That any statement that the student or any representative of the organization may make can be used against the student or organization under these Disciplinary Procedures.

During any such informal meeting the Conduct Officer may proceed with administrative disposition of a complaint pursuant to Section 4.2 of these Disciplinary Procedures if the Conduct Officer determines that administrative disposition is appropriate and if the same is accepted by the student or organization as provided in Section 4.2.

2.6 Failure to Appear. If a student or organization accused of misconduct fails to appear at an informal meeting requested by the Conduct Officer, the Conduct Officer may initiate disciplinary proceedings before the University Conduct Board or a subordinate conduct board.

### 3. Temporary Suspension.

Pending initiation of disciplinary proceedings by the Conduct Officer, the Chancellor or Vice Chancellor for Student Affairs may at any time temporarily suspend a student from the University or deny a student readmission when the Chancellor or Vice Chancellor for Student Affairs finds and believes from information coming to his or her attention that the presence of the student on the University campus would seriously disrupt the University or constitute a danger to the health, safety or welfare of persons on the campus. If a student is temporarily suspended by the Chancellor or Vice Chancellor for Student Affairs, the Chancellor or Vice Chancellor for Student Affairs shall promptly instruct the Conduct Officer to initiate appropriate disciplinary proceedings against the student within two (2) working days after temporary suspension is imposed. If a student placed on temporary suspension is ultimately found not guilty of misconduct, such student shall be

allowed if at all possible to make up academic work missed while on temporary suspension.

#### 4. Administrative and Conduct Board Disciplinary Proceedings.

4.1 General. If the Conduct Officer determines that the institution of a University disciplinary proceeding for alleged misconduct is necessary, such proceeding shall be instituted against the student or organization accused of misconduct in accordance with the procedures for administrative disposition or the procedures for conduct board disposition hereinafter provided.

4.2 Administrative Disposition. The Conduct Officer, in the exercise of his or her professional judgment and when agreed to in writing by the student or organization, shall have authority by administrative disposition of a disciplinary proceeding to impose any of the disciplinary sanctions provided in Sections 7.1 through 7.12. The proposed administrative disposition shall list all Student Code of Conduct violations with which the student or organization is being charged as a result of the alleged misconduct. Where an administrative disposition proposed by the Conduct Officer is not accepted in writing by the student or organization, the student or organization shall have the right to have the matter of the alleged misconduct referred to the University Conduct Board. The student or organization shall have three (3) school days within which to accept or reject an administrative disposition proposed by the Conduct Officer. If the student or organization fails to accept or reject the proposed administrative disposition within such three day period, rejection will be presumed and the matter shall be referred to the University Conduct Board or a subordinate conduct board as provided in Section 4.3.

4.3 Conduct Board Disposition. If a student or organization rejects administrative disposition of a disciplinary proceeding proposed by the Conduct Officer, the Conduct Officer shall institute a disciplinary proceeding against the student or organization before the University Conduct Board or before a subordinate conduct board for the misconduct alleged in the complaint. The disciplinary proceeding so instituted shall be limited to those Student Code of Conduct violations listed in the rejected administrative disposition, unless new evidence becomes available after the administrative disposition was rejected. Further, the Conduct Officer in the exercise of his or her professional judgment may institute a disciplinary proceeding for alleged misconduct directly before the University Conduct Board or before a subordinate conduct board without first offering administrative disposition to a student or organization accused of misconduct.

4.4 Jurisdiction. The University Conduct Board shall have general original jurisdiction under these Disciplinary Procedures to hear and decide any disciplinary proceeding against a student or organization accused of misconduct. Subordinate conduct boards shall have limited original jurisdiction to hear and decide disciplinary proceedings

according to their respective disciplinary procedures. (See Section 13.1(e) relating to jurisdiction of subordinate conduct boards.)

## 5. University Conduct Board Procedure

5.1 Notice. All disciplinary proceedings before the University Conduct Board shall be instituted by written notice delivered to the student accused of misconduct or delivered to an officer of the organization accused of misconduct. Such written notice shall contain the following information:

- a. Source of the misconduct complaint.
- b. Statement of alleged facts constituting misconduct under the Student Code of Conduct or other published University policy or regulation prescribing a standard of student conduct.
- c. Citation of the specific provision(s) of the Code of Conduct or other University policy or regulation alleged to have been violated.
- d. Description of the evidence to be offered in support of the alleged misconduct.
- e. Date, time and place of the hearing before the Conduct Board. Each hearing shall be at least three (3) school days after the date of receipt of the written notice.
- f. A statement that the student or organization accused of misconduct may be accompanied by counsel or other adviser at the hearing before the Conduct Board at the expense of the student or organization, and that such counsel or adviser may advise the student or organization, but may not directly participate in the hearing.
- g. That the student or organization accused of misconduct is under no obligation to admit the truth of the alleged misconduct or to make any other statement at the hearing relevant to the alleged misconduct, and that refusal to testify or make a statement will not be considered as an indication of guilt.
- h. That the student or organization accused of misconduct has the right to inspect before the hearing in the office of Student Affairs any affidavits, exhibits or other documentary evidence or physical evidence which the Director intends to offer at the hearing, and that the student or organization will be advised in writing prior to the hearing of any subsequently discovered evidence which the Director intends to offer at the hearing and will be provided with a description of the evidence and allowed to examine the same if it is documentary or physical evidence.

5.2 Failure to Appear. The student accused of misconduct or a student officer of the organization accused of misconduct will be expected to be present at the hearing before the Conduct Board. If the student or a student officer of the organization fails to appear at the time and place designated for the hearing, the Conduct Board shall proceed with the hearing if a majority of the Conduct Board members present are satisfied that the student or organization has received written notice as required by Section 5.1. The Conduct Board will then proceed in the absence of the student or organization to hear and weigh the evidence in support of the alleged misconduct and render a decision.

5.3 Quorum. Every student or organization accused of misconduct in disciplinary proceedings before the Conduct Board is entitled to a hearing by a quorum of the Board. A quorum will consist of at least two faculty members and three student members of the Board. If a quorum is not present, the student or student officer of the organization, as the case may be, and the Conduct Officer may stipulate and agree in writing that the Conduct Board hearing may be conducted and the case may be decided by those Conduct Board members present even though a quorum has not been established.

5.4 Status Pending Conduct Board Proceedings. The status of a student accused of misconduct shall not be altered and the right of a student to be present on campus and to attend classes shall not be suspended during the time of any pending disciplinary proceeding against the student unless the Chancellor or the Vice Chancellor for Student Affairs determine that suspension of the student is required for compelling reasons in order to protect the student's physical or emotional health or safety or for compelling reasons in order to protect the health, safety or welfare of other members of the University community. The status of an organization accused of misconduct shall not be altered during the time of any disciplinary proceeding against the organization, unless the Chancellor or the Vice Chancellor for Student Affairs determines that suspension of the organization from the University is required for compelling reasons in order to protect the health, safety or welfare of the members of the University community.

#### 5.5 Disqualification of a Board Member

- a. If any member of the Conduct Board feels that his or her relationship with either a disciplinary proceeding to be heard or any individual or organization involved in the proceeding would affect his or her ability to render a fair and impartial decision, such Conduct Board member shall disqualify himself or herself from participation in the proceeding. Additionally, a member may elect not to serve on the Conduct Board for a particular proceeding if the member in the exercise of reasonable discretion believes there may be an appearance of impropriety by his or her serving as a member of the Conduct Board for that proceeding.
- b. The student accused of misconduct or a student officer of the organization accused of misconduct may question any Conduct Board member with regard to his or her attitude or knowledge about the disciplinary proceeding to be heard. If a member of the Board is challenged for cause by the student or organization, the other members of the Board present shall, without the presence of the challenged member, vote upon the challenge. If a majority of the members present vote to sustain the challenge, the challenged member shall be excused from further participation in the proceeding. The foregoing shall not relieve the Conduct Board from the requirement of maintaining a quorum for the hearing as required by Section 5.3 above.

5.6 Conduct Board Hearings Closed. All hearings of the Conduct Board shall be closed to the public.

5.7 Right to Separate Hearing. In proceedings involving alleged misconduct against more than one student or organization, any student or organization accused of misconduct may request and may be granted a separate disciplinary proceeding before the Conduct Board.

5.8 Hearings During 15th Week, Finals Week and Summer Sessions. Conduct Board hearings may not be available during the last two weeks of each semester (Dead Week and Finals Weeks) and during summer school sessions. During these time periods the Vice Chancellor for Student Affairs may designate one or more hearing officers who shall be authorized to conduct hearings and render decisions in disciplinary proceedings in accordance with the procedures governing the Conduct Board.

5.9 Decisions. The Conduct Board shall render a written decision in each proceeding in accordance with the requirements of Sections 7.1 and 7.2 of these Disciplinary Procedures

## 6. Rules for Conduct of Conduct Board Hearing

6.1 General. Conduct Board hearings shall be conducted in a manner which will provide substantial justice for the student or organization accused of misconduct and for the University community.

6.2 Order of Evidence and Closing Arguments. Evidence shall be submitted in the following order: (i) evidence by the University in support of the alleged misconduct, (ii) evidence by the student or organization accused of misconduct, and (iii) evidence by the University confined to rebutting evidence presented by the student or organization. After the presentation of evidence the Conduct Officer shall be given the opportunity to present a closing argument followed by a closing argument by the student or organization.

6.3 Examination of Witnesses. The student or organization accused of misconduct, the Conduct Officer and each member of the Conduct Board shall be allowed to hear and question all witnesses appearing at the hearing.

6.4 Attorney or Adviser Not Allowed to Participate in Hearing. An attorney or other adviser for a student or organization accused of misconduct may be present at the hearing to counsel the student or organization, but may not directly participate in the hearing. Without limiting the generality of the foregoing sentence, an attorney or other adviser shall not be permitted to make oral presentations or arguments, examine or cross-examine a witness, or object to testimony of a witness or to introduction of other evidence.

6.5 Evidentiary Rules. The Board shall not be bound by the formal rules of evidence applicable to a court of law. It may admit and give probative effect to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. Incompetent, irrelevant, immaterial and unduly repetitious evidence may be excluded. The Conduct Board shall designate one of its members to make rulings on admission of evidence.

6.6 Verbatim Record. The Conduct Board shall make a confidential verbatim record of each hearing. Such verbatim record shall be made by tape recording, by other recording device, or verbatim transcription by a court reporter and shall be the property of the University. Copies of such record may be obtained by a respondent or organization upon payment of the cost of duplication and used only for the purpose of an appeal under these Disciplinary Procedures or proceedings in a court of law. In no event shall the record of a Conduct Board hearing be used in a manner which violates the privacy rights of any student, University employee or other person.

6.7 Burden of Proof. In all cases the University shall have the burden of proving the misconduct alleged against the student or organization by a preponderance of the evidence received at the hearing, meaning that it is more likely than not that the Respondent violated the Code.

7. Conduct Board Decisions. After hearing a disciplinary proceeding the Conduct Board by a majority vote based upon the evidence received shall render a decision as follows:

- a. Not In Violation. Misconduct has not been proved; **or**
- b. In Violation. Misconduct has been proved. In this case the Conduct Board may decide not to impose a disciplinary sanction, if mitigating circumstances warrant that no sanction be imposed, or it may decide to impose disciplinary sanctions as follows:
  1. Warning—A notice in writing to the respondent that the respondent is violating or has violated institutional regulations.
  2. Probation—A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the respondent is found to violate any institutional regulation(s) during the probationary period.
  3. Loss of Privileges—Denial of specified privileges for a designated period of time.
  4. Fines—Previously established and published fines may be imposed.

5. Restitution—Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
6. Discretionary Sanctions—Work assignments, essays, service to the University, or other related discretionary assignments.
7. Residence Hall Suspension—Separation of the respondent from the residence halls for a definite period of time, after which the respondent is eligible to return. Conditions for readmission may be specified.
8. Residence Hall Expulsion—Permanent separation of the respondent from the residence halls.
9. University Suspension—Separation of the respondent from the University for a definite period of time, after which the respondent is eligible to return. Conditions for readmission may be specified
10. University Expulsion—Permanent separation of the respondent from the University.
11. Revocation of Admission and/or Degree—Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
12. Withholding Degree—The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Conduct Code, including the completion of all sanctions imposed, if any.

Sanctions listed in 1 through 12 above may be combined. Sanctions imposed by the Conduct Board shall be commensurate with the gravity of the misconduct.

7.2 Written Decisions; Delivery. The Conduct Board shall render its decisions in writing within ten (10) school days after the conclusion of a hearing. Each decision shall contain findings of fact as well as the Board's disposition of the proceeding and shall be delivered to the Office of the Vice Chancellor for Student Affairs together with the verbatim record of the Conduct Board hearing. A copy of the decision shall be mailed within one school day to the student or organization accused of misconduct at the address of record as verified at the hearing.

In disciplinary proceedings involving crimes of violence, the Conduct officers of the University of Nebraska-Lincoln will if, requested by the victims, disclose to the victims whether charges against students violating the Student Code of Conduct were upheld. The disciplinary sanctions imposed on the offenders may be disclosed to the victims at the discretion of the Conduct officers. Violations of the Student Code of Conduct and

Disciplinary Procedures which may be considered crimes of violence include: physical abuse, sexual assault, and hazing.

## 8. Supplemental Rules

The Conduct Board may adopt supplemental rules and regulations, not in conflict with the provisions of these Disciplinary Procedures, which the Board shall determine to be necessary for the fair and impartial conduct of its proceedings.

## 9. Rehearing

A student or organization found guilty of misconduct by the Conduct Board may petition the Conduct Board to rehear the proceedings upon the discovery of new evidence within 90 days from the date of the decision of the Conduct Board, except that in cases of suspension a petition for rehearing request may be filed anytime during the term of suspension, and in cases of expulsion there shall be no time limit on the filing of a petition for rehearing. The Conduct Board will judge the sufficiency of the new evidence, and no appeal may be taken from its decision to either grant or deny the request to rehear the disciplinary proceedings. If a rehearing is granted the verbatim record of the original hearing shall be fully admissible as evidence. In the rehearing of a case the student or organization must bear the burden of proving that the original decision should be modified or rescinded because of the new evidence.

## 10. Conduct Board Membership and Term of Office

10.1 Membership. The University Conduct Board shall have five student members and four faculty members. The ASUN Senate shall provide the Chancellor with fifteen recommendations from which he or she will select five regular student members and five alternate student members to serve on the Conduct Board. The Faculty Senate shall provide the Chancellor with twelve recommendations from which he or she will select four regular faculty members and four alternate faculty members to serve on the Conduct Board. All members shall attend a Conduct Board training session prior to serving on the Board.

10.2 Vacancies. Vacancies on the Conduct Board, including temporary vacancies, may be filled by the Vice Chancellor for Student Affairs or his or her designee from the list of alternate members appointed by the Chancellor. Should the need arise, the Faculty Senate and the ASUN Senate shall at the request of the Chancellor submit additional lists of alternate members to the Chancellor. Should the Faculty Senate or the ASUN Senate refuse or for any reason fail to submit any of the above-mentioned lists of alternate members to the Chancellor when requested, the Chancellor shall directly make any appointment required to fill a vacancy on the Conduct Board.

10.3 Term of Office. Student members of the University Conduct Board shall be appointed for a term of one academic year from the first day of classes extending through the last day of classes. Faculty members shall be appointed for a term of three academic years, with at least one new three-year term commencing each year. Members may be reappointed provided their names are included on the lists submitted to the Chancellor pursuant to Section 10.1. Members may not serve more than two consecutive terms.

10.4 Chairperson. The Conduct Board shall select a student chairperson and a faculty chairperson, either of whom may preside at Conduct Board hearings.

10.5 Removal from the Conduct Board. If any of the following situations occur, a member may be removed from the Conduct Board by the Vice Chancellor for Student Affairs:

- a. A member fails to respond to meeting notices more than twice in a single semester.
- b. A student member is found to be in violation of the Student Code of Conduct.
- c. A member is found to be in violation of the privacy rights of any member of the University community who is involved in a disciplinary proceeding.
- d. Conviction of a crime.

## 11. Appeals and University Appeals Board Procedure.

11.1 Right of Appeal. A student or organization found guilty of misconduct by the University Conduct Board or any subordinate Conduct board shall have the right to appeal to the University Appeals Board which has exclusive appellate jurisdiction in all disciplinary proceedings.

11.2 Timeliness. Any appeal must be submitted in writing to the University Appeals Board and received in the Office of the Vice Chancellor for Student Affairs within fourteen (14) calendar days after the date of mailing the Conduct Board decision to the student or organization accused of misconduct.

11.3 Issues to be Considered on Appeal. The Appeals Board will only consider one or more of the following four issues on appeal:

- a. That the evidence received by the Conduct board was not sufficient to establish the misconduct found.
- b. That the Conduct board did not conduct its proceedings in a manner which permitted the student or organization accused of misconduct an adequate opportunity to present a defense.
- c. That sanctions imposed by the Conduct board are not in keeping with the gravity of the misconduct.

- d. That the Conduct board failed to follow the applicable disciplinary procedures and that as a result of such failure the student or organization did not receive a fair and impartial hearing.

An appeal which does not clearly raise in writing one or more of the four issues listed above shall be dismissed without further consideration. The Appeals Board shall limit its review to the issue or issues raised in the written appeal and shall not address any issue not raised. The Appeals Board shall complete its review of the written appeal within 20 school days after its receipt, and shall promptly issue written notice of its decision to the student or student organization.

11.4 Oral Arguments. In considering an appeal, the Appeals Board may ask either the student or organization making the appeal and the Conduct Officer to make an oral presentation. In this case the student or organization making the appeal shall first make an oral presentation followed by an oral presentation by the Conduct Officer. The Appeals Board may ask questions of both parties.

11.5 Record of Proceedings Before the Conduct Board. Upon request by the Appeals Board, the Conduct Officer shall deliver to the Appeals Board the record of the Conduct board proceedings, including the tape recording or written transcription of the Conduct board hearing.

11.6 Disposition By Appeals Board. After reviewing an appeal complying with the requirements of Section 11.3, the Appeals Board may decide as follows:

- a. Affirm the Conduct board decision, or
- b. Modify any sanction imposed by a Conduct board if the Appeals Board finds that the sanction is not in keeping with the gravity of the misconduct found.

11.7 Status Pending Appeals Board Proceedings. Any sanctions imposed by a Conduct board shall be suspended until an appeal is decided by the University Appeals Board. The status of a student shall not be altered and the right of a student to be present on campus and to attend classes shall not be suspended during the time of any appeal proceeding unless the Chancellor or the Vice Chancellor for Student Affairs determines that suspension of the student is required for compelling reasons to protect the student's physical or emotional health or safety or in order to protect the health, safety or welfare of other members of the University community. The status of an organization shall not be altered during the time of any appeal proceedings unless the Chancellor or Vice Chancellor for Student Affairs determine that suspension of the organization from the University is required for compelling reasons in order to protect the health, safety or welfare of the University community.

11.8 Quorum. A quorum will consist of one faculty member and two student members. If a quorum is not present, the student or student officer of the organization, as the case may be, and the Conduct Officer may stipulate and agree in writing that the appeal may be heard by those Appeals Board members present even though a quorum has not been established.

11.9 Disqualification of an Appeals Board Member. If any member of the Appeals Board feels that his or her relationship with either a disciplinary proceeding to be heard or any individual or organization involved in the proceedings would affect his or her ability to render a fair and impartial decision, such Appeals Board member shall disqualify himself or herself from participation in the proceeding. Additionally, a member may elect not to serve on the Appeals Board for a particular appeal proceeding if the member in the exercise of reasonable discretion believes there may be an appearance of impropriety by his or her serving as a member of the Appeals Board for that appeal proceeding. The foregoing shall not relieve the Appeals Board from the requirement of maintaining a quorum as required by Section 11.8 above.

11.10 Attorney or Adviser Not Allowed to Participate. An attorney or other adviser for a student or organization may be present at any proceedings of the Appeals Board to counsel the appellant student or organization, but may not directly participate in the proceedings.

11.11 Verbatim Record. The Appeals Board shall make a confidential verbatim record of its proceedings. Such verbatim record shall be made by tape recording or verbatim transcription by a court reporter and shall be the property of the University.

11.12 Appeals During 15th Week, Finals Week and Summer Sessions. Appeals Board hearings may not be available during the last two weeks of each semester (Dead Week and Finals Week) and during summer school sessions. During these time periods the Vice Chancellor for Student Affairs may designate one or more hearing officers who shall be authorized to hear appeals and render decisions in accordance with the procedures governing the Appeals Board.

11.13 Appeals Board Proceedings Closed. All proceedings of the Appeals Board shall be closed to the public.

11.14 Appeals Board Decision. Final Decisions of the Appeals Board shall be final and may not be further appealed within the University.

## 12. Appeals and Board Membership and Term of Office.

12.1 Membership. The University Appeals Board shall have four student members and three faculty members. The ASUN Senate shall provide the Chancellor with eight

recommendations from which he or she will select four regular student members to serve on the Appeals Board. The Faculty Senate shall provide the Chancellor with six recommendations from which he or she will select three faculty members to serve on the Appeals Board. Members shall attend a Conduct Board training session prior to serving on the Board.

12.2 Term of Office. Members of the University Appeals Board shall be appointed for a term of one academic year. Members may be reappointed provided their names are included on the lists submitted to the Chancellor pursuant to Section 11.1. Members may not serve more than two consecutive terms.

12.3 Chairperson. The Appeals Board shall select a student chairperson and a faculty chairperson, either of whom may preside at Appeals Board hearings.

12.4 Removal from the Appeals Board. If any of the following situations occur, a member may be removed from the Appeals Board by the Vice Chancellor for Student Affairs:

- a. A member fails to respond to meetings notices more than twice in a single semester.
- b. A student member is found to be in violation of the Student Code of Conduct.
- c. A member is found to be in violation of the privacy rights of any member of the University community who is involved in a disciplinary proceeding.

### 13. Subordinate Conduct Board Structure

13.1 Subordinate Conduct Boards. The Vice Chancellor for Student Affairs may require that subordinate Conduct boards be established by the Director of University Housing in conjunction with the Residence Hall Association, and by the Director of Greek Affairs in conjunction with the Interfraternity Council and the Panhellenic Association. The disciplinary procedures under which a subordinate Conduct board will function must be in conformity with these Disciplinary Procedures and shall not become effective until approved by the Vice Chancellor for Student Affairs. All subordinate Conduct boards shall be established in accordance with the following requirements:

- a. Composition. Student members of a subordinate Conduct board shall be nominated by members of the cognizant student governing or coordinating body and appointed by the Vice Chancellor for Student Affairs. Faculty and staff members of a subordinate Conduct board shall be nominated by the cognizant director (University Housing or Greek Affairs) and appointed by the Vice Chancellor for Student Affairs.

- b. Term of Office. Members of the subordinate Conduct board shall be appointed for a term of one academic year beginning the first day of classes and extending through the last day of classes. Each member has the obligation to attend an orientation session to be held before the first case may be heard.
- c. Quorum. Each subordinate Conduct board will establish its own rules with respect to the quorum required to conduct a hearing.
- d. Staff Adviser. Subordinate Conduct boards will have staff advisers from the appropriate departments within the Division of Student Affairs.
- e. Jurisdiction. Each subordinate Conduct board will have limited original jurisdiction as provided in its disciplinary procedures over alleged violations of the Student Code of Conduct, University policies and regulations, regulations of the cognizant student governing or coordinating body and regulations of member organizations of the governing or coordinating body.
- f. Decision. After hearing a case, a subordinate Conduct board may decide as follows:

Not Responsible. Misconduct has not been proved; or

Responsible. Misconduct has been proved. In this case a subordinate Conduct board may decide not to impose a disciplinary sanction, if mitigating circumstances warrant that no sanction be imposed, or it may decide to impose one or more of the following disciplinary sanctions:

Warning  
Restitution  
Conduct Probation  
Behavioral Requirement

- g. Appeals. Appeals from decisions of a subordinate Conduct board may be made to the University Appeals Board in accordance with Section 11 of these Disciplinary Procedures.

13.2 Jurisdictional Issues. Issues relating to the jurisdiction of any subordinate Conduct board shall be decided by the Vice Chancellor for Student Affairs.

#### 14. Disciplinary Records

Transcripts of University academic records will not include information concerning disciplinary action, except in cases of expulsion. Information from disciplinary and counseling files will not be made available to unauthorized persons without the express

written consent of the person involved or as otherwise authorized or required by law. Disciplinary records shall be destroyed seven years after the last sanction was imposed, except in case of expulsion, where disciplinary records shall be permanently maintained. Notwithstanding the foregoing, records of Honor Code violations of the College of Law shall be maintained only as provided by said Honor Code.

#### 15. Readmission After Expulsion

Any student who has been expelled from the University under these Disciplinary Procedures may at any time after seven (7) years from the date of expulsion request readmission to the University by written petition to the Vice Chancellor for Student Affairs. If the Vice Chancellor for Student Affairs in the exercise of his or her discretion grants readmission, the student's prior disciplinary record of expulsion shall be destroyed.

#### ARTICLE V: INTERPRETATION AND REVISION

A. Any question of interpretation or application of the Student Code shall be referred to the Dean of Students or his or her designee for final determination.

B. The Student Code shall be reviewed every four years under the direction of the Dean of Students.