



BOWLING GREEN STATE UNIVERSITY

Office of the Dean of Students

# UNIVERSITY CONDUCT COMMITTEE TRAINING MANUAL 2012-2013



## **Philosophy & Purpose of the University Conduct Process**

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### **Statement Regarding the Student Conduct System**

Bowling Green State University is an institution that encourages the intellectual and personal growth and development of students and citizens. In order to maintain an environment where the goals of the University and the Division of Student Affairs can be achieved equitably and safely, the University strives to promote civility, respect, and integrity among all of its members through the Code of Student Conduct.

Individuals as well as student organizations are expected to observe the policies and regulations set forth in the Code. The system of informal and formal hearings has been established to promote individual and social responsibility as well as ensure fundamental fairness and educational opportunities. The system, as part of a higher education institution, is meant to provide educational experiences and opportunities to individuals to ensure the future safety and development of the University and community.

When students enter college, they take upon themselves certain responsibilities and obligations, such as satisfactory academic performance and social behavior consistent with the lawful purpose of the University. All students are expected to know and abide by the Code; ignorance is no excuse. The Code of Student Conduct strives to encompass all of the academic and campus life concerns that may arise. It is also meant to address those concerns in a format that allows for consistency and understanding of the conduct process and the educational goal.

### The Student Conduct Program at Bowling Green State University:

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- Is rooted in the values and mission of Bowling Green State University
- Regards each student as an individual, deserving individual attention, consideration and respect
- Considers the facts fully and carefully before resolving any case
- Promotes candid and honest communication with each student
- Holds each student to a high standard of behavior in accordance with the University Core Values, both to protect the campus community, and to promote student moral development
- Recognizes the reality of human fallibility and the stresses associated with collegiate life,
- Demonstrates compassion and understanding towards students while promoting responsibility and accountability
- Contributes to the educational mission of the University by designing policies, conducting programs and offering instruction that contribute to the intellectual and moral development of the entire student body
- Ensures fundamental fairness, objectivity and good judgment when adjudicating any case

(Taken from Commission XV Model Training Manual)

Bowling Green State University provides educational experiences inside and outside the classroom that enhance the lives of students, faculty and staff. Students are prepared for lifelong career growth, lives of engaged citizenship and leadership in a global society. Within our learning community, we build a welcoming, safe and diverse environment where the creative ideas and achievements of all can benefit others throughout Ohio, the nation and the world.

The Core Values to which the University adheres:

- Respect for one another;
- Collaboration;
- Intellectual and Personal Growth;
- Creativity and Innovation;
- Pursuit of Excellence.

Bowling Green State University is dedicated to providing quality academic programs in a learning environment that promotes academic and personal excellence in students, as well as appreciation of intellectual, ethical and aesthetic values. Wisdom, sound judgment, tolerance and respect for other persons, cultures and ideas are the hallmarks of an educated person and the characteristics that the University hopes to develop in its students.

### Student Affairs Vision Statement

One of the best in the nation, Student Affairs is where students within BGSU's Premier Learning Community set their *Education in Action*. Student Affairs educates and guides as they live what they learn and learn what they live, preparing themselves for productive and meaningful lives.

## Office of the Dean of Students Mission Statement

The Office of the Dean of Students at Bowling Green State University is committed to assisting each student in the achievement of success as a member of the University community. Timely information, opportunities for involvement, the role of parents, proper orientation, and creating an understanding of student rights and responsibilities are important components of a student's ability to succeed. The dedication and commitment to addressing these components is evident in all programs and services provided by the Office of the Dean of Students.

## Code of Student Conduct

What is it?

- A document that creates an expectation of behavior that the University views as acceptable and that applies to behavior occurring on-campus or off-campus.

Who does it address?

- Undergraduate and graduate students as individuals and student organizations.

What does the Code of Student Conduct do?

- The Code of Student Conduct creates a system to deal with those instances when a community member, community members, or a student organization fail(s) to adhere to the expectations of the University.

What does the Code of Student Conduct ensure?

- The Code of Student Conduct ensures due process rights of students as guaranteed by the 14<sup>th</sup> Amendment of the Federal Constitution and 42 USC § 1983. Due process refers to the concept of ensuring fundamental fairness in conduct proceedings through proper notice and hearing.

## Due Process

There are two types of due process.

1. **Substantive** due process refers the concept of providing a conduct system based on fundamental fairness
2. **Procedural** due process refers to the step by step protocol used to ensure the fairness and objectivity of the conduct system

Due process also requires that rules in the *Code of Student Conduct* are not vague or overbroad. In particular, rules should be specific enough so that a reasonable person would understand expectations for their behavior while not being so overly broad as to prohibit protected conduct (e.g., 1<sup>st</sup> amendment rights) as well as unprotected conduct.

### Other issues related to due process

- Right to counsel (advisor) - procedural due process does not guarantee students the right to be represented by legal counsel in University Conduct Committee hearings. However, legal counsel may serve as an advisor to the student as long as the student presents their information. Should BGSU choose to proceed through legal counsel, the student or student organization will be notified and given the right to proceed through counsel as well.
- Search and Seizure - Students at BGSU and citizens in general are only protected from unreasonable searches and seizures. Any evidence obtained through reasonable searches and seizure may be used in a hearing. Reasonable searches may include plain view searches, administrative searches and as defined in the housing contract.
- Double Jeopardy - Since the University student conduct process is not equivalent to a criminal legal proceeding, a student cannot use “double jeopardy” as a defense to being subject to both University and criminal proceedings.

### **BGSU Student Rights**

Bowling Green State University aspires to transmit knowledge, to develop its students, and to promote the quality of society. In seeking these goals, the University recognizes the significance of student rights. Those rights include freedom of expression, autonomy, procedural protection and the respect for personal integrity of all members of the community and their property. By ensuring those individual rights, the University fosters an environment conducive to the students’ success and well being. In addition, efforts will be made to foster the personal and social development of students. The Code of Student Conduct fully respects students’ rights.

Specific rights include but are not limited to:

- Freedom of inquiry, speech and assembly
- Freedom from threats and acts of violence
- Freedom from obscene treatment from others
- Freedom from interference from others in an unreasonable and unauthorized manner while inside or outside the classroom
- Freedom from theft and willful destruction of personal property
- Right to study and learn in an atmosphere of academic freedom
- Right to due process in University conduct action
- Right to be governed by justifiable academic regulations
- Right to be informed of the regulations for academic and social conduct and graduation requirements of the University
- Right to appeal certain academic and non-academic grievances

## **BGSU Student Responsibilities**

Of course, students have obligations in addition to rights. As members of an academic community, they must observe rules that benefit their University community. Students must practice personal integrity. By so doing, they respect the dignity, rights and property of all members of the University community. The Code of Student Conduct thus creates an expectation of behavior that the University views as acceptable. By fulfilling these expectations, students can enjoy their own rights, while also respecting others' rights and furthering the University's goals.

Specific responsibilities include but are not limited to:

- Respect the rights and properties of others
- Be fully acquainted and comply with the published rules and regulations of the University
- Comply with all local, state, and federal laws
- Recognize that student actions reflect upon the entire University community
- Recognize the University's obligation to provide an environment conducive to learning and academic inquiry
- Adhere to the academic requirements determined by individual instructors

## **BGSU Student Organizations Rights and Responsibilities**

- Student organizations enrich the campus and community by providing a source of intellectual, personal and social development of students through their programs and activities. The University fulfills an important mission by providing procedures and policies for the registration and support of student organizations.
- Inherent in University registration of student organizations is the obligation of each organization to conduct activities in accordance with University rules and policies and applicable laws. Student organizations are required to comply with the written rules and policies of the University.
- A fundamental aspect of any organization is the right of the membership to elect officers who serve to ensure, among their other duties, that the activities of the organization are conducted properly. It is the responsibility of the officers of each student organization to ensure that the organization complies with the *Code of Student Conduct* and to actively oppose and prevent any organizational activity which would violate it. It is also the obligation of the officers of any student organization to advise and counsel individual members of their organization whose conduct could lead to misconduct charges against the organization, as provided herein.
- However, the University community, as any other, must have a system to deal with those instances when a member, members or student organization fails to adhere to the expectations of the community. The Code of Student Conduct describes University

expectations for students and student organizations and the processes available when they fail to adhere to these expectations.

### **University Conduct Committee Members Expectations**

Expectations and Responsibilities of Members:

- To adhere to the provisions of the Code of Student Conduct
- To attend all training sessions and meetings
- To arrive 30 minutes before a hearing begins and attend all scheduled hearings for which you have committed
- To arrange for a substitute or contact the Office of the Dean of Students in advance when you are unable to attend a scheduled hearing
- To inform a member of the Student Conduct Program staff in advance or the chair at the time of the hearing if you have a personal interest or knowledge of the case. Understand that depending on the situation and in order to ensure fundamental fairness and due process, you may be required to step down for that particular hearing
- To inform the chair if any attempts have been made to influence your decision in the final outcome of a case
- To maintain confidentiality related to evidence, witness statements and testimony, conduct records and case outcomes
- To review all materials thoroughly and in advance of a hearing
- To prepare relevant questions
- To listen carefully to each person in the hearing and withhold judgment until the end of a hearing

(Adapted from Commission XV Model Training Manual)

### **Ethical Expectations and Confidentiality**

Ethical expectations have been determined to protect the rights of all individuals who are involved in an administrative meeting regarding an alleged violation of the Code of Student Conduct. It is the responsibility of the University Conduct Committee to observe the following ethical standards:

- Information regarding any student's conduct status, or the behavior of those involved in the hearing process, is not to be discussed with anyone except the Dean of Students, Associate Dean of Students, or Assistant Dean of Students.
- Any information given in confidence at the hearing should not be discussed outside of the hearing.
- When communicating with the respondent or other participants in the hearing process, the UCC should not make accusations or statements that cannot be supported.
- UCC members should not participate in a hearing where they feel unable to be fair and impartial. If the respondent is someone that a hearing member knows or works



with on a frequent basis, the member should inform the chair that they are unable to serve on the committee for the hearing.

### **Family Educational Rights and Privacy Act of (FERPA)**

- FERPA (1974) defines conduct records as education records.
- FERPA has been challenged in court to require that conduct records and proceedings be subject to state open records and meetings laws. In Ohio conduct records are subject to state open records law.
- The Higher Education Amendments of 1998 have amended FERPA. They indicate that institutions **may** release the final results of a hearing if the student was accused of a crime of violence and that we **must** release the final results in sexual assault cases.
- The amendments further indicate that institutions may disclose “information regarding any violation of...law...governing the use or possession of alcohol or a controlled substance” to the parents of a student under the age of 21 who has been found responsible for a violation of the drug or alcohol policy.”
- Final results include: Name of the student, violation and sanctions assigned.

### **What is Parental Notification?**

- In the fall of 1998, congressional revisions were made to the 1974 Family Rights to Privacy Act which permit, but does not require universities to notify parents or legal guardians of students who are under the age of 21 when the student has been found responsible for violating institutional policies regarding alcohol and drugs.
- The FERPA amendment allowed universities to contact parents regarding alcohol and/or drug violations.
- Bowling Green State University decided to implement a parental notification procedure with the goal that communication with parents and students will work towards eliminating alcohol and drug problems for students on and off campus.
- The purpose of the parental notification policy is to foster a safer community while enhancing academic and personal success.
- Parental Notification is only one of many ways in which the University seeks to educate and prevent alcohol and substance abuse.

### **The Benefits to Parental Notification**

- Reporting is a proactive step that can lead to increased support from parents
- Utilizing parental notification can reduce the abuse of alcohol
- Reporting can increase involvement of parents in student-related problems
- Reporting assists the school in proactively notifying parents of problems that could later become much worse
- Reporting sends the message to students and the community that the institution takes alcohol/drugs and life threatening situations extremely seriously
- Engaging in a dialogue with parents will afford the institution's staff to focus on additional information regarding at-risk students, which in turn allows the staff to respond better to student needs and issues.

This information was taken from Parental Notification: A working report from the inter-association task force on alcohol and other substance abuse issues (2002).

## Court Cases

Ahlum v. The Administrators of the Tulane Education Fund, 617 So. 2d 96 (La. Ct. App. 1993).

Dixon v. Alabama State Board of Education, 294 F. 2d 150 (5<sup>th</sup> Cir. 1961).

DTH Publishing Corporation v. The University of North Carolina at Chapel Hill, 496 S.E. 2d 8 (N.C. App. 1998).

Estaban v. Central Missouri State College, 277 F. Supp. 649 (W.D. Mo. 1967).

French v. Bashful, 303 F. Supp. 1333 (E.D. La. New Orleans Div. 1969).

Gabrilowitz v. Newman, 582 F. 2d 100 (1<sup>st</sup> Cir. 1978).

Gardenhire v. Chalmers, 326 F. Supp. 1200 (D. Kan 1971).

Gay Alliance of Students v. Matthews, 544 F. 2d 162 (4<sup>th</sup> Cir. 1976).

General Order on Judicial Standards of Procedure and Substance in Review of Student Conduct in Tax Supported Institutions in Higher Education. 45 F.R.D. 133 (USCD W.D. Mo., EnBanc, 1968).

Goss v. Lopez, 419 U.S. 565 (1975).

Grossner v. Trustees of Columbia University, 287 F. Supp. 535 (S.D.N.Y. 1968).

Healy v. James, 92 S. Ct. 2338 (1972).

Mu Chapter of Delta Kappa Epsilon v. Colgate, 578 N.Y.S. 2d 713 (A.D. 3 Dept. 1992).

New Jersey v. TLO, 469 US 325 (1985).

Red & Black Publishing Company, Inc. et al. v. Board of Regents et al, 427 S.E. 2d 257 (Ga. 1993).

Soglin v. Kauffman, 418 F. 2d 163) (7<sup>th</sup> Cir. 1969).

State of Washington v. Chrisman, 102 S. Ct. 812 (1982).

State ex rel The Miami Student v. Miami University, 680 N.E. 2d 956 (Ohio 1997).

Wisconsin v. Mitchell, 61 L.W. 4575 (1993).

## Constitution and Code

Family Educational Rights and Privacy Act, 20 USC § 1232g (1974).

Family Educational Rights and Privacy Act Regulations, 34 CFR 99

42 USC § 1983

4<sup>th</sup> Amendment of the Constitution

14<sup>th</sup> Amendment of the Constitution

Higher Education Amendments of 1998, 20 USG § 1232g (b)

**Other Works**

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Murphy, L., & Sundt M. (1993). Commission on campus judicial affairs and legal issues: Model training & selection manual. Washington D.C.: ACPA

Stoner, E. N., & Cerminara, K.L. (1990). Harnessing the “spirit of insubordination”: A model student conduct code. Journal of College and University Law (17) 2, pp. 89-121.