

Office/Contact: Office of Student Affairs

Source: SDBOR Policy 3.4.1

Link: <https://public.powerdms.com/SDRegents/tree/documents/1680638>

Associated Forms: Incident Report Form; Conduct Appeal Form; Hearing Plea Form

SOUTH DAKOTA STATE UNIVERSITY
Policy and Procedure Manual

SUBJECT: Student Conduct Code

NUMBER: 3:1

1. Purpose

The University is committed to creating and maintaining a productive living-and-learning community that fosters the intellectual, personal, cultural, and ethical development of its Students. Self-discipline and respect for the rights and privileges of others are essential to the educational process and to good citizenship. The purpose of this policy is to educate Students about their civic and social responsibilities as members of the University community. The primary focus of the Student conduct process is on educational and corrective outcomes; however, conduct sanctions such as suspension or expulsion from a University may be necessary to uphold community standards and to protect the campus community. Extensive, organized, serious, or repeated violations of this policy are taken into account when determining conduct sanctions. This policy (hereinafter referred to as “Student Code”) implements and is governed by and subject to SDBOR Policy 3.4.1.

2. Definitions

a. Advisor: a person of the Student’s choosing who has agreed to advise a Student throughout the Student conduct process. The Advisor may be a Faculty Member, staff member, Student, attorney, family member, or anyone else. The Advisor is limited to advising the Student directly and is not permitted to speak to anyone else, or participate directly in any hearing. Students should choose an Advisor who is available to attend any scheduled meetings or hearings because Advisor availability is not considered in scheduling meetings or hearings.

b. Appellate Board: any person or persons authorized by the University President to consider an appeal from the Chair’s determination that a Respondent has or has not violated the Student C3 (17 (r)g (t)-2)2 (n)12ndd(i)6Tc -0.002 spude2.6 (4.9 ((o)-6 ()JTJ0 TB(.)1i(ppe)-1.

- iii. Has sole discretion to determine whether a Respondent has violated the Student Code, and if so, to impose appropriate sanctions.
- d. Complainant: an individual who was allegedly injured by an alleged violation of the Student Code by a Respondent.
- e. Day: includes Monday through Friday, except for holidays and other times when the University's administrative offices are closed.
- f. Faculty Member: any person hired by the University to conduct classroom or other academic activities.
- g. FERPA: the Family Educational Rights and Privacy Act of 1974, as amended.
- h. Human Rights Violations: refers to violence, harassment that is not sexual harassment as defined in University Policy 4:4, stalking, discrimination, and retaliation under this Student Code.
- i. University Official: any person employed by the University, performing assigned administrative or professional responsibilities.
- j. University Premises: all land, buildings, facilities, and other property in the possession of, or owned, used, or controlled by the University, including adjacent streets and sidewalks.
- k. Member of the University Community: any person who is a Student, Faculty Member, University Official, any person employed by the University, a volunteer, or guest. A person's status in a particular situation shall be determined by the Senior Student Affairs Officer.
- l. Notice: as required by this Student Code, notice shall be provided in writing via email to the Student's official University email account. Notice is deemed received the day after it is sent by email.
- m. Organization: any Student group that has been granted University registration or recognition.
- n. Policy

be sanctioned for violating alcohol consumption prohibitions found in the Student Code related to that incident, as long as the Student completes the following requirements:

1. Participates in an initial meeting with the Senior Student Affairs Officer, or designee; and
 2. Completes all recommendations from the Senior Student Affairs Officer, or designee; and
 3. Submits proof of completion of all recommendations within the time frame designated by the Senior Student Affairs Officer, or designee, at the initial meeting.
- iii. A bystander Student who has engaged in alcohol consumption and who seeks emergency medical attention for someone else, or tries to actively engage in assistance for someone else for that person's alcohol-related consumption will not be sanctioned for violating alcohol consumption prohibitions found in the Student Code related to their own consumption but will be invited to meet with the Senior Student Affairs Officer, or designee.
- iv. The University will not pursue any disciplinary action related to any alcohol or drug consumption against any Student who has been sexually assaulted or sexually harassed, for their use of alcohol at the time of the sexual assault or sexual harassment.
- v. 3.c.ii. and 3.c.iii. of this section will only apply to a Student who seeks emergency medical attention before police or University employees or agents take any official action or intervention related to the alcohol consumption.
- vi. Alcohol amnesty does not preclude disciplinary action regarding other violations of the Student Code.
- vii. Alcohol amnesty only applies to the University's Student conduct process. It does not apply to any criminal, civil, or other legal consequence for violations under federal, state, or local law.
- viii. Alcohol amnesty is not designed to protect or shield those Students who repeatedly violate the Student Code. The Senior Student Affairs Officer, or designee, may assess each situation on a case-by-case basis, denying the

civil process or their outcomes.

- ii. When the alleged misconduct includes allegations of Human Rights Violations, the disciplinary process will not be delayed except when law enforcement requests a delay to conduct the fact-finding portion of its investigation.
- iii. Determinations made or conduct sanctions imposed under this Student Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of this Student Code were dismissed, reduced, or resolved in favor of, or against, the criminal law defendant.
- iv. When a Student is charged by federal, state, or local authorities with a violation of law, the University will not request or agree to special consideration for that Student because of his or her status as a Student.
- v. If the alleged violation of law also gives rise to Student disciplinary action under this Student Code, the University may advise off-campus authorities of the existence of the Student Code and of how such matters are typically handled under the Student Code.
- vi. The University will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law and in the conditions imposed by criminal courts for the rehabilitation of Student violators, provided that the

- iv. The Student Code should be reviewed periodically under the direction of the Senior Student Affairs Officer, or designee.

f. Prohibited Conduct

- i. The following sections describe actions that detract from the effectiveness of the University's productive living-and-learning community. Any Student found to

- b. [3.f.ii.1.b.] Plagiarism includes, but is not limited to the following:
 - i. Using, by paraphrase or direct quotation, the published or unpublished work of another person without full and clear acknowledgement;
 - ii. Using materials prepared by another person or agency engaged in the selling of term papers or other academic materials without prior authorization by the instructor; or
 - iii. Engaging in other behavior that a Reasonable Person would consider plagiarism.
- 2. [3.f.ii.2.] Engaging in other conduct that a Reasonable Person would consider dishonesty relating to academic achievement, research results, or academically related public service.
- 3. [3.f.ii.3.] Furnishing false information or false representations to any University Official, instructor, or office. Submission of false information or withholding information at the time of admission or readmission may make an individual ineligible for admission to, or continuation at, the University.
- 4. [3.f.ii.4.] Forging, fabricating, altering, misrepresenting, or misusing any

- a. Falsifying, distorting, or misrepresenting information provided;
 - b. Making false allegations;
 - c. Attempting to discourage an individual's proper participation in, or use of, the Student conduct process;
 - d. Harassment (verbal or physical) or intimidation of any person participating in the Student conduct process;
 - e. Failure to comply with any conduct sanctions imposed pursuant to the Student Code.
6. ~~3.15) C. Exhibiting (displaying) conduct (SMC) as disruptive to the conduct process.~~

- a. Conduct toward another person that is severe and pervasive and objectively offensive

- c. Involves the consumption of alcohol or other substances to excess; or
 - d. Violates any SDBOR or University Policy.
 - e. The express or implied permission of the individual being hazed does not make the behavior acceptable. It is also a violation of this provision to solicit, aid, or attempt to aid another person in planning or committing hazing.
9. [3.f.v.10.] Voyeurism, which includes, but is not limited to, any use of electronic or other devices to make an audio, video, or photographic record of another person without that person's prior knowledge and without that person's prior authorization when such a recording is likely to cause that person or a Reasonable Person injury or distress, or involves that person's intimate parts or sexual conduct involving that person.
10. [3.f.v.11.] Invasion of privacy, which occurs when:
- a. An individual views another person, without that person's prior knowledge and permission, under circumstances in which the other person has a reasonable expectation of privacy; or
 - b. An individual uses an audio or video device to record another person, without that person's prior knowledge and permission, under circumstances in which the other person has a reasonable expectation of privacy.
 - c. In accordance with South Dakota law, no person may use or disseminate in any form any visual recording or photographic device to photograph or visually record any other person without clothing or under or through the clothing, or with another person depicted in a sexual manner, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to self-gratify, to harass, or embarrass and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy. Additionally, those who disseminate such material without the person's knowledge or consent, or create an unduly embarrassing, intimidating or hostile environment for the person depicted in an image, video or audio recording shall be subject to discipline.

However, social fraternities and sororities that are exempt from taxation under federal law may maintain single-sex membership practices without violating antidiscrimination policies, as recognized by 20 U.S.C. 1681(a)(6), and the enforcement of such single-sex membership practices by Students does not violate this provision.

2. [3.f.vi.2.] Retaliation, as set forth in University Policy 4:3, which includes conduct that would make a Reasonable Person feel intimidated, or that interferes with, threatens, coerces, or otherwise discriminates against any individual because that individual reports or files a complaint alleging a violation of law, SDBOR, or University Policy, or participates in any process in which the individual has a right to participate.

vii. Housing and Living Groups

1. [3.f.vii.1.] Violations of any rules imposed by University housing or living groups are also violations of this Student Code.

viii. Use and Misuse of Substances

1. [3.f.viii.1.] The unauthorized manufacture, sale, possession, use, or consumption of the following by Students:
 - a. [3.f.viii.1.a.] Alcohol;
 - b. [3.f.viii.1.b.] Marijuana (including cannabis used or possessed for medical purposes); or
 - c. [3.f.viii.1.c.] Controlled substances.
2. However, possession, use, or distribution of alcohol, marijuana, or controlled substances is permitted on University Premises when:
 - a. Needed in conjunction with approved research activities;
 - b. Alcohol is possessed, used, or distributed in a lawful manner inside a designated residence hall facility occupied exclusively by upper-division and/or non-traditional

prescription does not include a written certification for use of medical marijuana, pursuant to SDCL 34-20G-1(23). Students who use medical marijuana pursuant to a validly issued written certification when not on property controlled by the University may subsequently report to class or participate in activities as long as such use does not cause impairment or disrupt academic or campus activities.

e. Alcohol is possessed, used, or distributed in a manner that is expressly approved by a SDBOR or University Policy; or

3. [3.f.viii.3.] The unauthorized possession of any drug paraphernalia including, but not limited to, any equipment, materials, or products of any kind which are used, intended for use, designed for use, or have been used for the manufacture, distribution, use or storage of any controlled substance.

ix. Violation of Policy or Laws

1. [3.f.ix.1.] Violation of published SDBOR or University Policies, rules, or regulations.

2. [3.f.ix.2.] Violation of federal, state, or local law.

x. RESERVED

xi. Conduct by Organizations

1. Organizations that, formEMC /LBody <Tdm1nr Tc -Opfact &Type / 1.63 .9 (f)-4,6T1 1ct &

medical purposes), or controlled substances;

- d. Prohibit the informal collection of monies from members, associates, or invitees to be spent on alcoholic beverages, marijuana (including cannabis used or possessed for medical purposes), or controlled substances;
 - e. Prohibit possession, use, or distribution of alcohol, marijuana (including cannabis used or possessed for medical purposes), or controlled substances on University Premises, except as explicitly permitted by this Student Code;
 - f. Establish conduct policies and sanctions regarding violations by individual members no less stringent than those set forth under SDBOR or University Policies, except that limited use of alcoholic beverages is permissible as set out above; and
 - g. Require that a report be filed with the Senior Student Affairs Officer each semester identifying all actions taken pursuant to the Student conduct policies required in this Student Code.
3. The University may impose additional or more restrictive conditions on official recognition.
 4. Organizations are also subject to the SDBOR and University antidiscrimination policies, as set forth in SDBOR Policy 1.4.4 and

and University Policy 2:4.

2. Allegations of Human Rights Violations shall follow the process outlined in SDBOR Policy 1.4.3 and University Policy 4:6.

a. The investigator assigned must not have any actual or reasonably perceived conflicts of interest and biases for or against any party involved in the initial complaint. If the University determines that an actual or reasonably perceived conflict of interest does exist, another individual must lead the investigation on behalf of the University.

b. The investigator assigned must be trained to analyze and document the available evidence to support reliable decisions,

2. As to off-campus conduct, the Student Conduct Officer shall determine whether the incident adversely affects the University, any Organizations, members of the University community, or the pursuit of their lawful objectives.
 3. Allegations of academic misconduct that are not informally resolved pursuant to SDBOR Policy 2.9.2 and University Policy 2:4 will enter the Student Conduct process here.
 4. Allegations of Human Rights Violations that are not informally resolved pursuant to SDBOR Policy 1.4.3 and University Policy 4:6 will enter the Student Conduct process here.
- iv. If the Student Conduct Officer determines that either (i) the allegations, if true, would not violate the Student Code or (ii) that the allegations are not credible, then the Student Conduct Officer should inform the Complainant of this determination and inform the Complainant that the allegations may be re-submitted should additional information become available.
 - v. If the Student Conduct Officer determines that the allegations, if true, would violate the Student Code and determines that the allegations are credible and will be investigated, the Student Conduct Officer shall provide written notice to the Respondent within fifteen (15) days of receiving the report of alleged misconduct or notification from the Faculty Member of the need to address alleged academic misconduct through the Student Code.
 - vi. The written notice to the Respondent must include the following:
 1. The alleged behavior that would be a violation of the Student Code;
 2. The date and location of the alleged behavior;
 3. The section(s) of the Student Code alleged to have been violated;
 4. The name of the Complainant;
 5. A time to meet with the Student Conduct Officer to provide the Respondent with the opportunity to give their account of the incident leading to the allegation of misconduct;
 6. Information about the right to have an Advisor present throughout the Student Conduct process;
 7. Information about both the informal and formal resolution processes;
 8. A time for a hearing to occur no earlier than ten (10), and no later than twenty (20), days after this written notice is deemed received to address any alleged violations that are not informally resolved.
 - a. The minimum time limit may be waived by the Respondent.

- b. The maximum time limit may be extended at the discretion of the Student Conduct Officer.
 - vii. At the time that the written Notice to the Respondent is sent, a written notice shall also be sent to the Complainant containing the information about the right to have an Advisor present throughout the Student conduct process, information about both the informal and formal resolution processes, and the time for the hearing to address any alleged violations that are not informally resolved.
 - viii. The Student Conduct Officer will conduct an investigation of the allegations, which may include speaking with witnesses and reviewing any documentation. Only in instances where the Student Conduct Officer determines that there is sufficient evidence to establish that the Respondent violated the Student Code by a preponderance of the evidence will the allegations proceed to informal or formal resolution.
 - 1. For matters involving Human Rights Violations where an investigation was conducted pursuant to SDBOR Policy 1.4.3 and University Policy 4:6, no additional investigation is required.
 - 2. If the Student Conduct Officer determines that there is insufficient evidence to establish that the Respondent violated the Student Code by a preponderance of the evidence, the Student Conduct Officer will inform both parties of this fact and will cancel the hearing. This notification should also inform the parties that the investigation may be re-opened should additional information become available.
- c. Interim Measures
- i. In certain circumstances, the Senior Student Affairs Officer, or designee, may impose interim measures that go into effect immediately, prior to a hearing before a Student Conduct Panel, and remain in effect until no longer needed.
 - 1. Interim measures are intended to protect the interests of both the Complainant and the Respondent prior to a hearing. Interim measures may include, but are not limited to, no-contact directives, residence modifications, academic modifications and support, University work schedule modifications, interim residence suspension, or interim suspension. Interim measures that restrict the ability of either party to discuss the investigation should be avoided, as they may inhibit the ability of either party to obtain and present evidence or otherwise to defend their interests. Written Notice of interim measures shall be provided to the party to whom the interim measures are directed.

party over another, nor make such measures available only to one party.

- c. Interim measures should be individualized and appropriate based on the information gathered by the University, making every effort to avoid depriving any Student of their education.
 - d. The interim measures needed by each Student may change over time, and the Senior Student Affairs Officer, or designee, should communicate with each Student throughout the Student Conduct process to ensure that any interim measures are necessary and effective based on each Student's evolving needs.
2. Interim suspension may be imposed only for one or more of the following purposes:
 - a. To ensure the safety and well-being of members of the University community or preservation of University property or other property located on premises controlled by the University;
 - b. To ensure a Student's own physical or emotional safety and well-being; or
 - c. To ensure the normal operations of the University where a Student poses an ongoing threat of disruption of, or interference with, the normal operations of the University.
 3. During the interim suspension, the Student may be denied access to residence facilities, the campus (including classes), and all other University activities or privileges.
 4. A Student placed on interim suspension shall be given written notice of interim measures, which shall include:
 - a. The reasons for the interim suspension;
 - b. The parameters of the interim suspension; and
 - c. Information concerning the right to appeal the interim suspension.
 5. Interim Suspension Appeal Process
 - a. The Student must submit a written request for a meeting to the Senior Student Affairs Officer, or designee.
 - b. The Senior Student Affairs Officer, or designee, will schedule a meeting with the Student as soon as practical and no later than three (3) days after receiving the written request. At this meeting, the Student is provided the opportunity to raise any objections to

Conduct Officer's ability to later serve as the Student Conduct Panel or a member thereof in the formal resolution process.

6. Informal resolution may be reached at any time before the Chair issues any findings, conclusions, and, when a violation is found, conduct sanctions it determines to be appropriate through the formal resolution process.
 - a. If an informal resolution is reached, the Student Conduct Officer shall prepare written findings and conclusions, and any sanctions resulting from a violation during the informal resolution process. If the complaint included more than one allegation of misconduct, each allegation must have a separate decision.

e. Formal Resolution

- i. If the alleged misconduct is not fully resolved through informal resolution, any unresolved matter proceeds to a hearing.
- ii. The composition of the Student Conduct Panel shall be determined as follows:
 1. For matters where the Student Conduct Officer serves as Chair of the Student Conduct Panel, the Student Conduct Officer shall have sole discretion regarding whether the Student Conduct Panel includes:
 - a. Option 1: only the Student Conduct Officer; or
 - b. Option 2: the Student Conduct Officer and any University employee or employees or independent contractor authorized by the Senior Student Affairs Officer to determine whether a Student has violated the Student Code and to recommend imposition of conduct sanctions.
 2. For matters involving allegations of academic misconduct, the Student Conduct Panel must include at least one Faculty Member or academic administrator appointed by the Provost in the form described in Option 2 above.
 3. Both the Complainant and the Respondent will be provided notice of the identity of the member(s) of the Student Conduct Panel. Both parties may request in writing (and must include supporting information) that (i) the Student Conduct Panel include additional members (Option 2), and/or (ii) a Student Conduct Panel member be replaced due to an actual or reasonably perceived conflict of interest. Such requests must be submitted, in writing to the Senior Student Affairs Officer no later than twenty-four (24) hours after the notice is provided to the party. The Senior Student

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vii. The Complainant and the Respondent have the right to be assisted by an Advisor

generalizations should be avoided so that the hearing process proceeds objectively and impartially.

- xiii. The Student Conduct Panel shall prepare written findings to support its determination. If multiple allegations of misconduct exist, a decision should be reached separately for each allegation. These written findings shall include:
 - 1. Concise statements of each factual finding;
 - 2. Brief explanations of whether and why the factual findings support a conclusion that the conduct either violated or did not violate the Student Code (these must address each factual element that must be satisfied to establish that conduct has violated the Student Code);
 - 3. Any initial, interim, or final decisions by the University; and
 - 4. If a violation is found, recommendations of appropriate conduct sanctions and supporting rationale for the conduct sanctions.
- xiv. The Student Conduct Panel shall forward its written findings to the Chair. The Chair has sole discretion to adopt or reject any portion of the written findings.
 - 1. If any portion of the written findings is rejected, the Chair shall issue new written findings it determines to be appropriate for such portion(s), and will provide the Student Conduct Panel with an explanation for its decision.
 - 2. The Chair shall determine the effective date of any conduct sanctions imposed, which effective date should be on or after the exhaustion of the appeal as a matter of right. However, interim measures may remain in place, or be instituted, until the effective date of any conduct sanctions.
- xv. The Chair's written findings, and information about appeal rights, shall be provided to the Respondent. When FERPA allows, the Complainant will receive the permitted information simultaneously.
 - 1. In matters involving allegations of academic misconduct, the Chair's written findings shall also be provided to the Faculty Member.
 - 2. In matters involving allegations of Human Rights Violations, the Complainant must also be provided information about appeal rights.
- xvi. The audio record

2. In the event of an appeal, the Respondent shall be given access to the audio record for purposes of preparing an appeal. When the alleged misconduct involves allegations of Human Rights Violations, the Complainant shall be given access to the audio record for purposes of preparing an appeal. Access shall be provided at such places and times as the Senior Student Affairs Officer may direct.
3. Except as required by law, the University shall not be required to change the form in which the record is maintained.

f. Sanctions

i. Individual Conduct Sanctions

1. In each case in which the Chair determines that a Respondent has violated the Student Code, the Chair shall determine and impose appropriate conduct sanction(s). Where a violation of SDBOR or University Policy is established, and where a conduct sanction is mandated under SDBOR or University Policy, that conduct sanction shall be imposed.

- a. Conduct sanction decisions must be made for the purpose of deciding how

- c. Where the allegations against the Respondent would also constitute Human Rights Violations. In this circumstance, the rationale for the result must also be included.
- d. W

probation and the Student is less than twenty-one (21) years of age.

- iii. An emergency medical circumstance exists related to alcohol/drugs, even if no violation has occurred. Hospital personnel, family members, or friends may have also notified parents.

b. Parental notification will likely not occur when:

- i. The Student is twenty-one (21) years of age or older; and
- ii. The Student is merely reported to be involved in a violation of the alcohol/controlled substance policy. (Notification only occurs after a hearing has been conducted and a hearing officer/body has determined that the Student violated policy.)
- iii. The sanction for the policy violation is less severe than behavioral probation.

c. Decisions regarding parental notification are made by the Vice President for Student Affairs, or designee, in consultation with the appropriate reporting parties.

d. Notification, except in emergency circumstances, will be done in writing by the Vice President for Student Affairs, or designee.

e. Students will be sent notice in writing of a parental notification letter. Such correspondence will be sent seven (7) calendar days in advance of the parental notification letter being sent.

f. In all cases, the parent or guardian listed by the Student on University records will be the individual notified. Notification of other interested parties is the responsibility of the Student and/or the parent or guardian or record.

ii.

2. Behavioral Probation – Behavioral probation is for a designated period of time and includes the probability of more severe conduct sanctions if the Respondent is later found to have engaged in any additional violation(s) of the Student Code during the probationary period.

1. Those conduct sanctions listed above in 4.e.i. and 4.e.ii.

h. Appeals

i. Appeal as a Matter of Right

1. The Respondent may appeal a decision reached by the Chair. In matters involving allegations of Human Rights Violations, the Complainant may also appeal a decision reached by the Chair. The appeal must be in writing and must be submitted to the Senior Student Affairs Officer no later than five (5) days after notice of the Chair's decision is deemed received.
2. The written appeal must cite at least one (1) of the following reasons for review and must include supporting arguments and documentation as to why an appeal should be granted on those grounds:
 - a. The original hearing was conducted unfairly to the point that it substantially and materially affected the outcome;
 - b. Using the facts found by the Chair, the conclusion regarding whether there was a violation(s) of the Student Code was incorrect;
 - c. The conduct sanction(s) imposed were not appropriate for the violation of the Student Code that the Respondent was found to have committed; and/or
 - d. New information that was unavailable at the time of the hearing has been discovered and could substantially and materially affect the outcome.
3. An appeal shall be limited to a review of:
 - a. The verbatim record of the initial hearing;
 - b. Supporting documents submitted as part of the initial hearing; and
 - c. Supporting documents submitted in support of the appeal reason(s).
4. The Senior Student Affairs Officer, or designee, will provide the other party a copy of the appeal and a reasonable amount of time to submit any materials to be considered.
5. The Senior Student Affairs Officer, or designee, will provide the Appellate Board with the materials submitted. The Appellate Board will

- d. New information that was unavailable at the time of the hearing has been discovered and could substantially and materially affect the outcome.
4. The University President has sole and complete discretion as to whether to agree to review an appeal, including what materials to consider. However, the President will not consider any reasons for review that were not previously raised in the appeal to the Appellate Board.
5. If the President agrees to review an appeal, the President will provide the other party/parties a copy of the appeal and a reasonable amount of time to submit any materials to be considered.
6. The President will provide a written decision to the parties, and to the Senior Student Affairs Officer. The decision may be a substantive one, or may merely indicate that the President has declined to review the appeal.
 - a. The President may return the matter to the Senior Student Affairs Officer or hearing panel for reconsideration, or to the Title IX/EO Coordinator for additional investigation, in light of the written decision.

- a. If the SDBOR Executive Director agrees to review an appeal, the SDBOR Executive Director will provide the other party a copy of the appeal and a reasonable amount of time to submit any materials to be considered.
 - b. The SDBOR Executive Director will provide a written decision to the parties, and to the University President.
 - c. The SDBOR Executive Director may return the matter to the University President, Senior Student Affairs Officer, or hearing panel for reconsideration or to the Title IX/EO Coordinator for additional investigation, in light of the written decision.
5. An appeal submitted to the SDBOR Executive Director must be considered by the SDBOR where a Student has been expelled or suspended based upon alleged violations of this policy or SDBOR Policy 3.4.1; or a disciplinary action allegedly deprived the Student of a right or privilege protected by a specific term or provision of SDBOR or University Policy or state or federal constitution, law, or regulation.
- a. The SDBOR Executive Director will have fifteen (15) working days within which to attempt, at their discretion, a resolution through informal means.
 - b. If no informal resolution has been effected within the fifteen (15) working days, the SDBOR Executive Director will refer the matter to a hearing examiner for reconsideration pursuant to SDCL § 1-26 using the contested case proceedings. At the conclusion of the contested case proceedings, the hearing examiner will provide a recommendation to the SDBOR Executive Director for the disposition of the matter by the SDBOR.
 - c. Contested case proceedings may be conducted under protective orders entered pursuant to SDCL §§ 1-26-19 and 15-6-26(c).
 - d. The SDBOR may return the matter to the University President, Senior Student Affairs Officer, or hearing panel for reconsideration or to the Title IX/EO Coordinator for additional investigation, in light of the written decision.

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5. Responsible Administrator

The Vice President for Student Affairs, or designee, is responsible for the annual and ad hoc review of this policy. The University President is responsible for approval of this policy.

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