

# DEFIANCE COLLEGE ANTI-HAZING POLICY

## INTRODUCTION AND RATIONALE FOR POLICY

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

### 1. Hazing Policy

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

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

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

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

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

## **2. Notice/Complaints of Hazing**

**Identifying Acts of Hazing:** Key indicators:

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

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

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

### **Dean of Students and Title IX Coordinator:**

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

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

(419) 783-2587 or [lmarsalek@defiance.edu](mailto:lmarsalek@defiance.edu)

### **Deputy Title IX Coordinators:**

**Mary Burkholder, Director of Human Resources**

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

(419) 783-2360 or [mburkholder@defiance.edu](mailto:mburkholder@defiance.edu)

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

132 McCann Center, 701 N. Clinton St, Defiance, OH 43512

(419) 783-2563 or [jwalton@defiance.edu](mailto:jwalton@defiance.edu)

- 2) Report online, using the reporting form posted at <https://www.defiance.edu/communication-information.html>. Anonymous reports are accepted but can give rise to a need to investigate to determine if the parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. Defiance College tries to provide supportive measures to all Reporting Parties, which may be impossible with an anonymous report that does not identify the Reporting and/or Responding Party.

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

### **3. Supportive Measures**

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

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

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

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

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

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

#### **4. Emergency Removal**

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

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

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

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

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

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

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

## 5. Promptness

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

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

## 6. Confidentiality/Privacy

Every effort is made by Defiance College to preserve the confidentiality of reports.<sup>[1]</sup> The College will not share the identity of any individual who has made a report or complaint of hazing or retaliation; any Reporting Party; any individual who has been reported to be the perpetrator of hazing; any Responding party, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

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

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

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

Confidentiality and mandated reporting are addressed more specifically below.

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<sup>[1]</sup> For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of Defiance

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

## **7. Jurisdiction of Defiance College**

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

## **8. Retaliation**

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

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

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

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

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

## **9. Mandated Reporting**

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

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

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

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

### **a. Confidential Resources**

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

- Director of Counseling & Accessibility Services, Kris Knight: 419-783-2548
- Accessibility Services Coordinator and Staff Clinician, Jessica Flores 419-783-2445

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

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

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

#### **b. Mandated Reporters and Formal Notice/Complaints**

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

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

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

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

#### **10. False Allegations and Evidence**

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

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

### **11. Amnesty for Complainants and Witnesses**

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

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

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

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

### **12. Training**

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

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

#### **A.**

#### **B. Notice to the Defiance College**

The institution may receive notice of an allegation or potential violation of this or other related policies in a number of ways, including, but not limited to:

- The filing of an incident report with the appropriate College department or official, including self-reporting.
- Any Responsible Employee is made aware of any potential violation of this or other related policies.
- Any Responsible Employee observes any potential violation of this or other related policies.
- Any Responsible Employee is aware of an Recognized Student Organization's (RSO) climate or culture that may indicate a probability of violations of this or any other related policies.

(Responsible Employee is defined as any person employed by the College who:

- Has the authority to take action to address any violation of policy;
- Has the duty to report any type of misconduct to appropriate officials; or
- Is someone who a student could reasonably believe has this authority or responsibility)

#### **C. Self-Reporting of Individual Misconduct and Amnesty**

RSO leadership are encouraged to immediately report any violations committed by members of the RSO of this or other Defiance College policies to the Dean of Students Office. This report should provide a detailed description of the events that transpired, the names of any individuals involved, and a description of any internal disciplinary actions taken by the RSO. If RSO chooses to self-report behavior in this manner, the Dean of Students or designee will only investigate the individual(s) implicated in the report. Unless information discovered in the investigation suggests that the incident was aided, abetted, sanctioned or organized by the RSO, the investigation will be limited to the individuals implicated in the self-report and not the RSO. However, if information is uncovered in the investigation that suggests that the RSO aided, abetted, sanctioned or organized the event, the Dean of Students or designee may launch a formal investigation of the RSO.

Students who make a complaint under this policy or who participate in an investigation related to this policy will not be charged with other minor College policy violations that are brought to light in the course of the investigation that arose out of, or were committed as a direct result of, the incident(s) under investigation (i.e. students forced to consume alcohol as part of a hazing incident will not be charged with violations of the College's alcohol policy) as long as those behaviors do not represent a threat to the health, safety or well-being of others. The College reserves the right to follow up with students related to those issues as appropriate in a non-disciplinary setting.

#### **D. Preliminary Inquiry**

Upon receiving notice of an alleged violation of this or other College Policies involving a RSO, the Dean of Students (or designee), in consultation with the appropriate College departments, will conduct a preliminary assessment to determine if there is a reasonable basis for conducting an investigation into the alleged violations of College Policies. This initial assessment will include a review of the information reported. This may include, but is not limited to:

- interview(s) with the person(s) who made the report.
- review prior conduct history of the RSO and relevant members.
- gather information that would corroborate elements of the report.
- review of any materials related to the report.

Once a determination has been made that the alleged violations warrant a more comprehensive investigation or response, the Dean of Students or designee will notify the RSO in writing to outline the alleged violations, the resolution options based on alleged violations, and to schedule an educational conference (if applicable). This notification will also be sent to RSO Advisor(s), any relevant College departments, and if applicable, the RSO inter/national governing body.

If the Dean of Students or designee determines that no investigation is necessary, the report is documented and administratively closed. The Dean of Students or designee may, at their discretion, notify the RSO of the information received and that the matter is closed. In these cases, the Dean of Students or designee may choose, at their discretion, to maintain the confidentiality of any reporting party(ies).

#### **E. Interim Measures**

In cases where it is determined that certain continued operations of a RSO constitute a reasonable threat of harm to individuals, damage of College premises, or disruption to the educational mission of the Defiance College, the Dean of Students or designee may issue interim measures, up to and including an interim suspension of all RSO activities, pending final disposition of the matter. Upon issuance of an interim measure, the Dean of Students or designee will notify the RSO representative and other appropriate parties in writing.

If a RSO wishes to seek a review of these interim measures, the RSO must submit a written request for an administrative review to the Dean of Students or designee. This administrative review should happen within five (5) business days of the College's receipt of the request. This administrative review is not a hearing on the merits of the underlying allegations, but is merely a review to determine what, if any, interim measures are appropriate. The review may lead to a continuance, revocation, and/or modification of the interim measures, including modifications that may be more restrictive than the initial measures. Defiance College will notify RSO leadership of the outcome of the review in writing within three (3) business days of the review meeting. This notification will include the College's decision and the rationale for that decision.

If the College investigation lasts beyond 30 days (as outlined below, beginning from the date of the Educational Conference), the RSO may request another review of the interim measures, which will be handled similarly to the initial request for review as outlined above.

#### **F. Resolution Options**

Upon notice of a potential violation, the Dean of Students or designee will assess the allegations to determine the applicable resolution options available to address the alleged policy violations. In so doing, the Dean of Students or designee may make use of a Violation Rubric. If utilized this Violation Rubric provides recommended adjudication models for various types of violations of this Code. The determination of resolution model will include consideration of the following:

- the severity of the alleged violations
- the risk of harm to other persons
- the conduct history of the RSO
- current status of the RSO
- any other relevant factors.

The Violation Rubric provides three levels of process associated with resolving alleged violations of this Code: Prescribed Resolution, Partnership Process Resolution, and Formal Investigation. An Educational Conference will be used when the Partnership Process Resolution or Formal Investigation options are utilized. The Dean of Students or designee may, at any time, determine that a case should be moved from a lower tier to a formal investigation.

### **G. Early Resolution**

In certain cases, there may be a determination by the Dean of Students or designee that there is insufficient evidence to proceed with an investigation, and/or the information collected, even if true, would not constitute a violation of policy. Early resolution is not a determination of responsibility, and is not recorded as a prior determination of such. However, if the behavior may constitute a violation of policies of inter/national governing bodies with which the RSO is affiliated, and the Dean or designee is aware of this affiliation, the Dean or designee may, at their discretion, forward the information to the appropriate body.

In these cases, the dean or designee may choose to meet with the RSO representative and any other appropriate parties to discuss behavioral expectations. The Dean of Students or designee may suggest proactive educational and/or developmental measures designed to assist the RSO.

However, if Defiance College receives additional information related to the matter that was resolved by early resolution, the College reserves the right to reopen the matter and proceed with investigation and adjudication.

### **H. Prescribed Resolution Process**

In certain cases, the Dean of Students or designee, in reviewing the allegations, may determine that the allegations constitute a violation of policy(ies), and these violations fall under Level 1 of the Violations Rubric. Violations that fall under Level 1 of the Violations Rubric have prescribed outcomes associated with them. In these cases, the Dean of Students or designee may send an outcomes letter to the RSO representative and any other appropriate parties outlining the determination, the outcomes, and the rationale for both.

Upon receipt of this letter, the RSO may do one of the following:

- Accept the determinations and outcomes – in this case, the RSO will follow the directives outlined in the outcomes letter and the matter will be considered closed once the

outcomes are completed. Failure to complete the outcomes may result in additional disciplinary action; or

- Decline to accept the determinations and outcomes – in this case, the matter will be forwarded for formal investigation and adjudication.

The RSO must notify the Dean of Students or designee of their choice from the above within two (2) business days of receipt of the letter.

In certain cases that might otherwise constitute a Level 1 violation, the Dean of Students or designee may determine that a different resolution option is warranted. This determination may be based upon the prior history of the RSO or its members, the RSO's current status, any patterns of behavior, or other factors deemed relevant.

### **I. The Educational Conference**

In those cases where the Violation Rubric would suggest a Partnership or Formal Adjudication Process, or in those cases that began with a Prescribed Outcomes Process but the RSO elects to have the case adjudicated through the Formal Adjudication Process, the Dean of Students or designee will schedule an Educational Conference with the RSO representative and RSO Advisor and other appropriate parties.

This meeting provides an opportunity for the leadership of the RSO, the RSO advisor(s) and the RSO inter/national governing body (if applicable) to discuss the nature of the allegations, the rights and responsibilities of the RSO, the resolution options available to the RSO based on the nature of the allegations, and the specific steps involved in the different resolution options. Participation in the Educational Conference is voluntary; however, the Dean of Students or designee, may proceed with the process in the absence of participation from the RSO.

In the event that the RSO needs additional time to select the preferred resolution option, the RSO will be given one business day following the Educational Conference to notify the Dean of Students or designee of the preferred resolution option. The Dean of Students or designee will make the final determination on the resolution option to be used in investigating and adjudicating the alleged violations.

### **J. Partnership Process**

For this resolution process, the RSO is given the opportunity to conduct an internal investigation. The Partnership Process will include the following:

- The Dean of Students or designee will, in consultation with the RSO representative and RSO advisor and other appropriate parties, develop an investigation scope and timeline based on the nature of the allegations.
- The RSO must conduct an investigation and submit a written investigative report within the agreed-upon timeline, barring exigent circumstances as determined by the Dean of Students or designee, or as otherwise specified in writing by the Defiance College.
  - Report should be detailed and specific, including the names of specific individuals involved in the alleged violation and any internal disciplinary action the

RSO has implemented relative to those individuals. The report must be submitted in writing electronically to the Dean of Students.

### **Report Review by Dean of Students or Designee**

The Dean of Students or designee will review the RSO's investigative report and will make one of the following determinations:

- The Dean or Designee agrees that the report is complete and will schedule a resolution meeting to discuss the report and findings and review next steps; or
- The Dean or Designee agrees that the report is complete, that the behavior in question is individual in nature, and the individuals implicated in the chapter report are forwarded for adjudication under the student code of conduct and the case involving the RSO is closed; or
- The Dean or Designee determines that the report is insufficient or incomplete, and provides feedback to the RSO and provides instruction for further investigation; or
- The Dean or Designee determines that the RSO has intentionally provided inaccurate or incomplete information, obstructed the process, or is otherwise non-compliant or uncooperative. The Dean of Students or designee will then determine whether to move forward with investigation and adjudication of the allegations under the Formal Resolution Process.

### **Partnership Process Resolution Meeting**

Once the Dean of Students or designee has determined that the report is complete, the Dean or designee will meet with the RSO representative and/or advisor (and other parties as appropriate i.e. inter/national governing body) and one of the following determinations will be made:

- No Policy Violation – If the RSO report determines that no policies were violated by the RSO, and the Dean of Students or designee accepts this determination, the process concludes for the RSO. Individuals implicated in the report may be forwarded for individual adjudication as outlined in the Student Code of Conduct.
- Responsibility Fully Accepted: If the RSO report determines that the RSO was responsible for all policy violation(s) that were alleged, and the Dean of Students or designee accepts this determination, the Dean of Students or designee will initiate the Determination of Outcomes process.
- Responsibility Partially or Not Accepted: If the RSO report determines that the RSO was responsible for some but not all, or for none of the policy violation(s) that were alleged, the Dean of Students or designee will make one of the following determinations:
  - The Dean of Students or designee may accept the determinations from the report and will move forward to the outcomes process solely on the allegations for which the RSO accepted responsibility if applicable; or
  - The Dean of Students or designee may not accept the determinations from the report and will move forward in investigating and adjudicating the matter under the Formal Investigation Process.

If individual students are identified at any point in the partnership process to have potentially violated any Defiance College policies, they may be individually referred to the Dean of Students or designee for investigation and adjudication.

Determinations of responsibility through the Partnership Process are final and may not be appealed.

### **K. Formal Investigation Procedures**

If the Dean of Students or Designee determines at any point that a formal investigation is necessary, the Dean of Students or Designee may assign the case to an investigator(s) for a formal investigation. The Dean of Students or designee will notify the RSO, the RSO advisor, and other appropriate parties that a formal investigation is being initiated.

During the course of the investigation, up to and including the five (5) day review period, the RSO may request to enter information into the record and may recommend specific witnesses to the investigator. Ultimately, determinations of relevance of information or witnesses will be determined by the investigator.

In completing the investigation, the investigator(s) may:

- Make contact (if possible) with the individual(s) who submitted the initial information.
- Interview any individuals with relevant information.
- Request relevant information from RSO members (i.e. screenshots of text messages or pictures/videos) and note whether or not RSO members were compliant in sharing requested information.
- Provide relevant information at any point during the investigation to the Dean of Students or designee related to interim measures.
- Require RSO members, or a select group of RSO members (i.e. all new members of the RSO) to participate in an interview and may restrict communication between RSO members during the interview (for example, sequestering RSO members in a room and prohibiting interview participants from using their cell phone or other devices during the interview/sequestration).
- Request students to undergo a physical examination by a campus health center staff member or other appropriate medical professional of the College's choosing and to sign a waiver allowing that medical professional to share a summary of the relevant results of that examination (e.g., physical abuse, BAC, drug usage, etc.). When possible, personally identifying information will be limited or redacted.

Students participating in a formal investigation process are expected to participate in an active, cooperative and truthful manner. Failing to participate in any fashion, including failure to provide requested information or testimony, may constitute a violation(s) of the Code of Student Conduct. Additionally, the investigators will document these failures and the Hearing Officer(s) may make any inferences based on these failures.

The College will complete the initial investigation in a period of no more than 30 days, barring any exigent circumstances. In the event that exigent circumstances arise that will require a

delay beyond 30 days, the College will notify the RSO representative of the delay, including the reasons for the delay and the anticipated timeline for completing the investigation.

At the completion of the investigation, the investigator(s) will provide a written draft of the investigation report to the Dean of Students or designee. The Dean of Students or designee will review that report for accuracy or thoroughness and, once complete, will share the draft of the report (with necessary redactions) with the RSO representative, RSO advisor, and any other appropriate parties for review and comment. The RSO must provide any comments related to the investigative report in writing to the Dean of Students or designee within five (5) business days of the receipt of the report, barring exigent circumstances as determined by the Dean of Students or designee. Upon receipt of these comments (if applicable) the Dean of Students or designee will generate the final report and share it with the RSO representative, advisor and any other appropriate parties at least five (5) days in advance of any formal resolution. The Dean of Students or designee will make the final determination of the relevance of any information gathered during the investigation.

Upon completion of the final report, the Dean of Students or designee will schedule a meeting with the appropriate RSO representatives to determine the appropriate adjudication process. At this meeting, the RSO may choose one of the following options for adjudication:

- **Informal Resolution** – the RSO may accept the findings of the investigation and determinations of the Dean of Students or designee based on the investigation report. If this occurs, the process will move forward to the outcomes process.
- **Formal Resolution** – the RSO may not accept the findings of the investigation and/or determinations made by the Dean of Students or designee. If this occurs, the RSO may choose to have the matter resolved through either an Administrative or Formal Hearing. Regardless of the hearing body selected, the RSO will be given a notice of the time, date and location of the hearing at least seven (7) days in advance of the hearing.
  - **Administrative Hearing** – the RSO may select to have the case adjudicated by a single administrator designated by the College. The hearing officer may elect to call and question witnesses as necessary, including the investigator(s) who compiled the investigative report. The RSO may question any witnesses called by submitting written questions to the hearing officer.
    - The RSO will be given the opportunity, in person or in writing, to submit or give a statement to the hearing officer and to respond to any information provided by witnesses.
    - The hearing officer may question the RSO representative.
    - The RSO may bring an advisor of their choosing to the hearing. The RSO advisor may not speak on behalf of the RSO, question witnesses, or actively participate in the hearing other than to advise the RSO representative.
    - The hearing officer will make determination of responsibility using a preponderance of evidence (more likely than not) standard of evidence.
  - **Formal Hearing Before Campus Judicial Committee (CJC)** – the RSO may request to have the case adjudicated by the Defiance College Campus Judicial Committee.

- The hearing officer may elect to call and question witnesses as necessary, including the investigator(s) who compiled the investigative report. The RSO may question any witnesses called by submitting written questions to the hearing officer.
- The RSO will be given the opportunity, in person or in writing, to submit or give a statement to the hearing officer and to respond to any information provided by witnesses.
- The hearing officer may question the RSO representative.
- The RSO may bring an advisor of their choosing to the hearing. The RSO advisor may not speak on behalf of the RSO, question witnesses, or actively participate in the hearing other than to advise the RSO representative.
- The hearing officer will make determination of responsibility using a preponderance of evidence (more likely than not) standard of evidence.

## **L. Outcomes**

At the conclusion of the resolution process (including the conclusion of any appeals process), if an organization accepts responsibility for violation(s) through the partnership or formal resolution process, or if the organization is found responsible for violation(s) through the formal resolution process, the Dean of Students or designee will schedule an outcomes meeting with the RSO representative, advisor, and other parties as applicable. The purpose of this meeting shall be to determine the outcomes necessary to effectively address the behavior of the RSO related to the violation(s) and will include the solicitation of input from the RSO representative, advisors, and all other interested parties.

At the completion of the outcomes meeting, the Dean of Students or designee will administer all Outcomes assigned to the RSO through the Partnership or Formal Resolution Process to the RSO representative and the RSO advisor in writing via an Outcomes Letter. The Outcomes may be assessed singly, in combination, or to follow consecutively. Outcomes will be communicated in writing by the Dean of Students or designee to the RSO and will list Outcomes assigned, including the length of any active status and/or rescission periods, the specific privileges impacted, and any and all other opportunities established as a part of the educational Outcomes.

The Dean of Students or designee will maintain the Outcome Letter in the RSO's record for a period of no less than seven (7) years. If a RSO loses campus recognition, the Dean of Students or designee will maintain the Outcome Letter indefinitely. If applicable, a copy of the Outcome Letter may be sent to their Inter/National Organizational Governing Body or other appropriate parties.

The Dean of Students or designee and/or the appropriate College department will oversee the completion of Outcomes. If the RSO misses any deadlines, fails to complete any Outcomes, and/or has a subsequent violation(s), the RSO may be subject to additional Outcomes and/or disciplinary actions at the discretion of the Dean of Students/designee.

The Outcomes implemented at the conclusion of the disciplinary process may include Status Outcomes, Educational Outcomes, or Structural Outcomes.

### **Status Outcomes**

Status Outcomes may include, but are not limited to:

- **Warning:** A Warning is given to notify a RSO that the behavior and conduct has been inconsistent with the expectations of the College. A warning has no immediate effect upon an RSO's status at the College and may be specified for a period of time. However, once given a warning, a RSO should expect different Outcomes to result from any subsequent violations, especially while on a current warning status when/if similar behaviors occur.
- **Restriction of Privileges:** Restriction of Privileges precludes an RSO from participating in certain activities or may require an RSO to forfeit specific privileges. A RSO under a status of Restriction of Privileges is not in good standing with the College. Restriction of Privileges may include, but is not limited to, loss or limitation of social events or limitation of ability to participate in Defiance College events or activities.
- **Disciplinary Probation:** Disciplinary Probation serves to notify a RSO that it must avoid any further violations for a specified period of time in order to avoid additional disciplinary action. RSOs on probation are not in good standing with the College. An RSO may be prohibited from participating in certain activities or forfeit specific privileges while on probation. If a RSO on probation is found responsible for any subsequent violations, the outcomes may escalate. Disciplinary Probation may include Restriction of Privileges.
- **Deferred Suspension:** Deferred Suspension is a status for a specified period of time during which any subsequent finding of Responsibility for a violation of the Code of Student Organization Conduct or any other College policy shall result in the Outcome of Suspension for the RSO. Deferred Suspension may include Restriction of Privileges.
- **Suspension:** Suspension is a status for a specified period of time that includes, but is not limited to, the revocation of the College's recognition of the RSO for a stated or an indeterminate period of time, cessation of College funding, restriction of all operations at the College, and restriction of use of College resources. If the RSO also holds a charter from an international organizational governing body, the College may also request that the international organization governing body, revoke the charter of the RSO.

A RSO placed on Suspension is prohibited from sponsoring, co-sponsoring, or participating in any and all social, intramural, athletic, or other similar activities on or off campus. A suspended RSO may not solicit or initiate any new members. Suspension may also include the forfeiture of other specifically listed privileges. Suspension should be for a specific and determined period of time, and will include a written return agreement outlining specific conditions for return. The Suspension may be delayed at the discretion of the Dean of Students or designee.

If the RSO dissolves or loses recognition, as a result of organizational conduct, and then attempts to seek recognition under the guise of a different organizational name, the College reserves the right to deny the request for recognition or withdraw the recognition. This conclusion may be based on any of multiple factors, including but not limited to, overlapping

membership, similarity of purpose, and the timing of the dissolution or prior loss of recognition and the request for new recognition.

Continued operation of the RSO after suspension or loss of recognition will result in a violation of Failure to Comply and may result in additional outcomes or restrictions, up to and including an extension of the Suspension beyond the terms originally outlined in the initial Outcomes Letter/return agreement.

A RSO that has completed a period of suspension and has met conditions for return as outlined in the return agreement may seek reinstatement by complying with the registration requirements of the appropriate Defiance College department.

### **Educational Outcomes**

Educational Outcomes may include, but are not limited to, educational programming, community service, interventions, restrictions, workshops, or other Outcomes determined to help develop the culture and community of the RSO. The Dean of Students or designee will determine Educational Outcomes after consultation with the appropriate Defiance College Office(s), the governing body and/or affiliated organization of the RSO, organizational leadership, advisors, and/or other appropriate stakeholders as necessary.

### **Structural Outcomes**

Structural Outcomes are related to the structure, membership or governance of the organization. Structural outcomes, developed in collaboration with the inter/national organizational governing body (if applicable), may include, but are not limited to, changes to RSO operating procedures, a review of RSO membership/leadership, an external RSO review, and changes to RSO advisor support. Structural Outcomes may be included alongside any Status and Educational Outcomes, but only after consultation with the appropriate Defiance College department(s), the RSO inter/national governing body (if applicable), the RSO representative, RSO advisors, and/or other appropriate stakeholders as necessary.

## **M. GROUNDS FOR APPEAL REQUESTS**

### **Requests for Appeal**

Requests for appeals must be submitted in writing to the Dean of Students or designee within three (3) business days, barring exigent circumstances as determined by the Dean of Students or designee, of the delivery of the written determination from the Adjudication and Resolution or the Outcomes Letter. No person involved as an original hearing officer or investigator may serve in this review capacity. The College's presumed position is that all sanctions will be implemented during the appellate process. The Dean of Students or designee may consider, upon request in writing, to stay or modify a sanction during the appellate process. Any stay or modification should be exercised only under exigent circumstances.

The Dean of Students or designee will review all requests to determine if the requests adequately meet the grounds for appeal (below).

The Appellant must meet one or more of the grounds below in order for the request to be passed on to the appellate body for consideration on the merits. The burden is on the Appellant to show the grounds are met using the preponderance of the evidence standard.

If there is another party involved in the matter (e.g., in matters where the incident involves Title IX or other civil rights discrimination), the Dean of Students or designee may share all or part of the appeal with the party to allow them to respond or submit their own request for appellate consideration. They will be required to respond within five (5) business days, barring exigent circumstances as determined by the Dean of Students or designee, of notice of the request for appeal.

If there is a challenge to any member of the process (e.g. a challenge of bias by an investigator or hearing officer), the Dean of Students or designee may share all or part of the appeal with the party in question to allow them to respond. They will be required to respond within five (5) business days, barring exigent circumstances as determined by the Dean of Students or designee, of notice of the request for appeal. If any new grounds for appeal are raised in any response, the Dean of Students or designee will determine whether to allow a short time for the RSO to submit a response.

The Dean of Students or designee serving in the reviewer role will issue their decision to allow the appeal to proceed in whole or in part or to deny the appeal within five (5) days of receipt of all information and responses, barring exigent circumstances.

Once forwarded, the Appeals Officer(s) will issue their decision within five (5) days of receipt of all information and responses, barring exigent circumstances. In instances where the appeal officer(s) needs additional time, the appeal officer shall notify the RSO representative, within the allotted time for issuing a decision.

## **Grounds for Appeal**

The RSO may file an appeal, as may an aggrieved party in the matter as determined by the Dean of Students or designee (e.g., a Sexual Misconduct matter covered under Title IX), to either the Finding issued in the Formal Resolution Process, or the Outcomes of either the Partnership or Formal Resolution Process, or both, but all appeals are limited to the following grounds:

- **Procedural Error:** A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.). Any challenge for bias must include: a) what the bias was, b) how the bias manifested itself, and c) how the bias significantly impacted the outcome. A mere allegation or determination of bias will not be sufficient to meet this ground for appeal.
- **New Evidence:** New evidence is information that was unknown or unavailable during the original hearing or investigation that could substantially impact the original finding or sanction. A summary of this new evidence, how it was previously unknown or unavailable, and its potential impact must be included.
  - If a person or RSO representative refused to testify or participate in the investigation and now wishes to submit their testimony as new evidence at the appellate level, that testimony will not be considered “new evidence” under this ground. The Dean of Students or designee serving as the reviewer of requests

for appeal may determine if the matter will be sent back for further investigation based on this request for appeal.

- **Appeal of the Outcome(s):** The Outcome(s) imposed is clearly outside the parameters for the violation(s) or are of such nature that the RSO could not reasonably complete them within the allotted time frame.

### **General Appellate Considerations**

The original finding and Outcome(s) are presumed to have been decided reasonably and appropriately.

In cases where there are other parties involved, if the Dean of Students or designee during the review phase or the Appeal Officer during the appellate phase, wishes to meet with a party or RSO representative, the other party will be notified and granted the same opportunity.

Appeals are not intended to be full re-hearings of the original allegation(s). In most cases, appeals are confined to a review strictly limited to the matters being appealed.

### **Appeal Conclusions**

An appeal that affirms the finding of the Formal Resolution process is final. An appeal that affirms the Outcomes is final.

An appeal that is granted for the appellant (or other party, when appropriate) based on new evidence should be remanded to the Dean of Students or designee or Hearing Officer for reconsideration, for rehearing, or for further investigation.

An appeal granted for the appellant (or other party, when appropriate) based on other grounds may either be remanded to the Investigator, Dean of Students or designee, or the original hearing officer(s), with instructions to further investigate, clarify findings, or remedy errors.

When an appeal is granted for the appellant (or other party, when appropriate) based on inappropriate Outcome(s), the appeal officer may alter the Outcome or remand with recommendations, to the Dean of Students or designee or the original Hearing Officer(s), as appropriate, to modify the Outcome(s). Such Outcome determination shall be final. Once an appeal is decided, the decision is final; further appeals are not permitted.

## **14. Glossary**

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

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

*Day: means a calendar day.*

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

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

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

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

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

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

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

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

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

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