

DEFIANCE COLLEGE ANTI-HAZING POLICY

INTRODUCTION AND RATIONALE FOR POLICY

As part of its commitment to promoting a safe and healthy campus environment for the Defiance College community and cultivating a culture that fosters respect for the dignity and rights of all its members, the College does not tolerate hazing activities by any members of the Defiance College community. Defiance College is committed to providing an educational environment, as well as other benefits, programs, and activities that are free from hazing and retaliation. To ensure compliance with federal and state laws and regulations, and to affirm its commitment to a safe and healthy campus, Defiance College has developed internal policies and procedures that will provide a prompt, fair, and impartial process for those involved in an allegation of hazing. Defiance College values and upholds the equal dignity of all members of its community and strives to balance the rights of all parties in what is often a difficult time for all those involved.

1. Hazing Policy

Students are entitled to be treated with consideration and respect, and no individual may perform an act that is likely to cause physical or psychological harm to any other person within the College community. Defiance College student groups (e.g. registered student organizations, intramural, club and varsity athletic teams, and other recognized student groups) and individual students and employees are prohibited from hazing on or off campus. Accordingly, any such behavior is expressly forbidden when related to the admission, initiation, pledging, joining, or any other group-affiliation activity.

Effective as of October 7, 2021, Hazing, as set forth in Ohio Revised Code section 2903.31, as amended, means:

Intentionally, knowingly, or recklessly, for the purposes of initiating, admitting or affiliating a student into or with an organization, or for the purpose of continuing or enhancing a student's membership or status in an organization, causing, coercing or forcing a student to do any of the following, regardless of whether such conduct occurs on or off campus:

- Violate Federal or State criminal law.
- Consume any food, liquid, alcoholic liquid, drug or other substance which subjects the student to a risk of emotional or physical harm.
- Endure brutality of a physical nature, including whipping, beating, branding, calisthenics or exposure to the elements.
- Endure brutality of a mental nature, including actively adversely affecting the mental health or dignity of the individual, sleep deprivation, exclusion from social contact or conduct that could result in extreme embarrassment.
- Endure brutality of a sexual nature.
- Endure any other activity that creates a reasonable likelihood of bodily injury to the student.

Any Defiance College community member or organization found to be involved in any hazing activity will face conduct action and may be subjected to suspension or expulsion from the College. A violation of this policy may exist irrespective of any alleged voluntary or consensual participation in the activity by the person(s) being abused.

2. Notice/Complaints of Hazing

Identifying Acts of Hazing: Key indicators:

- the activity is degrading and/or demeaning,
- there is risk of injury or question of safety,
- alcohol or drugs are present,
- cryptic language is used to describe an event, activity, or interaction,
- active members are unwilling to participate in the same activity with new members,
- active and new members are unwilling to discuss the activity with advisers, coaches, family members, headquarters or prospective members,
- members justifying actions as “tradition” in an attempt to convince others that it is an acceptable event,
- changes in behavior such as oversleeping, constant exhaustion or an inability to focus, a drop in GPA.

Notice or complaints of Hazing may be made using any of the following options:

- 1) File a complaint with, or give verbal notice to, the Dean of Students/Title IX Coordinator or Deputy Coordinators. Such a report may be made at any time (including during non-business hours) via phone, email, or postal mail by contacting the Title IX Coordinator or any other official listed below.

Dean of Students and Title IX Coordinator:

Lisa Marsalek, Vice President for Student Affairs and Dean of Students

128 Hubbard Hall, 701 N. Clinton St., Defiance, OH 43512

(419) 783-2587 or lmarsalek@defiance.edu

Deputy Title IX Coordinators:

Mary Burkholder, Director of Human Resources

106 F Defiance Hall, 701 N. Clinton St., Defiance, OH 43512

(419) 783-2360 or mburkholder@defiance.edu

Mercedes Clay, Chief Diversity Officer

132 Hubbard Hall, 701 N. Clinton, Defiance, OH 43512

(419) 783-2362 or mclay@defiance.edu

Jennifer Walton, Assistant Dean of Students and Director of Residence Life

126 Hubbard Hall, 701 N. Clinton St, Defiance, OH 43512

(419) 783-2563 or jwalton@defiance.edu

- 2) Report online, using the reporting form posted at <https://www.defiance.edu/communication-information.html>. Anonymous reports are accepted but can give rise to a need to investigate to determine if the parties can be

identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. Defiance College tries to provide supportive measures to all Reporting Parties, which may be impossible with an anonymous report that does not identify the Reporting and/or Responding Party.

3) In the event of an emergency, please call 911.

3. Supportive Measures

Defiance College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged hazing or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered without fee or charge to the parties to restore or preserve access to the Defiance College's education program or activity, including measures designed to protect the safety of all parties and/or Defiance College's educational environment, and/or to deter hazing, harassment, discrimination, and/or retaliation.

The Dean of Students/Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, Defiance College will inform the Reporting Party, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Reporting Party to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

Defiance College will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the College's ability to provide those supportive measures. Defiance College will act to ensure as minimal an academic/occupational impact on the parties as possible. Defiance College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders

- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders or other restrictions will be referred to appropriate student or employee conduct processes for enforcement.

4. Emergency Removal

Defiance College can act to remove a Student Responding Party entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Dean of Students/Title IX Coordinator.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Dean of Students/Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause and why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Reporting Party and their Advisor may be permitted to participate in this meeting if the Dean of Students/Title IX Coordinator determines it is equitable to do so. There is no appeal process for emergency removal decisions.

A Responding Party may be accompanied by an Advisor of their choice when meeting with the Dean of Students/Title IX Coordinator for the show cause meeting. The Responding Party will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Dean of Students/Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

Defiance College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Dean of Students/Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning a student employee, restricting a student's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in

extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Dean of Students/Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

5. Promptness

All allegations are acted upon promptly by Defiance College once it has received notice or a formal complaint. The College will make every effort to complete the initial investigation within a period of thirty (30) days, barring extenuating circumstances. If the circumstances require more than thirty (30) days, the College will notify the student group or student organization representative(s) of the delay, including the reason(s) for the delay and the anticipated timeline for completing the investigation. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the Defiance College procedures will be delayed, the College will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

6. Confidentiality/Privacy

Every effort is made by Defiance College to preserve the confidentiality of reports.^[1] The College will not share the identity of any individual who has made a report or complaint of hazing or retaliation; any Reporting Party; any individual who has been reported to be the perpetrator of hazing; any Responding party, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, or as required by law; including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Defiance College reserves the right to determine which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Office of Student Life, Campus Security, and the CARE Team. Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

Defiance College may contact parents/guardians of students to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically below.

[1] For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of Defiance College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the Defiance College’s response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in the Defiance College’s FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. Defiance College has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see page 8. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clergy Act. Other information may be shared as required by law.

7. Jurisdiction of Defiance College

This Anti-Hazing Policy applies to all members of the College community, including faculty, staff, students, volunteers, organizations, and groups, as well as visitors and other licensees and invitees. The policy applies to off-campus facilities of Student Organizations, at College-sponsored or approved activities, and at non-College activities. The policy applies to all College locations, including where the College is extended to distance education, such as study abroad, service trips, experiential learning opportunities, and athletic, club sport, and other group travel. This policy may also be applied to behavior conducted online, via e-mail or through electronic media, in cases where the behavior is not protected by freedom of expression. The College does not regularly search for online information but may take action if such information is brought to the attention of College officials.

8. Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Reporting Party or Responding Party, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Dean of Students/Title IX Coordinator and will be promptly investigated. The College will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Defiance College and any member of the Defiance College community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of an investigation and/or hearing proceeding under this policy and procedure does not constitute retaliation, provided that the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

9. Mandated Reporting

All Defiance College employees (faculty, staff, and administrators) are expected to report actual or suspected hazing and/or retaliation to appropriate officials immediately, although there are some limited exceptions. Failure of a non-confidential employee, as described in this section, to report an incident of hazing of which they become aware is a violation of College policy and can be subject to disciplinary action for failure to comply.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected hazing in a way that identifies the parties. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Reporting Party has requested the information be shared.

If a Reporting Party expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Dean of Students/Title IX Coordinator (and/or police, if desired by the Reporting Party), who will take action when an incident is reported to them.

The following sections describe the reporting options at Defiance College for a Reporting Party:

a. Confidential Resources

If a Reporting Party would like the details of an incident to be kept confidential, the Reporting Party may speak with:

- Director of Counseling & Accessibility Services, Lynn Braun: 419-783-2548
- Accessibility Services Coordinator and Staff Clinician, Kris Knight 419-783-2445
- Case Manager and Staff Clinician, Catelyn Fix: 419-783-2560

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials or official designation, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Campus counselors and/or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

Defiance College employees who have confidential privilege as described above, and who receive reports within the scope of their confidential roles, will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client.

b. Mandated Reporters and Formal Notice/Complaints

All employees of the College (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Dean of Students/Title IX Coordinator all known details of a report made to them in the course of their employment.

A “mandatory reporter” must immediately report knowledge of hazing as defined in Section (8) of this Policy to the College through any of the five reporting options outlined in Section (2) of this Policy. Each of the following is considered a “mandatory reporter”: (1) Any full or part-time employee of the College (including student employees and graduate assistants), or (2) Any volunteer acting in an official capacity who advises or coaches student organizations and/or student groups and who have direct contact with students. Employees who are required by law to protect confidentiality are exempt from this requirement. Note: Reports made pursuant to this Policy do not supersede or replace other reporting obligations

Failure of a Mandated Reporter, as described above in this section, to report an incident of hazing of which they become aware is a violation of Defiance College Policy and can be subject to disciplinary action for failure to comply.

The College will maintain a report of all violations of this Policy that are reported to the College and which result in a charge of violation of this Policy. The College will update the report bi-annually on January 1 and August 1 of each year and will post the updated report on the College’s website.

10. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under appropriate Defiance College policies.

11. Amnesty for Complainants and Witnesses

The Defiance College community encourages the reporting of misconduct and crimes by Reporting Parties and witnesses. Sometimes, Reporting Parties or witnesses are hesitant to report to College officials or participate in student conduct processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. It is in the best interests of the Defiance College community that Reporting Parties choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, Defiance College maintains a policy of offering Reporting parties and Witnesses who offered help to others in need amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Although policy violations cannot be overlooked, the Defiance College may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Responding Party is based on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Responding Parties with respect to a Reporting Party.

12. Training

The Anti-Hazing policy will be distributed annually through email as well as during training. All students seeking membership in a registered student organization or student group, including athletic teams, must complete the anti-hazing training provided by the College. Failure to complete the training will result in the student being denied the ability to join any recognized student organization or group. If a student is unsure if they have completed the required program they should contact the Office of Student Life to verify their eligibility to join a student organization or group. The Office of Student Life shall provide annually at least one program on hazing prevention education to all members, prospective members and anyone who is employed by or volunteers with the organization. The education may be provided in person, electronically, or both. The Office of Student Life will maintain a record of individuals who have completed the program.

13. Student *Code of Conduct* Procedures for Responding to a Report/Notice of Hazing

There is no time limit on reporting violations of the *Code of Student Conduct*; however, the longer someone waits to report an offense, the harder it becomes for College officials to obtain information and witness statements and to make determinations regarding alleged violations.

Though anonymous complaints are permitted, doing so may limit the College's ability to investigate and respond to a complaint. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Office of Student Life and/or to Campus Security.

A responding student facing an alleged violation of the *Code of Student Conduct* is not permitted to withdraw from the College until all allegations are resolved.

When conduct described in this policy implicates the College's Equal Opportunity, Discrimination, Harassment and Sexual Misconduct Policy (i.e Title IX policy), the College reserves the right to address the alleged conduct exclusively under the Equal Opportunity, Discrimination, Harassment and Sexual Misconduct Policy.

Defiance College email is the College's primary means of communication with students. Students are responsible for all communication delivered to their College email address.

STEP 1: Preliminary Inquiry and/or Educational Conference

The College conducts a preliminary inquiry into the nature of the incident, complaint or notice, the evidence available, and the parties involved. The preliminary inquiry may lead to:

- 1) A determination that there is insufficient evidence to pursue the investigation, because the behavior alleged, even if proven, would not violate the Code of Student Conduct, (e.g.: for reasons such as mistaken identity or allegations of behavior that falls outside the code);
- 2) A more comprehensive investigation, when it is clear more information must be gathered;
- 3) A formal complaint of a violation and/or an educational conference with the responding student.

When an initial educational meeting/conference is held, the possible outcomes include:

- A decision not to pursue the allegation based on a lack of or insufficient evidence. The matter should be closed and records should so indicate;
- A decision on the allegation, also known as an "informal" or "administrative" resolution to an uncontested allegation (see immediately below);
- A decision to proceed with additional investigation and/or referral for a "formal" resolution.

If a decision on the allegation is made and the finding is that the responding student is not responsible for violating the Code, the process will end. If the College's finding is that the responding student is in violation, and the responding student accepts this finding within three

days, the College considers this an “uncontested allegation.” The administrator conducting the initial educational conference will then determine the sanction(s) for the misconduct, which the responding student may accept or reject. If accepted, the process ends.

If the student accepts the findings, but rejects the sanction, the College will conduct a sanction-only hearing, conducted by the Campus Judicial Committee (CJC) which recommends a sanction to the Dean of Students. The sanction is then reviewed and finalized by the Dean of Students and is subject to appeal (see *Appeal Review Procedures* in Section 7(P) below) by any party to the misconduct. Once the appeal is decided, the process ends.

If the administrator conducting the educational conference determines that it is more likely than not that the responding student is in violation, and the responding student rejects that finding in whole or in part, then it is considered a contested allegation and the process moves to Step 2.

STEP 2: Formal Hearing

In a contested allegation or referral for formal resolution, additional investigation may then be commenced and/or a hearing may be held when there is reasonable cause to believe that a rule or rules have been violated. A formal notice of the complaint will be issued, and a hearing will be held before the Campus Judicial Committee (CJC). If the finding is that the responding student is not responsible, the process ends. Applicable appeals options are described below.

STEP 3: Review and Finalize Sanction(s).

If the student is found in violation(s), sanctions will be recommended by the CJC to the Dean of Students who will review and finalize the sanctions, subject to the College appeals process by any party to the complaint.

Formal Conduct Procedures

A. College as Convener

The College is the convener of every action under this code. Within that action, there are several roles. The responding student is the person who is alleged to have violated the Code. The party bringing the complaint, who may be a student, employee, visitor, or guest, may choose to be present and participate in the process as fully as the responding student. There are witnesses, who may offer information regarding the allegation. There is an investigator(s) whose role is to present the allegations and share the evidence that the College has obtained regarding the allegations.

B. Group Violations

A student group or organization and its officers and membership may be held collectively and individually responsible when violations of this code by the organization or its member(s):

- Take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit;

- Have received the consent or encouragement of the organization or of the organization's leaders or officers; or
- Were known or should have been known to the membership or its officers.

Hearings for student groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual and the organization.

C. Notice of Alleged Violation

Any member of the College community, visitor or guest may allege a policy violation(s) by any student for misconduct under this *Code* by submitting a Communication Information Form at <https://www.defiance.edu/communication-information.html>

Notice may also be given in person, by phone, via email or in writing to the Office of Student Life or member of the Title IX team as appropriate. Additionally, administrators may act on notice of a potential violation whether a formal allegation is made or not. All allegations can be submitted by a victim or a third party, and should be submitted as soon as possible after the offending event occurs. The College has the right to pursue an allegation or notice of misconduct on its own behalf and to serve as convener of the subsequent campus conduct process.

The Dean of Students (or designee) will assume responsibility for the investigation of the alleged violation as described in the sub-section below.

D. Investigation

Investigation is referenced in both steps 1 and 2 above, with detailed investigation procedures described in this subsection. The Dean of Students will appoint an investigator(s) for allegations under this *Code*. (Any complaint that falls under Title IX (e.g. sexual misconduct) or involves any other form of discrimination or harassment will be overseen by the Title IX Coordinator). The investigator(s) will take the following steps, if not already completed by the Dean of Students or designee:

- 1) Initiate any necessary remedial actions on behalf of the victim (if any);
- 2) Determine the identity and contact information of the party bringing the complaint,
- 3) Conduct an immediate preliminary investigation to identify an initial list of all policies that may have been violated, to review the history of the parties, the context of the incident(s), any potential patterns and the nature of the complaint;
 - a) If the victim is reluctant to pursue the complaint, determine whether the complaint should still be pursued and whether sufficient independent evidence could support the complaint without the participation of the victim;
 - b) Notify the victim of whether the College intends to pursue the complaint regardless of their involvement, and inform the victim of their rights in the process and option to become involved if they so choose;

- c) Preliminary investigation usually takes between 1-3 business days to complete;
- 4) If indicated by the preliminary investigation and authorized by the Dean of Students, conduct a comprehensive investigation to determine if there is reasonable cause to believe that the responding student violated Defiance policy, and to determine what specific policy violations should serve as the basis for the complaint;
 - a) If there is insufficient evidence through the investigation to support reasonable cause, the allegations will be closed with no further action;
 - b) A comprehensive investigation usually takes 10-14 days
- 5) Meet with the reporting party bringing the complaint to finalize their statement, which will be drawn up by the investigator or designee as a result of this meeting;
- 6) Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding student, who may be given notice of the interview prior to or at the time of the interview;
 - a) Prepare the notice of alleged policy violation(s) on the basis of the reasonable cause determination, which may be delivered prior to, during or after the responding student is interviewed, at the discretion of the investigator(s);
- 7) Obtain all documentary evidence and information that is available;
- 8) Obtain all physical evidence that is available;
- 9) Complete the investigation promptly by analyzing all available evidence without unreasonable deviation from the intended timeline of ten (10) business days;
- 10) Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- 11) Present the investigation report and findings to the responding student, who may:
 - a) accept the findings,
 - b) accept the findings in part and reject them in part,
 - c) or may reject all findings;
- 12) Share the findings and update the reporting party on the status of the investigation and the outcome.

E. Findings

The following options (1-3) describe how to proceed depending on whether the responding student is found responsible and whether the Responding Student accepts or rejects the findings and/or the sanctions either in whole or in part.

1) The Responding Student is Found “Not Responsible”

Where the responding student is found not responsible for the alleged violation(s), the investigation will be closed. The reporting party, if any, may request that the Dean of Students review the investigation file to possibly re-open the investigation or convene a hearing. The decision to re-open an investigation or convene a hearing rests solely in the discretion of the Dean of Students in these cases, and is granted only on the basis of extraordinary cause.

2) The Responding Student Accepts a Finding of “Responsible”...

a) The Responding Student Accepts a Finding of “Responsible” and Accepts the Recommended Sanctions.

Should the responding student accept the finding that they violated Defiance College policy, the Investigator will recommend appropriate sanctions for the violation, having consulted with Dean of Students, as appropriate. If the responding student accepts these recommended sanctions, the sanctions are implemented by the Dean of Students. This outcome is not subject to appeal.

b) The Responding Student Accepts a Finding of “Responsible” and Rejects the Sanctions Recommended.

If the responding student accepts the “responsible” findings, but rejects the recommended sanctions, there will be an administrative conference on the sanction, only. Administrative conference procedures are detailed below.

3) Responding Student Rejects the Findings Completely or In-part

a) Responding Student Rejects the Findings Completely

Where the responding student rejects the finding that they violated College policy, a formal hearing will be convened within seven business days, barring exigent circumstances.

At the hearing, the investigator(s) will present their report to the CJC hearing panel, the panel will hear from the parties, and any necessary witnesses. The investigation report will be considered by the panel, which renders an independent and objective finding. Full CJC procedures are detailed below.

If the CJC finds the responding student not responsible for all violations, the Dean of Students will timely inform the parties of this determination and the rationale for the decision in writing. This determination is subject to appeal by any party to the complaint. Appeal review procedures are outlined below.

If the CJC finds a violation, it will recommend a sanction/responsive action to the Dean of Students, who will render a decision within 2 days of the hearing and timely notify the parties in writing. An appeal of sanction(s) may be filed by any party to the complaint as detailed below.

b) Responding Student Accepts the Findings in Part and Rejects in Part

Where the responding student rejects in part the finding that they violated College policy, there will be a CJC hearing solely on the disputed allegations within seven days, barring exigent circumstances. For all findings holding a responding student responsible for a violation, the College will follow the sanctioning process detailed in sub-sections K(8) and K(9), below. If the CJC finds the responding student “Not Responsible” on any of the contested allegations, the process will move to the

Sanctioning Phase on only the uncontested allegations, as detailed in sub-sections K(8) and K(9), below.

F. Special Provisions for Complaints of a Sensitive Nature

All hearings under this sub-section will be conducted by a three member faculty/staff panel drawn from the panel pool.

G. Notice of Hearing

Once a determination is made that reasonable cause exists for the Dean of Students (or designee) to refer a complaint for a hearing, notice will be given to the responding student. Notice will be in writing and may be delivered by one or more of the following methods: in person by the Dean of Students (or designee); mailed to the local or permanent address of the student as indicated in official College records; or emailed to the student's College-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered. The letter of notice will:

- 1) Include the alleged violation and notification of where to locate the *Code of Student Conduct* and College procedures for resolution of the complaint; and
- 2) Direct the responding student to meet the Dean of Students (or designee) within a specified period of time to respond to the complaint. This time period will generally be no less than two days from the date of delivery of the summons letter.

A meeting with the Dean of Students (or designee) may be arranged to explain the nature of the complaint and the conduct process. At this meeting, the responding student may indicate, either verbally or in writing, to the Dean of Students (or designee), whether they admit to or deny the allegations of the complaint.

H. Hearing Options & Preparation

The following sub-sections describe the College's conduct hearing processes. Except in a complaint involving failure to comply with the summons of the Dean of Students (or designee), no student may be found to have violated the *Code of Student Conduct* solely as a result of the student's failure to appear for a hearing. In all such instances, conduct hearings will proceed as scheduled and the information in support of the complaint will be presented to, and considered by, the Dean of Students, Administrative Hearing Officer or CJC presiding over the hearing.

Where the responding student admits to violating the *Code of Student Conduct*, the Dean of Students (or designee) may invoke administrative hearing procedures to determine and administer appropriate sanctions without a formal hearing. This process is also known as an *administrative conference*. In an administrative conference, complaints will be heard and determinations will be made by the Dean of Students or designee.

Where the responding student denies violating the *Code of Student Conduct*, a formal hearing will be conducted. This process is known as a CJC (panel) hearing. At the discretion of the Dean

of Students (or designee), a request by one or more of the parties to the complaint for an administrative conference may be considered. Students who deny a violation for which a CJC hearing will be held will be given a minimum of 3 days to prepare unless all parties wish to proceed more quickly. Preparation for a formal hearing is summarized in the following guidelines:

- 1) Notice of the time, date and location of the hearing will be in writing and may be delivered by one or more of the following methods: in person by the Dean of Students (or designee); mailed to the local or permanent address of the student as indicated in official College records; or emailed to the student's College-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.
- 2) If there is an alleged victim of the conduct in question, the alleged victim may serve as the party bringing the complaint or may elect to have the College administration serve as the party bringing the complaint forward. Where there is no alleged victim, the College administration will serve as the party bringing the complaint forward.
- 3) If a responding student fails to respond to notice from the Dean of Students (or designee), the Dean of Students (or designee) may initiate a complaint against the student for failure to comply with the directives of a College official and give notice of this offense. Unless the student responds to this notice within two days by answering the original notice, an administrative conference may be scheduled and held on the student's behalf. As a result, the student may be administratively withdrawn from attending classes or a disciplinary hold may be placed on their College account, deeming them ineligible to register for courses or College housing until such time as the student responds to the initial complaint.
- 4) At least three (3) days before any scheduled formal hearing, the following will occur:
 - a) The responding student will deliver to the Dean of Students (or designee) a written response to the complaint;
 - b) The responding student will deliver to the Dean of Students(or designee) a written list of all witnesses for the College to call at the hearing;
 - c) The responding student will deliver to the Dean of Students (or designee) all physical evidence the student intends to use or needs to have present at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Dean of Students can arrange for its presence;
 - d) The reporting party will deliver to Dean of Students(or designee) a written list of all witnesses for the College to call at the hearing;
 - e) The reporting party will deliver to the Dean of Students (or designee) all items of physical evidence needed at the hearing and will indicate who has possession or custody of such evidence, if known, so that the Dean of Students can arrange for its presence;
 - f) The reporting party and the responding student will notify the Dean of Students (or designee) of the names of any advisors/advocates who may be accompanying the parties at the hearing.
- 5) The Dean of Students (or designee) will ensure that the hearing information and any other available written documentation is shared with the parties at least two (2) days before any scheduled hearing. In addition, the parties will be given a list of the names of all the

CJC panelists in advance. Should any party object to any panelist, that party must raise all objections, in writing, to the Dean of Students immediately. Hearing officers will only be unseated if the Dean of Students concludes that their bias precludes an impartial hearing of the complaint. Additionally, any CJC panelist who feels they cannot make an objective determination must recuse themselves from the proceedings.

I. Panel Hearing Procedures

The Dean of Students will appoint one panelist as the Chair for the hearing. The parties have the right to be present at the hearing; however, they do not have the right to be present during deliberations. If a student cannot attend the hearing, it is that student's responsibility to notify the Dean of Students no less than three (3) days prior to the scheduled hearing to arrange for another date, time and location. Except in cases of grave or unforeseen circumstances, if the responding student fails to give the requisite minimum three (3) day notice, or if the responding student fails to appear, the hearing will proceed as scheduled. If the reporting party fails to appear, the complaint may be dropped unless the College chooses to pursue the allegation on its own behalf, as determined by the Dean of Students.

The Dean of Students (or designee), the Chair and the Panel will conduct panel hearings according to the following guidelines:

- 1) Hearings will be closed to the public.
- 2) Admission to the hearing of persons other than the parties involved will be at the discretion of the CJC panel chair and the Dean of Students.
- 3) In hearings involving more than one responding student, the standard procedure will be to hear the complaints jointly; however, the Dean of Students may permit the hearing pertinent to each responding student to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding student.
- 4) The parties have the right to an advisor/advocate of their own choosing, including attorneys. Typically advisors are members of the campus community, but the parties may select whomever they wish to serve as their advisor. The advisor may not make a presentation or represent the party bringing the complaint or responding student during the hearing. They may confer quietly with their advisee, exchange notes, clarify procedural questions with the chair and suggest questions to their advisee.
- 5) The reporting party, the responding student, the CJC panel, and the Dean of Students (or designee) will have the privilege of questioning all present witnesses and questioning all present parties (directly or through the Chair, at the discretion of the Chair). Unduly repetitive witnesses can be limited at the discretion of the CJC panel Chair and/or the Dean of Students (or designee).
- 6) Pertinent records, exhibits, and written statements may be accepted as information for consideration by the CJC and the Dean of Students. Formal rules of evidence are not observed. The CJC Chair and/or the Dean of Students (or designee) may limit the number of character witnesses presented or may accept written affidavits of character instead.
- 7) All procedural questions are subject to the final decision of the Dean of Students or CJC Chair.

8) After a CJC hearing, the panel will deliberate and determine, by majority vote, whether it is more likely than not that the responding student has violated the *Code of Student Conduct*. The Dean of Students (or designee) will be present and available as a resource during all deliberations. Once a finding is determined, if the finding is that of a policy violation, the panel will determine an appropriate sanction(s). The Dean of Students (or designee) is responsible for informing the CJC panel of applicable precedent and any previous conduct violations or other relevant pattern information about the responding student. The panel Chairperson will prepare a written deliberation report and deliver it to the Dean of Students, detailing the recommended finding, the information cited by the panel in support of its recommendation, and any information the panel excluded from its consideration and why. This report should conclude with any recommended sanctions. This report should not exceed two pages in length and must be submitted to the Dean of Students within two (2) days of the end of deliberations.

9) The Dean of Students will consider the recommendations of the CJC panel, may make appropriate modifications to the panel's report and will then render a decision and inform the responding student and reporting party (if applicable by law or College policy) of the final determination within 2 days of the hearing. Notification will be made in writing and may be delivered by one or more of the following methods: in person by the Dean of Students (or designee); mailed to the local or permanent address of the student as indicated in official College records; or emailed to the student's College-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered. In cases of crimes of violence, notice of the outcome will be delivered to all parties simultaneously, meaning without substantial delay between the notifications to each.

There will be a single verbatim record, such as an audio recording, for all CJC hearings. Deliberations will not be recorded. The record will be the property of the College and maintained according to the College's record retention policy.

J. Sanctions

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- Warning: An official written notice that the student has violated College policies and/or rules and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the College.
- Restitution: Compensation for damage caused to the College or any person's property. This could also include situations such as failure to return a reserved space to proper condition – labor costs and expenses. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.
- Fines: Reasonable fines may be imposed. Fines are specified to include: \$100 for intentionally or negligently activating a fire alarm.

- Community/College Service Requirements: For a student or organization to complete a specific supervised Community/College service.
- Loss of Privileges: The student will be denied specified privileges for a designated period of time.
- Confiscation of Prohibited Property: Items whose presence is in violation of College policy will be confiscated and will become the property of the College. Prohibited items may be returned to the owner at the discretion of the Dean of Students (or designee).
- Behavioral Requirement: This includes required activities including, but not limited to, seeking academic counseling or substance abuse screening, writing a letter of apology, etc.
- Educational Program: Requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- Restriction of Visitation Privileges: May be imposed on a resident or non-resident student. The parameters of the restriction will be specified.
- College Housing Probation: Official notice that, should further violations of Residence Life or College policies occur during a specified probationary period, the student may immediately be removed from College/housing. Regular probationary meetings may also be imposed.
- College Housing Reassignment: Reassignment to another College housing facility. Residential Life personnel will decide on the reassignment details.
- College Housing Suspension: Removal from College housing for a specified period of time after which the student is eligible to return. Conditions for readmission to College housing may be specified. Under this sanction, a student is required to vacate College housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Residence Life. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for College housing, the student must gain permission from the Director of Residence Life (or designee). This sanction may include restrictions on visitation to specified buildings or all Defiance housing during the suspension.
- College Housing Expulsion: The student's privilege to live in, or visit, any College housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary.
- College Probation: The student is put on official notice that, should further violations of College policies occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.
- Eligibility Restriction: The student is deemed "not in good standing" with the College for a specified period of time. Specific limitations or exceptions may be granted by the Dean of Students and terms of this conduct sanction may include, but are not limited to, the following:

- Ineligibility to hold any office in any student organization recognized by the College or hold an elected or appointed office at the College; or
- Ineligibility to represent the College to anyone outside the College community in any way including: participating in the study abroad program, attending conferences, or representing the College at an official function, event or intercollegiate competition as a player, manager or student coach, etc.
- College Suspension: Separation from the College for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. The student is required to vacate the campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Dean of Students. During the suspension period, the student is banned from property, functions, events and activities without prior written approval from the Dean of Students. This sanction may be enforced with a trespass action as necessary.
- College Expulsion: Permanent separation from the College. The student is banned from property and the student's presence at any College-sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary.
- Withholding Diploma: The College may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement as a sanction if the student is found responsible for an alleged violation.
- Revocation of Degree: The College reserves the right to revoke a degree awarded from the College for fraud, misrepresentation, or other violation of College policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- Other Sanctions: Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Dean of Students or designee.

The following sanctions may be imposed upon groups or organizations found to have violated the Code of Student Conduct:

- 1) One or more of the sanctions listed above and/or
- 2) Deactivation, de-recognition, loss of all privileges (including status as a College registered group/organization), for a specified period of time.

K. GROUNDS FOR APPEAL REQUESTS

Appeals requests are limited to the following grounds:

- 1) A procedural occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.);

- 2) To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
- 3) The sanctions is grossly disproportionate to the violation found.

Appeals must be filed in writing to the Office of Student Life within three (3) business days of the notice of the outcome to the hearing, barring exigent circumstances. Any exceptions are made at the discretion of Dean of Students or, when appropriate, the Title IX Coordinator.

The Dean of Students will share the appeal by one party with the other party (parties) when appropriate under procedure or law (e.g., if the responding student appeals, the appeal is shared with the reporting party, who may also wish to file a response, request an appeal on the same grounds or different grounds; this response will be shared with the initial appealing party). The Office of Student Life will refer the request(s) to the College's designated Appeals Panel, which consists of three members of the CJC pool who did not participate in the original hearing. Based on the written requests/responses or on interviews as necessary, all parties will receive a response memorandum, based on the Appeals Panel determination that the request(s) will be granted or denied, and why. All request-related documents are shared with all parties prior to submission to the Appeals Panel.

The Appeals Panel will conduct an initial review to determine if the appeal request meets the limited grounds and is timely. The Appeal Panel may dismiss an appeal request as untimely or ineligible, may grant an appeal, may deny an appeal, may modify the sanction, and/or may remand the finding and/or sanction for further investigation or reconsideration by the original hearing decision maker. They may consult with the Dean of Students on any procedural or substantive questions that arise.

If the appeal is not timely or substantively eligible, the original finding and sanction will stand and the decision is final. If the appeal has standing, the Appeals Panel determines whether to hear the appeal or to remand it to the original decision-maker(s), typically within 3-5 business days. Efforts should be made to use remand whenever possible, with clear instructions for reconsideration only in light of the granted appeal grounds. Where the original decision-maker may be unduly biased by a procedural or substantive error, a new panel will be constituted to reconsider the matter, which can in turn be appealed, once. Full rehearings by the Appeals Panel are not permitted. Where new evidence is presented or the sanction is challenged, the Appeals Panel will either return it to the original decision-maker for reconsideration or the Appeals panel will with instruction on the parameters regarding institutional consistency and any applicable legal guidelines. In review, the original finding and sanction are presumed to have been decided reasonably and appropriately, thus the burden is on the appealing party(ies) to show clear error. The Appeals Panel must limit its review to the challenges presented.

On reconsideration, the Appeals Panel or original decision-maker may affirm or change the findings and/or sanctions of the original hearing body according to the permissible grounds. Procedural errors should be corrected, new evidence should be considered, and sanctions

should be proportionate to the severity of the violation and the student's cumulative conduct record.

All decisions of the Appeals Panel are to be made within five (5) days of submission to the Panel and are final, as are any decisions made by the original hearing body, Dean of Students or Title IX Coordinator as the result of reconsideration consistent with instructions from the Appeals Panel.

THE APPEALS PANEL

Three-member Appeals Panels are drawn from the CJC panel pool, with the following requirements to serve:

- 1) they did not serve on the CJC for the initial hearing
- 2) they were not involved in the investigation in any way
- 3) they have been properly trained in appeals procedures

If the institution allows for students to serve in the panel pool, they must:

- 1) Be in academic good standing and have completed 15 hours of academic credit with a cumulative GPA of at least 2.0.
- 2) Be in good standing with respect to the conduct process throughout the term in which they serve. Good standing is defined as having no record of misconduct during the semester(s) in which a student wishes to serve on the panel, as well as not currently being on any probation. A serious history of misconduct could disqualify a student for service.

The Dean of Students will have final authority to approve all those serving on the panel. The parties may challenge a panelist(s) on the basis of potential bias, and any panelist who cannot render an impartial decision must recuse themselves. The Dean of Students will make the determination as to the validity of any challenge or need for recusal. In the event of a recusal from the panel, the Dean of Students will solicit a replacement from the pool of panelists.

The Dean of Students or designee serves as the non-voting advisor to the panel, with responsibility for training the panel, conducting preliminary investigations, and ensuring a fair process for the complainant and responding student.

The presumptive stance of the Defiance is that all decisions made and sanctions imposed by the original decision-maker are to be implemented during the appellate process. At the discretion of the Dean of Students, and in consultation with the Title IX Coordinator when necessary, implementation of sanctions may be stayed pending review only in extremely exigent circumstances. This does not include proximity to graduation, end of term, or exams. Instead, it refers to an overwhelming likelihood, as determined by the Dean of Students, that the appeal would result in a reversal of the finding and/or substantial modification of the sanctions.

14. Glossary

Advisor means a person chosen by a party to accompany the party to meetings related to the resolution process and to advise the party on that process.

Consultant/Chapter Advisor: means an employee or volunteer of a national student organization that provides advice and guidance.

Day: means a calendar day.

Confidential Resource: an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).

Finding: A conclusion by the preponderance of the evidence that the conduct did or did not occur as alleged (as in a “finding of fact”)

Investigator means the person or persons charged by Defiance College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report.

Notice means that an employee, student, or third-party informs the Dean of Students/Title IX Coordinator or a Deputy Title IX Coordinator of the alleged occurrence of hazing or and/or retaliatory conduct.

Organization - A group of people that is associated with each other and that has registered with the College as a student organization or has official status (e.g. athletic teams) at the College.

Reporting Party: means an individual who is alleged to be the victim of conduct that could constitute hazing

Responding Party: means an individual or organization who has been reported to be the perpetrator of conduct that could constitute hazing.

Student Organization Adviser: Faculty or staff member who provides support and guidance to a recognized student organization and ensures the organization follow all College Policies and Procedures

Volunteer: An individual who works with a student organization or athletic team but is not a paid employee of the College.