**Map of BOR Policy 3:4**

**Student Conduct Code**

**Allegation directed to the Student Conduct Officer (SCO)**

- If the SCO determines that the allegation, if true, would violate the Student Code, the SCO will conduct an informal, preliminary investigation to determine whether the allegation is credible.

  
  - **YES**
    - Parties mutually agree to a full resolution acceptable to SCO
    - Informally resolved if: 13, 5

  - **NO**
    - Respondent waives a formal hearing by admitting to the misconduct and accepting the proposed sanctions (not available for alleged Human Rights Violations)
    - Where some matters are resolved; any unresolved matters proceed to a formal hearing.

**Notice to Respondent**

Within 15 days of receipt of complaint, SCO will provide written Notice to Respondent.

**Written Notice Includes:**

1. The alleged misconduct,
2. the section(s) of the Student Code alleged to have been violated,
3. the name of the C,
4. a time to meet with the SCO to provide the R the opportunity to give his/her account of the incident leading to the allegation of misconduct,
5. information about the right to have an Advisor present throughout the conduct process,
6. information about both the informal and formal resolution processes,
7. a time for a hearing to occur no earlier than 10 and no later than 20 days after this notice is provided to address any alleged violations that are not informally resolved (min. time limit can be waived by R and max. can be extended by SCO)

**Informal Resolution:**

- SCO determines whether resolution can be resolved informally.

**Formal Hearing:**

- Matters not resolved informally proceed to formal resolution.

**Hearing guidelines:**

- Conducted in private (witnesses other than C/R only there when presenting their info)
- Chair has authority to (1) exclude anyone who interferes, (2) determine if info, materials, documents and statements are relevant and accepted for consideration
- The R is presumed not to have violated the Student Code.
- If either party wants the SCP to review any materials or documents or wants to present any witnesses at the hearing, these materials, documents, witness lists must be submitted to Chair by the following deadlines: 24 hours in advance for all matters except allegations of Human Rights Violations, which must be submitted 72 hours in advance. Both parties will receive copies of documents (provided by SCP)
- C/R have right to be assisted by Advisor(s). Advisor(s) limited to speaking to advisee.
- SCO record and maintain audio of hearing

**Hearing order:**

- Each participant identifies self by name/role
- Chair reminds R of rights, materials received prior to hearing, and alleged behavior that would violate Code
- Chair provides C opportunity to: present additional relevant facts present/question any witnesses, allow SCP opportunity to question witnesses, allow R to submit written questions for witnesses
- Chair provides R opportunity to: present additional relevant facts present/question any witnesses, allow SCP opportunity to question witnesses, allow C to submit written questions for witnesses
- SCP may ask questions of the C/R
- SCP to meet in closed session to discuss and make its recommendations

**Decision:**

- SCP determines if the R more-likely-than-not violated Student Code.
- SCP prepares written findings to support determination (includes factual finding and application of facts to the Student Code), if violation, it should include recommended sanctions.
- SCP will forward findings, conclusions, and any recommended sanctions to Chair. Chair has sole discretion to adopt or reject.
- Chair issues findings, conclusions and any sanctions (including effective date)
- Chair’s written findings, conclusions, and sanctions will be provided to the R. The same will be provided to the C when permitted by law.

**Decision Cont:**

- In matters of Academic Misconduct, the Chair’s written findings, conclusions, and any conduct sanctions shall also be provided to the Faculty Member.

**Appeal Process:**

Refer to page 2
Appeal Process for BOR Policy 3:4

**Appeal as a Matter of Right**

- **Respondent may appeal a decision reached by the Chair.** (For allegations of Human Rights Violations, the Complainant may also appeal).
  - Appeal must:
    1. Be in writing
    2. Be submitted to the SSAO no later than 5 days after Notice of Chair’s decision

**Reasons for Appeal:** Written appeal should include at least one (1) of the following. Must include supporting arguments and documentation.

A. The original hearing was conducted unfairly to the point that it substantially and materially affected the outcome;

B. Using the facts found by the SCP, the conclusion regarding whether there was a violation(s) of the Student Code was incorrect;

C. The sanction(s) imposed were not appropriate for the violation of the Student Code that the Respondent was found to have committed;

D. New information that was unavailable at the time of the hearing has been discovered and could substantially and materially affect the outcome.

SSAO provides written decision and Appellate Board’s recommendation to both parties. If rejected, the SSAO’s written explanation will be included.

SSAO will provide Appellate Board materials submitted.

Appellate Board reviews and provides written recommendation to SSAO. SSAO has sole discretion to adopt or reject recommendation. If reject, SSAO to provide written explanation to Appellate Board.

**Appeal to the President of the Institution**

- **Respondent may appeal a decision reached by the SSAO.** (For allegations of Human Rights Violations, the Complainant may also appeal).
  - Appeal must:
    1. Be in writing
    2. Be submitted to the President’s Office no later than 5 days after Notice of the SSAO decision
    3. Must cite at least one (1) of the reasons for review outlined in box 25.5 above.

President has sole and complete discretion as to whether to agree to review an appeal, including what materials to consider.

If President agrees to review an appeal, the President will provide the other party a copy of the appeal and time to submit materials to be considered.

President will provide written decision to both parties, and SSAO.

**Appeal to the Board of Regents:** Only after exercising and exhausting all appeals available at the Institutional level

- **Respondent may appeal a decision reached by the President.** (For allegations of Human Rights Violations, the Complainant may also appeal).
  - Appeal must:
    1. Be submitted in writing
    2. Be submitted to the ED of BOR no later than 30 days after Notice of the President’s decision
    3. Must cite at least one (1) of the reasons for review outlined in box 25.5 above.

ED will have 15 working days to attempt a resolution through informal means.

If no informal resolution, the ED will refer matter to a hearing examiner for reconsideration pursuant to SDCL § 1-26 using the contested case proceedings. (Contested case proceedings will be conducted under protective orders entered pursuant to SDCL §§ 1-26-19 and 15-6-26(c).

At the conclusion of the contested case proceedings, the hearing examiner will provide a recommendation to the ED for the disposition of the matter by the Board.

Appeals submitted to ED, not covered by Box 40, are at the ED’s sole discretion as to whether to agree to review an appeal.

If ED agrees to review, the ED will provide the other party a copy of the appeal and time to submit materials.

The ED will provide a written decision to the parties, and to the President.