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## Honor Code Investigation and Administrative Review Process

The purpose of the Honor Code Investigation and Administrative Review Process is to assist Brigham Young University and its students to preserve and enhance an educational environment conducive to achieving the aims of a BYU education and fulfilling the mission of BYU. It is the intent of BYU that this process be implemented in a collegial, nonadversarial manner, which will serve to educate students as to their moral responsibilities, aid them in developing their character, and assist them in protecting both their integrity and that of the university. Nevertheless, BYU also recognizes that there may be instances in which a student's behavior may warrant his or her dismissal from the university or other disciplinary proceedings in order to protect the interests of the university and campus community.

Generally, the university will follow the procedural guidelines as outlined in this document. However, the procedures set forth in this document are merely guidelines and are not intended to create any contractual obligations or expectations. The university reserves the right, at its discretion, to vary from these procedures according to the circumstances of individual matters, so long as the student receives from the university, prior to the actual implementation of any disciplinary action, (i) notice of the nature of the alleged or suspected Honor Code violation(s) and (ii) an opportunity to respond.

Both the investigation of reported Honor Code violations and the administrative review process are under the direction of the student life vice president. The Office of the General Counsel may advise university personnel involved in the investigation or administrative review anytime during the process as to matters of university policy and procedure relevant to the deliberations.

### **1. Investigation and Determination of Reported Honor Code Violations**

The university, at its discretion, may choose to investigate reported or suspected Honor Code violations. This investigation is separate from any civil, criminal, or ecclesiastical proceedings. Reports of Honor Code violations are generally investigated according to the guidelines and procedures below although variations may occur depending on circumstances.

#### ***Violation Reports and Privacy***

Anyone may refer a student to the Honor Code Office (HCO) for reported violation(s) of the Honor Code, whether the alleged conduct occurred on or off campus. The person submitting a report is asked to identify himself or herself and to provide information regarding the alleged violation that will assist the university in its investigation. Although the HCO generally does not investigate reports given by anyone unwilling to identify himself or herself, the HCO reserves the right, at its discretion, to proceed with an investigation based on an anonymous report.



While the HCO and the university will reasonably strive to keep the names of witnesses confidential if so requested, they cannot always ensure such confidentiality. Subject to the restrictions of the Family Educational Rights and Privacy Act (FERPA) and other applicable laws, the university may disclose witness names and other information supplied by witnesses (i) when legally compelled to disclose (e.g., as required by applicable law, lawfully issued subpoenas, warrants, court orders, or other investigatory documents issued by a court of competent jurisdiction); (ii) when the university deems disclosure necessary to provide a student with notice of the nature of the violations alleged against him or her; (iii) when the university deems disclosure necessary for health or safety reasons, or (iv) when otherwise determined to be in the best interest of the university. Note: all subpoenas, warrants, and court orders are referred to the university Office of the General Counsel.

Information provided to or collected by the HCO with respect to an Honor Code violation and placed in the student's HCO file is considered part of the student's educational record. Consistent with FERPA and BYU's [Access to Student Records Policy](#) and related procedures, students shall be granted the opportunity, upon written request, to access their own educational records to assure the accuracy of the contents. The information in the records, but not necessarily the names of the witnesses, will be disclosed to requesting students within 45 days of their written request.

### ***Retaliation***

Retaliation against an individual who has made a report or provided information in connection with an investigation is strictly prohibited. Retaliation is any adverse action taken against an individual because he or she participated in any manner in an Honor Code investigation and administrative review process. Retaliation can include intimidation, which is any adverse action or threat of action reasonably likely to prevent or dissuade an individual from making a report or providing information in connection with an Honor Code investigation. Individuals who participate in an Honor Code investigation should be advised that university policy prohibits retaliation against them and should be assured that the university will take steps to prevent retaliation and will address any act of retaliation of which it becomes aware. An individual who feels that he or she has been subjected to retaliation for reporting an Honor Code violation or participating in an Honor Code investigation and administrative review process should report the incident to the HCO, which will address the report in accordance with the investigation and administrative review process set forth below.

### ***The Investigation***

The HCO will normally investigate a reported Honor Code violation if there is sufficient, reasonable, and credible information that an Honor Code violation has occurred. After a violation report is received, the HCO will (i) analyze the violation report and relevant evidence; (ii) conduct an investigation and interview the student and any witnesses or other persons



having information about the student and/or the allegations as the HCO deems appropriate; (iii) notify the student in writing of the alleged violation(s) of the Honor Code if it appears that an Honor Code violation has occurred; (iv) encourage the student to respond, preferably in writing, to the allegations and relevant evidence; (v) assess the credibility of the witnesses and strength of the evidence; and (vi) prepare a decision and recommended course of action.

The student is encouraged to meet with a representative from the HCO to respond honestly and fully to the alleged Honor Code violations and to provide any facts or information relevant to the alleged violation. As noted above, the student is encouraged to provide his or her response to the allegation(s) and relevant evidence in writing. When there are significant discrepancies or contradictions between the supporting information and the student's response, the HCO will attempt to ascertain the truth and exercise reasonable discretion, including further investigation if practicable. No attempt will be made to apply technical rules of evidence. In general, any information, whether oral or documentary, that is considered relevant will be received and reviewed, subject to the reasonable discretion of the HCO.

Although the HCO will handle most investigations, on occasion the Dean of Students Office may either assist the HCO in the investigation or assume primary responsibility for conducting the investigation in accordance with the general principles noted above. Such occasions may arise with situations involving extremely sensitive issues, high-profile cases, or matters where the student is likely to be dismissed from the university.

### ***Contemporaneous Civil, Criminal, or Ecclesiastical Proceedings***

Except in cases involving sexual violence or harassment, the university reserves the right to determine whether it will immediately begin investigating or delay responding to matters that are presently the subject of civil, criminal, or ecclesiastical proceedings. In cases involving sexual violence or harassment, the university will conduct its own investigation regardless of the pendency or timing of other civil, criminal, or ecclesiastical proceedings. In all cases, the university retains the right to conduct its own independent investigation and to reach a determination, which may or may not be consistent with the outcome of civil, criminal, or ecclesiastical proceedings. In cases where a student has been arrested and/or charged with criminal misconduct, the university may take immediate action, including, but not limited to, placing a hold on registration, future re-admission and/or graduation, probation, suspension, or dismissal, or may elect not to take any action at all. The university may discontinue or amend such action or inaction at any time or upon the resolution of the criminal charges against the student and/or the subsequent findings of the university's investigation. Further, the university may take immediate action even if the student in the university's investigation refuses to participate in the investigation or chooses not to disclose relevant information to the HCO.

***Interim Action***

The university may take action on an interim basis pending completion of its investigation when at its discretion such action is reasonably justified. For example, in certain circumstances the university may place an immediate hold on the student's registration and/or graduation pending further investigation and/or resolution. In another example, the university may be reasonably justified in suspending the student on an interim basis to protect the safety and well-being of the campus community, to promote the student's own physical or emotional safety and well-being, or where the student's behavior presents a threat of disruption or interference with normal campus operations. During such interim action, the student may be denied university privileges for which the student would otherwise be eligible, including, on occasion, access to the residence halls, campus facilities, classes, or other university activities. The university may discontinue or amend such interim action at any time upon resolution of the issues and/or the subsequent findings of the university's investigation. If the student disagrees with the interim action, he/she may request an expedited review by the Dean of Students Office consistent with the principles and procedure outlined in the Expedited Administrative Review below.

***Voluntary Withdrawal***

At any time prior to the HCO's issuance of a decision and recommended action, a student may voluntarily withdraw from the university. Once a student voluntarily withdraws from the university, for any reason, he or she no longer enjoys student status nor any of the benefits, rights, and privileges associated with student status. If a student voluntarily withdraws from the university, the university may nevertheless determine at its discretion to proceed with an investigation of the allegations to establish appropriate conditions and/or restrictions for returning the student to the university and to make appropriate notations on the student's official university records regarding his/her status at the university. Alternatively, the university may put a hold on the student's registration, re-admission, and/or graduation pending an investigation and/or resolution of the allegations.

***The Decision and Recommended Actions***

At the conclusion of the investigation, and after the nature and extent of a violation have been determined, the HCO representative assigned to the case will review the facts and findings with his/her supervisor(s)\* and the HCO Advisory Committee (optional). An appropriate action will be selected from the following: No Action, Counsel and Education, Referral (to a responsible person or agency—e.g., reconciliation process), Warning, Probation, Suspension Withheld, Suspension, and Dismissal. The HCO (or the Dean of Students Office) will then prepare a decision letter, which will include a brief summary of the provisions of the Honor Code alleged to have been violated, the findings of the investigation and conclusions, the recommended action and, if applicable, any related conditions for reinstatement in good standing and



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information regarding the student's right to pursue an administrative review. This letter will constitute the "Decision."

\*Note: all findings resulting in a recommended action of Probation will be approved by the HCO director. All findings resulting in a recommended action of Suspension Withheld, Suspension, or Dismissal will be approved by both the HCO director and the associate dean of students.

Records will be retained for all decisions and recommended actions, including recommendations of No Action. The university does not consider the actions of No Action, Counsel and Education, Referral, or Warning to be reportable disciplinary actions when responding to a request for a dean's certification from another institution or third party. In addition, a student will remain in good Honor Code standing when an action of No Action, Counsel and Education, Referral, or Warning is recommended. On the other hand, the actions of Probation, Suspension Withheld, Suspension, and Dismissal are reportable disciplinary actions for which the student will lose his or her good Honor Code standing until resolved.

The Decision will be based upon a preponderance of the information (i.e., whether, based on the information before the HCO, it is more likely than not that the misconduct occurred and constitutes a violation of the Honor Code); and the recommendation may take into consideration the selection criteria noted in Appendix A. The HCO (or the Dean of Students Office) will notify the student and provide a copy of the Decision within a reasonable time period and in most instances will attempt to review the Decision with the student personally.

When the HCO (or the Dean of Students Office) recommends any action other than Dismissal, Referral, No Action, Warning, or Counsel and Education, the Decision will contain information regarding the action and any conditions that must be met in order for the student to maintain or return to good Honor Code standing with the university. Students must be in good Honor Code standing to graduate and receive a diploma. In order to be considered for a return to good standing, students are required to satisfactorily complete the specified conditions. When the Decision includes a recommendation for any action other than No Action, Referral, Warning, or Counsel and Education, the Decision will also contain information regarding the procedure for seeking an administrative review of the Decision.

All Decisions and recommended disciplinary actions will become final unless a timely request for administrative review is submitted by the student as set forth in Part II below.

### ***Record***

Consistent with university policy and procedures, the student will be permitted upon written request to review his/her HCO file (which will include the Decision, the "Determination Report," investigation files and notes, and other information and educational records pertaining to the student). Students may at any time seek correction of their education records pursuant to



relevant provisions of the [Access to Student Records Policy](#) for any information in his/ her HCO file that may be inaccurate, misleading, or maintained in violation of his/her privacy or other rights. The HCO file, including the Decision and the student's response, shall constitute the record (Record) which will be the basis for any subsequent review of the Decision and disciplinary action should the student request an administrative review.

## **2. Administrative Review**

### **2.1 General**

#### Grounds for Requesting a Review

The student may request an administrative review (Review) of any Decision resulting in a disciplinary action of Probation, Suspension Withheld, Suspension, or Dismissal. In all Review proceedings, the student has the burden to show: (i) the Decision is not reasonably supported by the facts in the Record, (ii) the HCO failed to follow applicable procedures and that as a result of such failure the student was not given adequate notice of the nature of the alleged or suspected Honor Code violations or did not have a meaningful opportunity to respond, (iii) the disciplinary action imposed is inappropriate for the violation of the Honor Code, or (iv) the investigation or Decision exhibited prejudice or bias that affected the outcome.

#### Review Avenues

The Honor Code administrative review process provides for two separate avenues of administrative review depending on the disciplinary action determined: (1) a Review by the associate dean of students for all disciplinary actions resulting in a Probation and (2) a Review by the dean of students for all disciplinary actions resulting in a Suspension Withheld, Suspension, or Dismissal. Each review avenue is separate and independent of the other. The administrative review process is illustrated by the flowchart attached as Appendix B.

#### Student Status Pending Review

The student applying for a Review will generally not be restricted or excluded from class attendance or from participation in university functions and activities during the Review process except for activities and functions in which the student acts as an official representative of BYU, such as a performer or athlete participating in public performances or events, if the university, acting through the Dean of Students Office, determines that such attendance and/or participation is likely to be disruptive or pose a substantial threat to the functioning, integrity, or reputation of the university or to the well-being or personal safety of the student or others. In all such cases, the Dean of Students Office has full discretionary powers and will advise the student of any restrictions and/or exclusions, pending the final outcome of the Review.



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### Expedited Administrative Review

If a student disagrees with an interim action taken by the university or has been restricted by the Dean of Students Office from participating in public performances or events wherein he or she officially represents the university, an expedited Review may be requested under the following guidelines: (1) when notified of the interim action or the Decision, the student promptly responds with a request for an expedited process to the Dean of Students Office; (2) the Review application form is completed and delivered without delay to the Dean of Students Office; (3) there is no new or additional information to be introduced; and (4) the student agrees to participate in the Review when scheduled.

If the conditions for an expedited Review are met, the Dean of Students Office will attempt in good faith to schedule the Review within three to five business days of receipt of the Review application.

By requesting an expedited Review the student should be aware that the Review process is accelerated. His or her preparation time will be much more limited and the scheduling of the Review will be accomplished as soon as is practicable. The student cannot publicly perform or play during the expedited Review process. The expedited Review process is not generally recommended but is available to a student as an option in unusual circumstances where the student believes it to be in his/her best interests to complete the Review process as soon as is practicable.

## **2.2 Review Procedures**

### Initiating the Review

Once the HCO (or the Dean of Student's Office) makes a Decision resulting in a disciplinary action of Probation, Suspension Withheld, Suspension, or Dismissal, the student may initiate a Review by completing the Review application (available at the HCO) and delivering it to the Dean of Students Office within five business days after written notice of the Decision has been either hand delivered or sent to the student. Note: written communications pursuant to these guidelines may be sent to the student by certified mail, return receipt requested, by regular U.S. mail postage prepaid, or by e-mail to the most current address the student has provided to the university.

### Scheduling the Review

After the Review application has been received, the Dean of Students Office will contact the student, the HCO, and the appropriate reviewer (either the associate dean of students or the dean of students) to schedule a time and place for a Review meeting. If unable to contact the student in person or via telephone communication, the Dean of Students Office will send a



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letter by mail or e-mail to the student at a local or electronic address provided by the student notifying him or her of the time and place of the Review.

### Conducting the Review

The Review will be conducted by the appropriate reviewer (either the associate dean of students for cases of Probation or the dean of students for cases of Suspension Withheld, Suspension, or Dismissal). A secretary may be present to take minutes of the proceeding, and a recording may be made at the option of the Dean of Students Office. The minutes and/or recording shall be the property of the university.

### Who May Attend the Review?

Both the student and the HCO representative may have one or two individuals physically present in the Review to support and confer with him or her. Such individuals will not, however, be allowed to address the dean / associate dean nor advocate in the Review unless specifically invited to do so by the dean / associate dean. Because the Review process is intended to be educational and not adversarial, attorneys are not allowed to attend or represent either the university\* or the affected student. An attorney who is directly related to the affected student as a parent, legal guardian or spouse may attend the Review as a support individual, but should not address the dean / associate dean or otherwise advocate on behalf of the student. The student's attendance at the Review is not required; as a practical matter, however, his or her attendance will usually be important to the dean / associate dean in his or her review of the information and consideration of the Review. Thus, the student is encouraged to make every reasonable effort to attend the Review.

\*Note: a university attorney may be present at the Review for the limited purpose of giving counsel to the dean / associate dean regarding questions about process or procedure.

A reasonable effort will be made to maintain an appropriate level of confidentiality with respect to the Review, consistent with the legal requirements of privacy and student access.

### Purpose and Agenda of the Review

The purpose of the Review is to make an evaluation as to (i) whether the Decision was reasonably supported by the facts in the Record, (ii) whether applicable procedures were followed throughout the investigation and review processes (or if the university varied from those procedures, whether the process nevertheless afforded the student adequate notice and a meaningful opportunity to respond), (iii) whether the disciplinary action recommended by the HCO (or the Dean of Students Office) is appropriate for the violation of the Honor Code, and (iv) whether the investigation or Decision exhibited prejudice or bias that affected the outcome. The student is encouraged during the Review to discuss his or her feelings, perspective, and/or information about items (i) through (iv). The student has the burden to show that the university





erred with respect to items (i) through (iv). At the conclusion of the Review the student, the HCO representative, support persons, and anyone else in attendance, will be excused. The dean / associate dean may recall the student and the HCO representative to respond to or clarify questions.

#### Introduction of New Information

Only the materials and information contained in the Record will be considered in the Review. On rare occasions, additional relevant information may come to light after the conclusion of the university's investigation. If either party insists on being allowed to introduce information not contained in the Record, and the other party objects to the introduction of new information, the appropriate reviewer (dean / associate dean) will refer the case, with the new information, back to the HCO for reconsideration. If, upon remand and after considering the new information, the Decision has not changed, the appropriate reviewer will be notified, the new information will be added to the Record, and the Review process will resume. If there is a new Decision requiring a different Review avenue, the Dean of Students Office will notify the appropriate reviewer, who will discontinue the pending Review. The student will also be notified of the new Decision and advised with respect to his or her rights to request a Review of the new decision.

#### The Decision of the Dean / Associate Dean

The dean / associate dean will review the Record, the Review application, and any other relevant information arising in the context of the Review. He or she may also make independent inquiries of the HCO, the student, and/or witnesses to clarify statements in the Record. After reviewing this information, the dean / associate dean shall render a decision. The dean / associate dean will affirm the Decision if he or she determines that the Decision was reasonably supported by the information in the Record, prejudice or bias did not unduly affect the outcome of investigation and Decision, and applicable university procedures were observed (or if there were any variances from those procedures, the process nevertheless afforded the student notice and an opportunity to respond). In addition, the dean / associate dean may, at his or her sole discretion, modify the sanction applied to the student based upon the Review. Further, the dean / associate dean may refer the matter back to the HCO for further evaluation with accompanying instructions if he or she determines that prescribed procedures were not followed or relevant information or other mitigating circumstances were not appropriately considered. After conducting the Review, the dean / associate dean will deliver a written decision to the student and the HCO. Unless this decision calls for the matter to be remanded back to the HCO for further investigation, the dean / associate dean's written decision is final with no provision for further review.



**APPROVED:** 28 Oct 2019 [Revised 19 Aug 2022]

**PRIOR VERSION:** 11 Aug 2008

**APPLICABILITY:** This process applies to all students.

**POLICY OWNER:** Student Life Vice President

**RESPONSIBLE OFFICE:** Honor Code Office

**RELATED POLICIES:**

- [Academic Honesty Policy](#)
- [Banning Policy](#)
- [Church Educational System Honor Code](#)
- [Discrimination Complaint Procedures](#)
- [Disruptive Student Conduct Procedures](#)
- [Drug-Free School Policy](#)
- [Minor Protection Policy](#)
- [Nondiscrimination and Equal Opportunity Policy](#)
- [Sexual Harassment Policy](#)



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## APPENDIX A

### **Selection Criteria**

Based on the information accumulated during the investigation, the following criteria and attendant examples may be considered by the HCO (or the Dean of Student's Office) in selecting appropriate actions.

#### ***Prior Honor Code violations***

##### ***Seriousness of behavior***

- a. Egregiousness
- b. Intent
- c. Duration and frequency

##### ***Impact on other students, the university, and the community***

- a. Harm and potential harm
- b. Educational impact
- c. Extent to which misconduct is publicly or widely known

##### ***Honesty and attitude***

- a. Honesty, cooperation, and trustworthiness
- b. Acceptance of responsibility for behavior, including making restitution and motivation for change
- c. Timely and voluntary self-report
- d. Relative maturity and emotional stability

##### ***Support***

- a. Ecclesiastical leaders
- b. Counselors
- c. Parents
- d. Roommates and friends
- e. Nature and availability of support



**APPENDIX B**

**Allegation of Misconduct**



**Investigation & Recommendation**

1. Investigate allegation(s); interview witnesses and student
2. Written **notice** to student of allegations and Honor Code violations
3. Communicate with student to discuss 1-2; encourage **student to respond** in writing; review possible sanctions; work with student as appropriate
4. HCO representative/administrator consults with supervisor(s) and HCO Advisory Committee as appropriate
5. Findings and recommendation:
  - I. All recommendations for No Action, Counsel and Education, Referral, or Warning are final upon approval of the HCO director and not subject to further review.
  - II. All recommendations for Probation will be approved by the HCO director, and are final decisions upon approval unless student submits timely request for administrative review.
  - III. All recommendations for Suspension Withheld, Suspension or Dismissal cases will be approved by *both* the HCO director and the associate dean of students, and are final decisions upon approval unless student submits timely request for administrative review.
6. Written Decision delivered to student



**Administrative Review**  
(if requested by student)

I.

- No Action
- Counsel & Education
- Referral
- Warning



- No Review

II.

- Probation



- Review\* by associate dean of students
- Decision of associate dean is final

III.

- Suspension Withheld
- Suspension
- Dismissal



- Review\* by dean of students
- Decision of dean is final

*\*Note: if relevant new information arises during Review that could have affected the Decision, return to HCO and continue investigation*