



HENDERSON STATE UNIVERSITY
Housing & Community Standards

Student Community Standards

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Preface

Henderson State University Core Values

The university's core values inform the community standards outlined in this policy. Specifically, the value of *Students and Student Success* guides how the institution utilizes the community standards to support student learning and development.

Academic Excellence: We promote academic excellence and celebrate scholarly achievement. We produce intellectually well-rounded graduates through rigorous and relevant programs.

Collaboration and Community: We value collaboration recognizing that each person is an important part of a larger picture. Working together for a sustainable future, every individual contributes to the whole, whether in our university, our local community, or our world.

Human Value and Difference: We celebrate every human being and, embracing our differences, strive together to prepare students to become responsible citizens in a diverse, global, and knowledge-based society. We value an inclusive community where all individuals can explore, discover, and develop their unique abilities and interests.

Integrity: We cultivate a climate of academic, personal, and professional integrity by holding ourselves and each other to the highest ethical standards in all we say and do.

Liberal Arts: We value the transformative power of liberal arts education to develop in each student critical and creative skills including problem solving, analytical thinking, and effective communication that will lead to successful careers, fulfilling lives, and lifelong learning.

Students and Student Success: We place students at the center of all we do; they are the reason we are here. Decisions made about programs, policies, and practices are based upon what is best for students and their success.

Tradition and Innovation: We are committed to balancing innovation with tradition. The inspiration of our alumni challenges each student to persist and excel in the spirit that all things are possible.

Guiding principles of Student Community Standards at Henderson State University

The guiding principles of *Student Community Standards* at Henderson State University inform the actions of all participants including students, faculty, and staff.

Integrity: We exemplify honesty, honor, and respect for the truth in all of our dealings.

Community: We build and enhance our campus community.

Development: We believe in the development and support of community members.

Social Justice: We are just and equitable in the treatment of all members of the community. We discourage unjust and inequitable behaviors.

Respect: We show positive regard for each other, for property, and for the community.

Responsibility: We give and accept a high level of responsibility to self, to others, and to the community.

Henderson State University students are responsible for knowing the information, policies, and procedures outlined in this document. Henderson State University reserves the right to make changes to this code as necessary and once those changes are posted online, they are in effect. Students are encouraged to review the policy on the Henderson State University website.

Section 1: Philosophy Statement

The Henderson State University community is committed to fostering a campus environment that is conducive to academic inquiry, a productive campus life, and thoughtful study and discourse. The University's *Student Community Standards* exists to create an educational and developmental experience that balances the interests of individual students with interests of Henderson State University.

A community exists on the basis of shared values and principles. At Henderson State University, these are represented in the *Student Community Standards*. Student members of the community are expected to uphold and abide by them in their daily conduct.

The *Student Community Standards* at Henderson State University is not intended to punish students; rather, it exists to protect the interests of the community and to challenge those whose behavior is not in accordance with our policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with our community expectations. When a student is unable to conform their behavior to community expectations, the university may determine that the student should no longer share in the privilege of being a community member.

Students should be aware that the university's enforcement of community standards is not a criminal and civil court proceeding. Procedures and rights as outlined in the *Student Community Standards* are conducted with fairness to all, but do not include the same protections of due process afforded by courts of law. Due process, as defined within these procedures, assures written notice of the alleged violation and a hearing before an objective decision-maker. No student will be found in violation of Henderson State University's policies without information showing that it is more likely than not that a policy violation occurred and any sanctions will be proportionate to the severity of the violation and to the cumulative conduct history of the student.

Section 2: Authority and Jurisdiction

Authority

The Office of Community Standards, which is a department within the Division of Student Affairs and Student Success, is vested with the authority over student conduct by the President of the University.

The Director of Community of Standards or designee will assume responsibility for any investigation of an allegation of misconduct to determine if there is reasonable cause to believe a policy under the *Student Community Standards* has been violated.

Complaints regarding sexual discrimination, harassment, misconduct, and retaliation shall be addressed through the *Policy Prohibiting Sex- and Gender-Based Discrimination, Harassment, Misconduct and Retaliation* (Commonly referred to as the “Title IX Policy”).

Interpretation and Revision

The Office of Community Standards will develop procedures for the administration of hearings that are consistent with the provisions of the *Student Community Standards*. Any question of interpretation of the *Student Community Standards* shall be referred to the General Counsel, whose interpretation is final. The *Student Community Standards* will be updated as needed under the direction of the Office of Community Standards and any updates will be communicated to the university community.

Students at Henderson State University are provided the *Student Community Standards* in the form of a link on Henderson State University’s website. Henderson State University students are responsible for knowing the information, policies, and procedures outlined in this document. Henderson State University reserves the right to make changes to this code as necessary and once those changes are posted online, they are in effect. The *Student Community Standards* that is posted online will be considered the official version. Students are encouraged to review the policy on the Henderson State University website.

The *Student Community Standards* apply to the conduct of individual students, both undergraduate and graduate, acting alone or in groups. For the purposes of student conduct, Henderson considers an individual to be a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest at Henderson State University. By attending Henderson State University you are agreeing to abide by the *Student Community Standards*.

Henderson State University retains conduct jurisdiction over students who choose to take a leave of absence, withdraw, or have graduated for any misconduct that occurred prior to the leave, withdrawal, or graduation. If sanctioned, a hold may be placed on the student’s ability to re-enroll, obtain official transcripts, or graduate, and all sanctions must be satisfied prior to re-enrollment eligibility. In the event of serious misconduct committed while still enrolled but reported after the accused student has graduated, Henderson State University may invoke these procedures and in the event the former student be found responsible, Henderson may revoke the student’s degree.

The *Student Community Standards* apply to behaviors that take place in connection with all academic, educational, extracurricular, athletic, and other university programs, whether those programs take place on university property, in university transportation, during university-sanctioned trips, at a class or training program sponsored by the university at another location, online, or elsewhere. These standards also apply, regardless of where the alleged behaviors occurred, if the conduct impacts the university environment or the university's academic, educational, athletic, or extracurricular programs or activities.

The *Student Community Standards* may be applied to behavior conducted online, via email or other electronic medium. Students should also be aware that online postings such as blogs, web postings, chats, and social networking sites are in the public sphere and are not private. These postings can subject a student to allegations of community standard violations. However, most online speech by students not involving Henderson networks or technology will be protected as free expression and not subject to this process, except with three notable exceptions:

1. Threats of violence, incitement to imminent lawless action, raising false alarms regarding imminent personal danger, and harassment that is sufficiently severe or pervasive.
2. Speech activities that violate the university's time, place, and manner regulations. The university may impose reasonable limits on the time, place, and manner of speech activities. The university's time, place, and manner regulations are in the university's Facilities Use Policy.
3. Conduct that violates university policies or applicable law, such as destruction of property, endangering the safety of others, assault, or interfering with campus operations, even if occurring in connection with speech activities or motivated by expressive concerns, is not protected and may subject individuals to discipline.

Under the *Student Community Standards*, students may be held accountable for the misconduct of their guests. The university may also apply the *Student Community Standards* to resident non-students, campers, and any other individuals present on campus or participating in Henderson State University activities.

There is no time limit on reporting violations of the *Student Community Standards*; however, the longer someone waits to report an offense, the harder it becomes for Henderson officials to obtain information and witness statements and to make determinations regarding alleged violations. The university reserves the right to decline to initiate an investigation if the respondent is no longer a student at Henderson State University.

Though anonymous complaints are permitted, doing so limits Henderson State University'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 Director of Community Standards.

No complaint will be investigated unless there is reasonable cause to believe a policy has been violated. Reasonable cause is defined as some credible information to support each element of the offense, even if that information is merely a credible witness or a victim's statement. A complaint wholly unsupported by any credible information will not be pursued.

If a student withdraws from the university while facing an alleged violation of the *Student Community Standards*, Henderson State University may proceed with the investigation and sanctioning in the student's absence.

Conflict Resolution Options

The Office of Community Standards has discretion to refer a complaint for mediation or other forms of appropriate conflict resolution. All parties must agree to conflict resolution and to be bound by the decision with no review/appeal. Any unsuccessful conflict resolution can be forwarded for formal processing and hearing; however, at no time will complaints of physical violence be mediated as the sole institutional response. The Office of Community Standards may also suggest that complaints that do not involve a violation of the *Student Community Standards* be referred for mediation or other appropriate conflict resolution.

Section 3: Violations of the Law

Violations of the *Student Community Standards* may also violate federal, state and local laws. The university's *Student Community Standards* process and the criminal justice process are separate and distinct. When an offense occurs over which Henderson State University has jurisdiction pursuant to this policy, the university may proceed with the conduct process notwithstanding any criminal justice process that may arise from the same incident. Depending on the nature of the offense, the Director of Community Standards may also initiate the University's Felony Review Process.

Henderson State University reserves the right to exercise its authority of interim suspension at any time after notification that a student is facing criminal investigation and/or complaint. Interim suspensions may be imposed until a hearing can be held. The Director of Community Standards may modify the interim suspension based on the information available as the investigation progresses.

Section 4: Standards of Conduct

Behavioral Expectations

Henderson State University considers the behavior described in the following subsections as inappropriate and in opposition to our core values. Any student found to have engaged in or to have attempted to engage in the following misconduct is subject to referral to the conduct process as outlined in the *Student Community Standards*.

While the following list of possible actions of misconduct may result in conduct sanctions up to and including separation from Henderson State University, there are three that have been identified to be in most direct conflict to the core values of the University. Violations of these policies may result in suspension for a specific period of time up to expulsion.

Drugs: Manufacture, sale, or distribution of unlawful drugs including marijuana and synthetics; unlawful sale or distribution of otherwise legal drugs (i.e. prescription medication) or other illegal drugs, controlled substances or drug paraphernalia (See *Drug Free Schools, Workplace, and Community Policy*. This policy is available as a paper copy upon request).

Sexual Assault: The University prohibits any form of sex-based or gender-based misconduct as defined in the University's *Policy Prohibiting Sex- and Gender-Based Discrimination, Harassment, Misconduct and Retaliation*, including, but not limited to sexual assault, sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, domestic violence, dating violence and sexual exploitation.

Weapons: The university prohibits the possession, carrying, storage or use of any handgun, firearm, or weapon of any type (a) on the university campus, (b) in any building owned or controlled by the university, (c) at any university event, (d) during travel on university business, or (e) in any vehicle that is owned, leased or rented by the university. These provisions shall not apply to any certified law enforcement officer employed by the university police department, any other certified law enforcement officer, or any other possession authorized by law, including the carrying of a concealed handgun pursuant to Arkansas Act 562. Individuals, including individuals who are licensed to carry concealed handguns on a public university campus pursuant to Arkansas Act 562, must comply with all relevant federal, state, and local laws and regulations while on the university campus.

Violations of the *Student Community Standards* include, but are not limited to:

Abuse of Conduct Process. Abuse or interference with, or failure to comply in, Henderson processes including conduct and academic integrity hearings including, but not limited to:

- Falsification, distortion, or misrepresentation of information;
- Failure to provide, destroying or concealing information during an investigation of an alleged policy violation;
- Attempting to discourage an individual's proper participation in, or use of, the campus conduct system;
- Harassment (verbal or physical) and/or intimidation of a member of a campus conduct body prior to, during, and/or following a campus conduct proceeding;
- Failure to comply with the sanction(s) imposed by the campus conduct system;

- Influencing, or attempting to influence, another person to commit an abuse of the campus conduct system.

Alcohol. Use, possession, or distribution of alcoholic beverages or paraphernalia except as expressly permitted by law and the *Drug Free Schools and Communities Policy*;

Animals. The university acknowledges that pets are important to many individuals. However, the presence of animals can pose health, sanitation and safety challenges that detract from the university's academic mission. As a result, the general rule is that animals, including pets, are prohibited from the indoor spaces of the university, at university events, and in university-owned or university-rented vehicles. Exceptions are stated below:

- Service animals: A service animal is an animal that is trained to work or perform tasks for the benefit of an individual with a disability, as defined by the university's *Policy on Assistance Animals*. As a general rule, the only animals allowed to accompany individuals in the university's indoor spaces (e.g. classrooms, library, and cafeteria), at university events and in university vehicles are service animals. Service animals may also be present in the outdoor spaces of the university, as needed to serve the individual with the disability.
- Approved emotional support and therapy animals in on-campus housing: Approved emotional support and therapy animals, as defined by the university's *Policy on Assistance Animals*, may be present in their owners' assigned residence hall rooms or apartments. As a general rule, emotional support animals or therapy animals are not allowed in the university's other indoor spaces (e.g. classrooms, library, and cafeteria), at university events, and in university-owned or university-rented vehicles.
- Animals present for instructional or academic purposes: Animals that are required for instructional or academic purposes that have been approved by the university's Institutional Animal Care and Use Committee (IACUC). These animals may only be present in locations approved by the IACUC.

Notwithstanding the exceptions above, the university may prohibit the presence of animals, including service animals from certain locations on campus due to health and safety restrictions. Individuals must comply with signage indicating that animals are prohibited and must also comply with the directions of university officials. Individuals may bring animals that are not service animals to the outside spaces of the university for short periods of time (e.g. dog walking) as long as: the individual removes all animal waste from campus immediately; the individual provides constant supervision of the animal; the individual retains control of the animal at all times; the animal is properly licensed and tagged as required by law and local ordinance; the presence of the animal does not disrupt the educational process or university operations; the animal is restrained by a leash, a harness or is within a carrier at all times; and the individual is accompanied by one animal at a time. The university may remove or cause to be removed any animal that is a nuisance or poses a threat to students, employees, visitors or university operations or property. The university may also restrict a specific animal from university property based on any confirmed threatening or territorial behavior or if the individual bringing the animal to campus fails to comply with the requirements of this policy or other university policies.

Arrest. Failure of any student to accurately report their off-campus arrest by any law enforcement agency for any crime (including non-custodial or field arrests) to the Director of Community Standards within 48 hours after the arrest.

Damage and Destruction. Intentional, reckless and/or unauthorized damage to or destruction of Henderson State University property or the personal property of another.

Discrimination. Conduct that is based upon an individual's race, color, ethnicity, religion, sexual orientation, gender identity, national origin, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, physical disability or mental disability that excludes an individual from participation, denies the individual the benefits of, treats the individual differently, or otherwise adversely affects education, living environment, participation in a university program or activity, or a term or condition of an individual's employment.

Drugs. Use, possession or distribution of illegal drugs and other controlled substances or drug paraphernalia except as expressly permitted by law and the *Drug Free Schools and Communities Policy*;

Election Tampering. Tampering with an election conducted by any Henderson State University recognized student organization;

Failure to Comply. Failure to comply with the reasonable directives of Henderson State University officials or law enforcement officers during the performance of their duties and/or failure to identify oneself to these persons when requested to do so;

Falsification. Knowingly furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification or financial instruments;

Fire Safety. Violation of local, state, federal, or campus fire policies including, but not limited to:

- Intentionally or recklessly causing a fire which damages Henderson or personal property or which causes injury.
- Failure to evacuate a Henderson-controlled building during a fire alarm;
- Improper use of Henderson fire safety equipment; or
- Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on Henderson property. Such action may result in a local fine in addition to Henderson sanctions;
- Possession, use, storage, or manufacture of firebombs or other incendiary or destructive devices, including fireworks.

Gambling. Gambling as prohibited by the laws of the State of Arkansas. (Gambling may include raffles, lotteries, sports pools and online betting activities.)

Harm to Persons. Intentionally or recklessly causing physical harm or endangering the health or safety of any person.

Harassment. Detrimental action based on an individual's race, color, ethnicity, religion, sexual orientation, gender identity, national origin, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, physical disability or mental disability. Harassing conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Gender-based harassment includes sexual harassment.

- *Hostile Environment.* A hostile environment exists when there is harassing conduct based on race, color, ethnicity, religion, sexual orientation, gender identity, national origin, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, physical disability or mental disability that is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive to deny or limit a person's ability to participate in or benefit from the university's programs, services, opportunities, or activities; or when such conduct has the purpose or effect of unreasonably interfering with an individual's employment. Harassment that creates a hostile environment ("hostile environment harassment") violates this policy.
- *Retaliation.* Any intentional, adverse action taken by a responding individual or by an allied third party, absent legitimate nondiscriminatory purposes, against (1) any person who seeks enforcement of the *Student Community Standards* or other university policy, (2) any person who participates in a university investigation, proceeding, or action enforcing the *Student Community Standards* or other university policy, or (3) any person who actively supports a complainant during an investigation, proceeding, or action enforcing the *Student Community Standards* or other university policy.
- *Complicity.* Association in known or obvious violations of the *Student Community Standards* or law. Students who anticipate or observe a violation of the *Student Community Standards* or law are expected to remove themselves from the situation.

Hazing. Under Arkansas state law a student commits the criminal offense of "hazing" when acting alone or with others, on behalf of or in the name of a fraternal organization, on or off university property and in connection with initiation into or affiliation with the organization:

- commits a willful act against any other student for the purpose of intimidation by threatening him or her with social or other ostracism or submitting him or her to ignominy, shame, or disgrace among his or her fellow students; or
- plays abusive or truculent tricks to frighten or scare the other student; or
- acts with the purpose to humble the pride, stifle the ambition, impair the courage, discourage him or her from remaining at the university or reasonably cause him or her to leave the university rather than submit to the acts; or
- strikes, beats, bruises, or maims; or seriously offering, threatening, or attempting to strike, beat, bruise, or main; or to do or seriously offer, threaten, or attempts to do physical violence to any student; or
- Any assault upon a student made for the purpose of committing any of the acts, or producing any of the results.

Pursuant to Arkansas Code Annotated 6-5-201 et. seq. hazing is a criminal offense that is classified as a Class B misdemeanor. The law requires that a student convicted of hazing in a criminal court shall be expelled from the university that he or she is attending.

Health and Safety. Creation of health and/or safety hazards (e.g., dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs).

Information Technology and Acceptable Use. Henderson State University uses computer systems for administrative functions and educational purposes. Students are prohibited from acquiring or attempting to acquire unauthorized access to administrative or student data. Individuals who are granted computing accounts and who use computing resources such as e-mail at the University accept the responsibilities that accompany such access. Each user is expected to use University accounts and resources for educational, research, or administrative purposes.

Misappropriation. Unauthorized use (including misuse) of organizational names and images.

Other Policies. Violating other published University policies or rules (e.g. all Residence Hall policies; *Policy on Speech and Expression*; *Facilities Use Policy*)

Photographing or Videotaping. Photographing, videotaping, filming, digitally recording, or by any other means, secretly viewing with or without a device, another person without that person's consent in any location where the person has a reasonable expectation of privacy, or in a manner that violates a reasonable expectation of privacy. This section does not apply to lawful security surveillance filming, or recording that is authorized by Arkansas law, law enforcement, or authorized University officials.

Prescription Medications. The University prohibits the misuse of lawful drugs. This includes the abuse, sale, or distribution of prescription or over the counter medications.

Stolen Property. Knowingly taking or maintaining possession of stolen property;

Taking of Property. Intentional and unauthorized taking of Henderson State University property or the personal property of another, including goods, services and other valuables;

Threatening Behaviors.

- *Threat.* Written or verbal conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property.
- *Intimidation.* Implied threats or acts that cause a reasonable fear of harm in another.
- *Bullying and Cyberbullying.* Repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally and are not protected by freedom of expression.

Tobacco Use. The use of Tobacco Products and Electronic Cigarettes is prohibited. The University is a smoke-free campus in accordance with the Arkansas Campus Clean Air Act of 2009 (A.C.A. 6-60-801 et seq.). The use of any tobacco products, electronic cigarettes, or other instruments that emit vapor or smoke is prohibited everywhere on campus and in any vehicle owned or leased by the University. This prohibition includes but is not limited to athletic facilities, university residence halls, and individual residence hall rooms. The advertising, sale, or distribution of free samples of any tobacco products, electronic cigarettes, or other instruments that emit vapor or smoke are prohibited on University property. Violations of this policy are subject to monetary fines as set out in state law.

Trust. Violations of positions of trust within the community;

Unauthorized Access. Gaining unauthorized access to any Henderson property or unauthorized possession, duplication, or use of means of access (i.e. keys, cards, etc.) to any Henderson property or failing to make a timely report of a lost Henderson identification card or key;

Violations of Law. Evidence of violation of local, state or federal laws.

Weapons. Henderson State University prohibits the possession, carrying, storage or use of any handgun, firearm, or weapon of any type (a) on the university campus, (b) in any building owned or controlled by the university, (c) at any university event, (d) during travel on university

business, or (e) in any vehicle that is owned, leased or rented by the university. These provisions shall not apply to any certified law enforcement officer employed by the university police department, any other certified law enforcement officer, or any other possession authorized by law. The definition of “weapons” includes air guns, BB guns, paintball guns, facsimile weapons and pellet guns, dangerous items such as arrows, axes, machetes, nunchucks, throwing stars, slingshots, knives with a blade of longer than four inches, and weapons as defined by the law of the state of Arkansas. According to the law of the state of Arkansas (Arkansas Code Annotated § 5-5-401) a weapon is any firearm, bomb, explosive, metal knuckles, sword, spear, or other device employed as an instrument of crime by subjecting another to physical harm or fear of physical harm. The storage of any weapon in a vehicle parked on Henderson State University property is prohibited unless authorized by law.

Wheeled Devices. Skateboards, roller blades, roller skates, bicycles and similar wheeled devices are not permitted to be ridden inside Henderson buildings, residence halls, or athletic facilities. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities and individuals may be liable for damage to Henderson State University property caused by these activities.

Section 5:

Overview of the Conduct Process

This overview provides general guidance of how Henderson State University's campus conduct proceedings work, but it should be noted that not all situations are of the same severity or complexity.

Once notice is received from any source (e.g. victim, housing staff, 3rd party, University Police) Henderson State University may proceed with a preliminary investigation and/or may schedule an administrative hearing with the responding student to explain the conduct process and gather information. The student may request a trained advisor to guide them through the process at any time. The student must make this request to the Director of Community Standards.

When Henderson State University 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:

- A determination that there is insufficient evidence to pursue the investigation, because the behavior alleged, even if proven, would not violate the *Student Community Standards*, (e.g.: for reasons such as mistaken identity or allegations of behavior that fall outside the standards);
- A more comprehensive investigation, when it is clear that more information must be gathered.
- A formal complaint of a violation and an administrative hearing with the responding student.

When an administrative hearing is held, the possible outcomes include:

- A decision not to pursue the allegation based on evidence presented in the administrative hearing. In this case the matter is closed and records should so indicate;
- A decision on the allegation, also known as an administrative resolution to an uncontested allegation (see immediately below);
- A decision to proceed with additional investigation;

If a decision on the allegation is made and the finding is that the responding student is not responsible for violating the standards, the process will end. If the University finding is that the responding student is in violation, and the responding student accepts this finding within three days (For purposes of calculating all time periods set forth in the *Student Community Standards* a "day" excludes recognized national holidays, recognized state holidays, and days that the university is closed (i.e., Christmas break, inclement weather closures)., the University considers this an uncontested allegation. The administrator conducting the initial meeting will then determine the sanction(s) for the misconduct, which the responding student may accept or reject. If accepted, the process ends.

If a student rejects the findings, or accepts the findings, but rejects the sanction, the student must request a panel hearing that will be conducted by a hearing panel from the university's Judicial Committee and determines responsibility and appropriate sanctions if necessary. The request for a panel hearing must be made within three (3) days after receipt of the administrative hearing outcome. Any sanction(s) is then communicated to the respondent by the

Office of Community Standards and is subject to appeal (see *Appeal Review Procedures* in Section 7P) by the respondent. Once the appeal is decided, the process ends.

Section 6: Formal Conduct Procedures

Group Violations

A student group or organization and its officers and membership may be held collectively and individually responsible when there are violations of the *Student Community Standards* by the organization or its member(s):

- That take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or de facto; or
- When others have received the consent or encouragement of the organization or of the organization's leaders or officers;

Hearings for student groups or organizations follow the same general 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.

Amnesty

- *For Victims.* The university may, upon request, extend limited immunity from punitive sanctioning in the case of minor violations to complainants, witnesses, and those reporting incidents provided that they are acting in good faith in such capacity. Educational options will be explored.
- *For Those Who Offer Assistance.* To encourage students to offer help and assistance to others, the University may, upon request, pursue a policy of amnesty for minor violations when students offer help to others in need. At the discretion of the Director of Community Standards, amnesty may also be extended on a case-by-case basis to the person receiving assistance. Educational options will be explored.
- *For Those Who Report Serious Violations.* Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the University may, upon request, be offered amnesty for their minor violations. Educational options will be explored.

Notice of Alleged Violation

Any member of the Henderson community, visitor, or guest may report a policy violation(s) by any student for misconduct under the *Student Community Standards* by following the processes outlined in this document.

Notice may also be given to the Director of Community Standards (or designee) when appropriate. Additionally administrators may act on notice of a potential violation whether a formal allegation is made or not. All reports can be submitted by a victim or a third party, and should be submitted as soon as possible after the offending event occurs. Once a report is received, the University may initiate the student conduct process with or without participation of the original reporter or alleged victim.

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

Investigation

The Director of Community Standards (or designee) will serve as the investigator(s) for allegations under the *Student Community Standards*. The investigator(s) will take the following steps:

- Initiate any necessary interim measures to assist the complainant (if any);
- Determine the identity and contact information of the reporter, complainant(s) or potential complainant(s), and respondent(s).
- Conduct a preliminary investigation to identify an initial list of all policies that may have been violated, to review the student conduct history of those involved, the context of the incident(s), any potential behavioral patterns, and the applicability of this policy;
- If the complainant 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;
- Notify the complainant or potential complainant of whether the University intends to pursue the complaint regardless of their involvement, and inform them of their rights in the process and option to become involved if they so choose;
- Determine if there is sufficient evidence through the preliminary investigation to support further action. If not, the process ends. If indicated by the preliminary investigation and authorized by the Director of Community Standards (or designee), the investigator will conduct a comprehensive investigation to determine if there is reason to believe that the responding student violated University policy, and to determine what specific policy violations should serve as the basis for the complaint;
- Conduct an interview with the complainant, the reporting party (if not the complainant), the respondent, and third-party witnesses, and summarizing such interviews in written form.
- Commence a thorough, reliable and impartial investigation by developing an investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding student;
- Prepare the notice of alleged policy violation(s) on the basis of the reasonable cause determination, which may be delivered prior to or during the time responding student is interviewed, at the discretion of the investigator(s). The alleged policy violation(s) may be modified based on information gained during the interview;
- Interview all complainants, respondents, and relevant witnesses,
- Obtain all relevant and available evidence;
- Complete the investigation by making a finding based on a preponderance of the evidence (whether it is more likely than not that a violation of the *Student Community Standards* occurred);
- Present the investigation report and findings to the responding student, who may:
 - accept the findings,
 - accept the findings in part and reject them in part,
 - or may reject all findings;
- Present the sanctions to the responding student, who may:
 - accept the sanctions,
 - accept the sanctions in part and reject them in part,
 - or may reject all sanctions;
- Update the complainant on the status of the investigation and the outcome as allowed by federal law.

Findings

The following options 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.

The responding student is found not responsible. When the responding student is found not responsible for the alleged violation(s), the investigation will be closed.

The responding student accepts a finding of responsible and accepts the recommended sanctions. If the responding student accepts the finding that they violated the *Student Community Standards*, the Director of Community Standards will determine appropriate sanctions for the violation and communicate those to the responding student in writing (for the purposes of the *Student Community Standards* “in writing” includes emails sent to the student’s official university email address). If the responding student accepts these recommended sanctions, the sanctions will be implemented by the Director of Community Standards and the process ends. This outcome is not subject to appeal.

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 sanction(s), there will be a panel hearing on the sanction(s) only.

Responding student rejects the findings completely. When the responding student rejects the finding that they violated the *Student Community Standards* a panel hearing will be convened.

At the panel hearing the Director of Community Standards or designee will present the information gathered during the investigation, the findings, and the recommended sanctions to the panel. The panel will hear from the parties, and any necessary witnesses. The information presented will be considered by the panel. Full panel procedures are detailed below.

If the panel finds the responding student not responsible for all violations, the Director of Community Standards or designee will inform the parties of this determination in writing and the process ends.

If the panel finds a violation, it will recommend a sanction to the Director of Community Standards or designee, who will render a decision and notify the parties in writing. An appeal of sanction(s) may be filed by the respondent as detailed below.

Responding student accepts the findings in part and rejects in part. When the responding student rejects the findings in part there will be a panel hearing solely on the disputed allegations. If the Panel 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.

Notice of Hearing

Once a student has rejected the findings or sanctions in whole or in part the Director of Community Standards or designee will give notice of a hearing to the responding student. Notice will be in writing and emailed to the student’s University-issued email account and may be delivered by one or more of the following methods: in person by the Director of Community

Standards or designee or mailed to the local or permanent address of the student as indicated in official University records. The letter of notice will include the alleged violation and notification of where to locate the *Student Community Standards*.

If the responding student has questions regarding the hearing process they may request a meeting with the Director of Community Standards or designee to explain the nature of the complaint and the conduct process.

Interim Action

Under the *Student Community Standards* the Director of Community Standards or designee may impose restrictions, prohibit a student's presence from campus or a portion of campus, or take other interim actions when a student represents a threat of harm to others, is facing allegations of criminal activity, to preserve the integrity of an investigation, to preserve University property and/or to prevent disruption of, or interference with, the normal operations of the University.

During an interim suspension, a student may be denied access to University housing and/or the University campus/facilities/events. As determined appropriate by the Director of Community Standards or designee, this restriction may include classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Director of Community Standards or designee and with the approval of, and in collaboration with, the appropriate faculty and or Dean(s), the student may pursue remote coursework completion options.

Hearing Options & Preparation

The following sub-sections describe the University's panel hearing processes. Except in a complaint involving failure to comply with the summons of the Director of Community Standards (or designee), no student may be found to have violated the *Student Community Standards* 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 Director of Community Standards, AHO or panel presiding over the hearing.

When the responding student admits to violating the *Student Community Standards*, the Director of Community Standards (or designee) may invoke administrative hearing procedures to determine and administer appropriate sanctions without a panel hearing. This process is also known as an *administrative hearing*. In an administrative hearing, complaints will be heard and determinations will be made by the Director of Community Standards or designee.

When the responding student denies violating the *Student Community Standards*, a panel hearing may be conducted. Students who deny a violation or reject a sanction(s) for which a panel hearing will be held will be given a minimum of five (5) business days (only weekdays that the university is open is counted as a business day) to prepare unless all parties wish to proceed more quickly. Preparation for a panel hearing is summarized in the following guidelines:

- Notice of the time, date and location of the panel hearing will be emailed to the student's University-issued email account. Once sent, delivery will be deemed complete.
- If there is a complainant of the conduct in question, the complainant may serve as the party bringing the complaint or may elect to have the University serve as the party

bringing the complaint. Where there is no complainant, the University will serve as the party bringing the complaint.

- If a responding student fails to respond to notice from the Director of Community Standards (or designee), the Director of Community Standards (or designee) may initiate a complaint against the student for failure to comply with the directives of a University official and give notice of this offense. Unless the student responds to this notice within three business days by answering the original notice, an administrative hearing may be scheduled and held without the student's participation. As a result, the university may impose sanctions up to and including administrative withdrawal from classes or the placement of a disciplinary hold on their University account which will deem them ineligible to register for courses or apply for University housing. If the student subsequently responds, the university may lift sanctions or remove the disciplinary hold.
- At least three (3) business days before any scheduled panel hearing, the following will occur:
 - The responding student will deliver to the Director of Community Standards (or designee) a written list of all witnesses that the responding student will call at the hearing;
 - The responding student will deliver to the Director of Community Standards (or designee) all physical evidence in their possession that the student intends to use at the panel hearing. If the responding student does not have possession of an item of physical evidence and it is in possession of the university the responding student can identify the item, indicate where it is located, and request that the Director of Community Standards attempt to arrange for its presence;
 - The complainant will deliver to the Director of Community Standards (or designee) a written list of all witnesses that the complainant will call at the hearing;
 - If the complainant does not wish to appear in person at the hearing, the complainant will deliver a written statement of the complaint to the Director of Community Standards;
 - The complainant will deliver to the Director of Community Standards (or designee) all physical evidence in their possession that the student intends to use at the panel hearing. If the complainant does not have possession of an item of physical evidence and it is in possession of the university the responding student can identify the item, indicate where it is located, and request that the Director of Community Standards attempt to arrange for its presence;
 - The complainant and the responding student will notify the Director of Community Standards (or designee) of the name of any support person who may be accompanying the parties at a panel hearing.
- The Director of Community Standards (or designee) will ensure that the hearing information and any other available written documentation is made available to the parties at least two (2) business days before any scheduled panel hearing.

Administrative Hearing Officers

Administrative Hearing Officers (AHO) are chosen from a pool of annually trained administrators or staff members selected by the Director of Community Standards or designee.

Composition of the Hearing Panel

The membership of hearing panels are drawn from faculty, staff/administrator and students who are appointed by the President to serve on the university's Judicial Committee. The Shared

Governance Committee coordinates the process of nomination and appointment to the Judicial Committee and publishes the membership in the university's Committee Handbook. As listed in the Committee Handbook, student members of the Judicial Committee must meet the following qualifications:

- be in academic good standing;
- have completed fifteen hours of academic credit with a cumulative GPA of at least 2.5;
- be in good standing with the conduct process (having no record of misconduct) throughout the semester in which they serve on a panel; and
- be recommended by a faculty member or administrator.

The Director of Community Standards or designee shall provide or arrange for the training of a sufficient number of Judicial Committee members.

Panel Hearing Procedures

The Director of Community Standards or designee 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 the responding student cannot attend the hearing, it is that student's responsibility to notify the Director of Community Standards or designee no less than three (3) days prior to the scheduled hearing to arrange for another date, time, and location. The hearing date will be reset one (1) time upon the written request of the responding student and must be rescheduled within five (5) business days of the originally scheduled hearing. At the time the responding student requests that the hearing be reset, the responding student shall provide in writing at least three (3) dates and times during which they and their support person are available. If the responding student fails to appear, the hearing will proceed as scheduled. If the party bringing the complaint fails to appear, the complaint may be dropped unless Henderson State University chooses to pursue the allegation on its own behalf, as determined by the Director of Community Standards or designee.

The Director of Community Standards or designee, the chair, and the panel will conduct panel hearings according to the following guidelines:

- Hearings will be closed to the public.
- Admission to the hearing of individuals other than the parties involved will be at the discretion of the panel chair and the Director of Community Standards or designee. The University's General Counsel may be present.
- In complaints involving more than one responding student, the standard procedure will be to hear the complaints jointly, however, the Director of Community Standards or designee may decide to hear the complaints against each student in separate hearings. In joint hearings, separate determinations of responsibility will be made for each responding student individually.
- Both the complainant and the responding student may be accompanied by one support person to assist them during the investigation and the appeals process. This support person can be anyone, including an attorney, but the support person may not take an active part in any interview. The support person may not speak on behalf of the party, present evidence, make objections or statements, ask questions or otherwise participate in any interview, beyond privately communicating with the party that he or she is supporting. The Director of Community Standards or designee may disallow the

attendance of any support person if he or she is also a witness or if, in the discretion of the chair, such person's presence would be disruptive or obstructive to the interview, the investigative process or otherwise warrant removal. All support persons must agree to keep any and all information presented in the interview confidential in order to attend. Absent accommodation for disability, the parties may not be accompanied by any other individual during the investigative process except as set forth in this policy. University officials may seek advice from the university's Office of General Counsel on questions of law and procedure at any time during the process.

- The complainant, the responding student, the panel, and the Director of Community Standards or designee will have the privilege of questioning all witnesses who are present and questioning responding students and complainants who are present (directly or through the chair, at the discretion of the chair). Unduly repetitive witnesses can be limited at the discretion of the panel chair and/or the Director of Community Standards or designee. All questions must be relevant to the determination of the respondent's responsibility for violation of the *Student Community Standards*, the credibility of the responding students, the complainant, or witnesses. Questions posed may not be unduly abusive or repetitive. All witnesses must have first-hand knowledge of the incident. The panel will not hear or consider evidence or testimony regarding the character of the responding student(s), complainant(s), or witnesses. The chair of the panel shall determine what evidence may be presented or what witnesses will be heard.
- Pertinent records, exhibits, and written statements may be accepted as information for consideration by the panel and the Director of Community Standards or designee as long as the documentation is submitted with sufficient time so that the Director of Community Standards or designee can provide materials to the other party as set out above. Hearings shall not be conducted according to formal rules of evidence.
- The responding student is responsible for presenting any evidence or documentation of their choice at the hearing.
- All procedural questions are subject to the final decision of the panel Chair.
- After a panel hearing, the panel will deliberate and determine, by majority vote, whether it is more likely than not that the responding student has violated the *Student Community Standards*. The Director of Community Standards or designee will not be present in the room as the panel deliberates but a procedural advisor will be available as a resource during all deliberations. If the responding student is found responsible for a violation of the *Student Community Standards*, the panel will determine an appropriate sanction(s). The Director of Community Standards or designee is responsible for informing the panel of applicable precedent in previous cases, as well as any previous conduct violations or other relevant pattern information about the responding student. The panel chair will prepare a written deliberation report and deliver it to the Director of Community Standards or designee 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 must be submitted to the Director of Community Standards or designee within two days of the end of deliberations.
- The Director of Community Standards or designee will review the deliberation report and will inform the responding student and complainant that the case has concluded within two (2) business days. In addition the Director of Community Standards or designee will inform the responding student of the final determination within two (2) business days of the hearing. The Director of Community Standards or designee will inform the complainant of the outcome of the case to the extent allowed by applicable law or Henderson policy such as sanctions that directly affect the complainant (e.g. "no contact" restrictions, apology, restitution) within two (2) business days. Notice will be in writing

and emailed to the student's University-issued email account and may be delivered by one or more of the following methods: in person by the Director of Community Standards or designee or mailed to the local or permanent address of the student as indicated in official University records.

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

Appeals Panel Pool

Three-member Appeals Panels are drawn from the panel pool, with the only requirement being that they did not serve on the Panel for the initial hearing.

In Absentia

If the accused student fails to respond within five (5) business days of an initial request for a meeting, the case may be resolved in the student's absence. If this is the case, the accused student will be notified of the In Absentia Resolution in writing through their university email. Additionally, the university may place a hold on the student's university account until the issue is resolved.

Conduct Sanctions

Academic semesters for the purposes of sanctioning pursuant to the *Student Community Standards* are considered to be fall and spring semesters.

One or more of the following sanctions may be imposed upon any student for any violation of the *Student Community Standards*:

Warning. An official written notice that the student has violated Henderson policies and/or rules. This notice will be included as part of the student's conduct record and will be used in sanction determinations for future violations.

Restitution. A requirement that the student pay for damage caused to the university's or any individual's property. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen.

Educational Sanctions. A requirement that the student complete training activities related to their violation.

Community/University Service Requirements. Individuals or organizations can be required to complete a supervised project in service to the community or the university as directed by the Director of Community Standards or designee.

Loss of Privileges. The student will be denied specified privileges for a designated period of time.

Confiscation of Prohibited Property. Items whose presence are in violation of Henderson policy will be confiscated. The university may dispose of prohibited items or return them to the owner at the discretion of the Director of Community Standards or designee and/or Campus Police.

Behavioral Requirement. This includes required activities including, but not limited to, seeking personal 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.

Restriction of Visitation Privileges. May be imposed on a resident or non-resident student. The parameters of the restriction will be specified.

University Housing Probation. Official notice that, should further violations of Residence Life or Henderson policies occur during a specified probationary period, the student may immediately be removed from Henderson housing.

Henderson State University Housing Reassignment. Reassignment to another University housing facility. Housing personnel will decide on the reassignment details.

Henderson State University Housing Suspension. Removal from Henderson housing for a specified period of time after which the student is eligible to reapply. Conditions for re-admission to Henderson housing may be specified. Under this sanction, a student is required to vacate Henderson 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 Housing. Violation of this sanction may be enforced with a trespass action if deemed necessary. This sanction may include restrictions on visitation or presence in specified buildings or all Henderson housing during the suspension.

Henderson Housing Expulsion. The student's privilege to live in, or visit, any Henderson housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary.

Henderson Probation. The student is put on official notice that, should further violations of Henderson 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 University for a specified period of time. Specific limitations or exceptions may be granted by the Director of Community Standards or designee 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 Henderson or hold an elected or appointed office at Henderson State University; or
- Ineligibility to represent Henderson to anyone outside the Henderson community in any way including: participating in the study abroad program, attending conferences, or representing Henderson at an official function, event or intercollegiate competition as a player, manager, or student coach, etc.

Deferred Suspension. Deferred suspension is used for offenses found serious enough to warrant suspension, but where the specific circumstances of the case mitigate the offense and the factors indicate that the student has the ability and desire to correct his/her behavior. Deferred suspension is a designated period of time during which a student is given the opportunity to demonstrate the ability to abide by the community's expectations of behavior as articulated in the Henderson State University *Student Community Standards*.

During a deferred suspension the student will be officially suspended from Henderson State University, but the suspension will be deferred. The student subject to the deferred suspension may continue to attend classes during the suspension. In the event the student fails to meet any condition, complete any assigned sanctions by the deadline and/or is found responsible for any subsequent violation of the Academic Integrity Policy or *Student Community Standards*, the suspension will be automatically levied.

Students on Deferred Suspension may not represent Henderson State University on any intercollegiate athletic team, hold an office in any registered student organization, represent the University in any extracurricular activity or official function, or participate in any study abroad program.

Deferred Suspension may also include the denial of specific University privileges depending on the nature and circumstances surrounding the violation and the impact on the university community, including but not limited to, attendance at athletic functions, unrestricted library use, participation in intramurals, parking privileges, University computer and network usage, and residence hall visitation for a designated period of time.

Requirements during a Deferred Suspension may include:

Educational and rehabilitative sanctions. Students on deferred suspension related to unlawful drugs may be required to complete a series of educational modules related to drug use, alcohol use and other risks.

- Counseling
- Community and/or university service
- Change in campus housing. Possible sanctions may include: Students in apartment housing moving to a residence hall or a change in roommates.
- The duration of any deferred suspension period and the specific requirements and restrictions imposed will be determined on a case-by-case basis in accordance with this section.

If the student is found responsible for any subsequent violation of the same or similar offense while serving a deferred suspension, the student will be automatically suspended for a minimum of two (2) semesters in addition to the other consequences imposed for the subsequent violation. If the student is found responsible for a third instance of the same or similar offense, the student will be automatically suspended for a minimum of two (2) semesters in addition to the other consequences imposed for the subsequent violation.

Students who are found responsible in the manufacture, sale or distribution of unlawful drugs including marijuana and synthetics; unlawful sale or distribution of otherwise legal drugs (i.e. prescription medication) or other illegal drugs, controlled substances or drug paraphernalia are not eligible for Deferred Suspension. Students charged with those violations may be placed on Henderson Suspension immediately. Students found responsible for those violations shall be suspended or expelled.

The factors the university shall use to differentiate violations involving the manufacture, sale or distribution of unlawful drugs from violations involving only possession or use of unlawful drugs shall include whether:

- The person possesses the means to weigh, separate or package the unlawful drug
- The person possesses a record indicating a drug-related transaction
- The substance is separated and packaged in a manner to facilitate delivery
- Possession of a firearm that is in the immediate physical control of the person at the time of the possession of the substance
- Amount of substance (the amount required to indicate an offense other than possession shall vary based upon the type of substance is involved)
- Possession of more than one type of unlawful drug
- Person did make delivery of the unlawful drug

Factors that indicate possession for personal use include:

- The person did not make delivery
- Amount of substance

Henderson Suspension. Separation from Henderson 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 request, and at the discretion of the Director of Community Standards or designee. During the suspension period, the student is banned from university property, functions, events and activities without prior written approval from the Director of Community Standards or designee. This sanction may be enforced with a trespass action as necessary.

Henderson Expulsion. Permanent separation from Henderson State University. The student is banned from university property and the student's presence at any Henderson-sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary.

Additional Sanctions. in the event of failure to comply with sanctions. The Director of Community Standards or designee is authorized to impose additional or alternate sanctions as a result of noncompliance with the original sanctions as deemed appropriate by the Director of Community Standards or designee.

The following sanctions may be imposed upon groups or organizations found to have violated the *Student Community Standards*:

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

Parental Notification

Henderson State University reserves the right to notify the parents/guardians of dependent students regarding conduct situations as permitted by law, particularly alcohol and other drug violations. Henderson may also notify parents/guardians of non-dependent students who are under the age of 21 of alcohol and/or other drug violations. Parental notification may also be utilized discretionarily by administrators when permitted by FERPA or written consent of the student.

Notification of Outcomes

The outcome of a campus hearing is part of the educational record of the responding student and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. As allowed by FERPA, when a student is accused of a policy violation that would constitute a “crime of violence” or forcible or nonforcible sex offense, Henderson will inform the alleged victim/party bringing the complaint in writing of the final results of a hearing regardless of whether Henderson concludes that a violation was committed. Such release of information may only include the alleged student’s/responding student’s name, the violation committed, and the sanctions assigned (if applicable).

In cases where Henderson determines through the student conduct process that a student violated a policy that would constitute a “crime of violence” or nonforcible sex offense, Henderson may also release the above information publicly and/or to any third party. FERPA defines “crimes of violence” to include:

- Arson
- Assault offenses (includes stalking)
- Burglary
- Criminal Homicide—manslaughter by negligence
- Criminal Homicide—murder and nonnegligent manslaughter
- Destruction/damage/vandalism of property
- Kidnapping/abduction
- Robbery
- Forcible sex offences
- Non-forcible sex offences

Failure to Complete Conduct Sanctions

All students, as members of the Henderson community, are expected to comply with conduct sanctions within the timeframe specified by the Director of Community Standards or designee or Panel Chair. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions and/or suspension from Henderson State University. In such situations, resident students will be required to vacate Henderson housing within 24 hours of notification by the Director of Community Standards or designee though this deadline may be extended upon request to, and at the discretion of the Director of Housing and/or the Director of Community Standards or designee. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. This determination will be made by the Director of Community Standards or designee.

Appeal Review Procedures

Any party may request an appeal of the decision of the Panel by filing a written request to the Vice President of Student Affairs and Student Success or designee, subject to the procedures outlined below. All sanctions imposed by the original hearing body remain in effect, and all parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision.

Grounds for appeal requests. Appeals requests are limited to the following grounds:

- Alleged failure of the hearing panel to follow the procedures set forth in the Student Community Standards that significantly impacted the outcome of the hearing; or
- Consideration of new evidence that was not reasonably available at the time the hearing panel considered the case that could have substantially impacted the original finding or sanction. A summary of this new evidence, a statement explaining why the evidence was not previously available and its potential impact must be included.

Appeals must be filed in writing with the Vice President of Student Affairs and Student Success or designee within three (3) business days of the notice of the outcome to the hearing. Any exceptions are made at the discretion of the Vice President of Student Affairs and Student Success or designee.

The Vice President of Student Affairs and Student Success or designee may notify the other party to the complaint of the appeal, if he or she deems it appropriate or when required under applicable law. The Vice President of Student Affairs and Student Success or designee shall notify the President, who shall appoint an Appeal Review Officer to consider the appeal. The Director of Community Standards or designee will draft a response memorandum to the appeal request(s) and submit it to the Appeal Review Officer.

The Appeal Review Officer will conduct an initial review to determine if the appeal request meets the limited grounds and is timely. The Appeal Review Officer may consult with the Director of Community Standards or designee on any procedural or substantive questions that arise.

If the appeal is deemed not timely or substantively eligible by the Appeal Review Officer, the original finding and sanction will stand and the decision is final. This decision is not subject to appeal. The Vice President of Student Affairs and Student Success or designee shall notify the appellant in writing.

If the appeal is deemed timely and is substantively eligible by the Appeal Review Officer, the Appeal Review Officer shall refer the appeal to the Appeals Panel or remand the appeal to the original decision-maker(s) (i.e. hearing panel or Director of Community Standards or designee in the case of an administrative hearing). Efforts should be made to use remand whenever possible, with clear instructions for reconsideration only on specified appeal grounds. When the original decision-maker(s) may be unduly biased by a procedural or substantive error, an Appeals Panel will be constituted to hear the appeal according to the scope and appeal grounds specified by the Appeals Review Officer. When new evidence is presented, the Appeals Review Officer will determine if the matter should be returned to the original decision-maker for reconsideration or if it should be reviewed by an Appeals Panel according to the scope and appeal grounds specified by the Appeals Review Officer. In the review of all appeals, the original finding and sanction shall be 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 according to the scope and appeal grounds specified by the Appeals Review Officer.

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 scope and appeal grounds specified by the Appeals Review Officer. Procedural or substantive errors should be corrected, and new evidence should be considered.

The decision(s) of the Appeals Panel or the original decision-maker considering the appeal is final and not subject to further appeal. The Appeals Review Officer will communicate the decision to the complainant and the responding party.

The decision(s) of the Appeals Review Officer is not subject to appeal.

The appeals panel. The Appeals Review Officer will select three members from the membership of the Judicial Committee to serve on an Appeals Panel, with the following requirements to serve:

- they did not serve on the Hearing Panel for the initial hearing,
- they were not involved in the investigation in any way, and
- Student members of the appeals panel must 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 Vice President of Student Affairs and Student Success or designee will have final authority to approve all those serving on an appeals panel. The non-voting advisor to the panel is the Vice President of Student Affairs and Student Success or designee with responsibility for training the panel, conducting preliminary investigations, and ensuring a fair process for the party bringing the complaint and responding student.

Decisions made, and sanctions imposed, by the panel or an AHO will be final and implemented, pending the normal appeal process. At the discretion of the Director of Community Standards or designee, implementation of sanctions may be stayed pending review.

Other guidelines for appeals.

- The complainant and responding student will be informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision in a timely manner;
- In most cases, appeals are not full re-hearings of the complaint. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal.
- Appeals are not an opportunity for appeals panelists to substitute their judgment for that of the original decision-maker merely because they disagree with the finding and/or sanctions. Appeals decisions are to be deferential to the original decision-maker, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.

Disciplinary Records

All conduct records are maintained by Henderson State University for seven (7) years from the time of their creation except those that result in separation (suspension or expulsion, including from housing).

Notification of Other University Offices of Expulsion, Suspension and Deferred Suspension for Certain Students

In the event a student has been expelled, suspended or placed on deferred suspension, the Director of Community Standards or designee must determine if the student is a student-athlete or an international student present on a student visa. If the student being expelled, suspended or placed on deferred suspension is a student-athlete, the Director of Community Standards or designee is required to notify the Department of Athletics' Director of Compliance.

If the student being expelled, suspended or placed on deferred suspension is an international student, the Director of Community Standards or designee is required to notify the Office of International Programs. The Director of Community Standards or designee will communicate the suspension or expulsion to the Registrar's Office and Housing.

Implementation

This version of the *Student Community Standards* is effective as of January 12, 2021 and replaces all previous versions.