

## **The College Code of Student Conduct and Disciplinary Processes**

Bates takes pride in the responsibility of its students and the social and educational atmosphere of its campus.

Bates College students are held responsible for their conduct at all times. Any student who engages in academic or social misconduct shall be subject to student conduct action by the Office of Community Standards and/or the Student Conduct Committee.

The College reserves the right to withdraw from any student the privilege of attending college at Bates for any lawful reason that the College deems appropriate.

The following considerations constitute the foundation of the College's justification for establishing expectations of student conduct, codifying those expectations, and adopting equitable processes for assessing student conduct.

1. The College's mission as a private residential educational institution establishes its identity as an independent community with a distinctive history and culture.
2. The Charter and By-Laws of the College charge the faculty with responsibility for the welfare of students and the conditions under which they are to live and learn.
3. The College's standards of conduct and the procedures for determining responsibility for misconduct reflect its particular mission and history. These standards and procedures do not attempt to duplicate civil and criminal legal processes, nor do they attempt to substitute for them. As an institution structured to accomplish its stated educational mission, the College has an independent interest in upholding standards of academic and social conduct, and these expectations may differ from those found in society at large. The College is committed to fundamental fairness in its student conduct procedures.
4. By the action of matriculation and registration at Bates College, students voluntarily enter an educational and residential community with standards of academic honesty and respect for persons and property. In choosing to enroll in the College, students become responsible in their conduct to those standards as stated in the Student Conduct Code.

The College may address student academic and social misconduct through its own processes and apply sanctions governing the terms of membership in the College. The College reserves the right to deal with misconduct whether or not law enforcement agencies are involved and/or criminal charges may be pending.

## Part I: Bates College Code of Student Conduct

The purpose of the Code is to express community standards of honesty, respect for persons and property, and responsible use of freedom. In addition, we seek to support each student in accessing the resources they need to be well. The Code reflects the College's mission and identity, and it exists to guide conduct, safeguarding and promoting the College's educational activity.

Students are responsible for reading and reviewing the Code of Student Conduct, and for understanding the responsibilities they assume by enrolling in the College.

For purposes of handling student conduct matters, a "student" is defined as someone who has matriculated and has not formally severed recognized student status with the College. Students retain this status throughout their careers at Bates, including academic terms, scheduled vacations, summer months, periods of leave, or off-campus study.

Student conduct action may not be brought against someone who has formally severed recognized student status with the College or who has graduated from the College except when such an individual may once again be a recognized student. The College reserves the right to at any time bar any non-current member of the Bates community from being on campus or participating in College-sponsored activities. In situations where it may not be possible to resolve a case prior to a student's graduation, the President (or designee) may cause the student's degree to be withheld until the case is fully resolved.

The College reserves the right to investigate and sanction alleged misconduct even when it occurs off campus. The College usually will apply the Code in instances where the off-campus misconduct:

1. occurs in connection with a College-sponsored event or when students are acting as representatives of the College, or
2. directly affects another member of the Bates community, or
3. suggests a potential danger or threat to others.

It is important that students know where to turn when they have questions, and for the College to be confident that those to whom they turn understand the student conduct system. In addition to the language of the Code itself, the College makes available a variety of resources: The Office of Community Standards, members of the faculty, the Judicial Educators, and Junior Advisors and Residence Coordinators (JAs and RCs). If a student has a general question about student conduct policy, JAs and RCs are able to provide helpful and accurate answers and may refer more detailed questions to other campus resources. For more detailed information, students may speak with the Judicial Educators, who have extensive familiarity with the student conduct process and who are prepared to explain it to students and faculty who become involved in any aspect of a student conduct matter. The Judicial Educators are not associated with the Office of Community Standards and do not determine any element of a case, but serve as an independent, informed resource for students (see Part III, A.3., below).

## **A. Bates College Statement on Academic Integrity**

Bates College is an academic community deeply engaged in inquiry and intellectual exchange and is committed to core principles of academic freedom, academic integrity and rigorous, creative scholarship. We recognize that intellectual and artistic exchange depend on a mutual respect for independent inquiry, reflection and expression. Faculty, staff, and students alike are therefore dedicated to fostering an environment that upholds the highest standards of fairness, integrity, and respect in all their academic endeavors.

As contributors to an ongoing scholarly and creative conversation that depends upon thoughtful and fair acknowledgment and treatment of the inquiries, reflections, and expressions of others, each member of the Bates community is expected to use and represent the work of others fairly and honestly; to acknowledge the work of others fully and accurately through proper attribution and citation; and to produce their own work unless collaboration is permitted. Faculty and staff members are expected to meet these standards in all their work as described in the employee and faculty handbooks; students are subject to the policies and procedures described below.

In educating students in the values, dispositions, and responsibilities of independent thinkers and scholars, the Bates faculty recognizes that certain scholarly practices reflect complex tasks that require instruction and practice. Faculty are committed to teaching these critical practices. Students, in turn, are responsible for learning these scholarly practices and demonstrating them in all their work; they are not only a means of showing learning but of developing genuine understanding, not only the mark of an independent scholar but the way to become one.

This policy statement outlines these principles and practices, roles, and responsibilities. Potential consequences for students are described in the [Bates College Academic Integrity Procedures](#).

### **Violations of Academic Integrity**

Violations of principles and practices of academic integrity fall into two subcategories: (1) plagiarism and misuse of sources and (2) cheating.

#### **1. Plagiarism and Misuse of Sources**

**Plagiarism** is the use without proper attribution of someone else's words, ideas or other work as if it were one's own. Failure to properly indicate and acknowledge the work of others can lead a reader, listener or viewer to think that information, research, ideas, words, images, data, artistic and creative elements, or other work are the student's own efforts, when they are not. Plagiarism significantly departs from accepted standards in the academic community and misleads others into thinking the work is the student's own.

**Misuse of sources**, like plagiarism, reflects failure to properly credit the work of others but involves errors, mistakes, incomplete, or inadequate attempts and other errors in citation, quotation, and attribution that would not seriously mislead others into thinking the work is the student's own.

Plagiarism and misuse of sources carry different consequences as described in [Bates College Academic Integrity Procedures](#).

The responsibility to give credit for material that would not qualify as common knowledge applies to almost all types of assignments and situations, not just papers, and not only to final work but also submitted drafts. Work in which students must acknowledge sources and the contributions of others includes but is not limited to draft and final versions of the following:

- talks and other oral presentations
- visual aids, presentation slides, or other media tools
- websites, Web pages, webcasts, and other multimedia work
- artistic, musical, and other creative work
- lab reports
- problem sets
- thesis chapters, papers, proposals, literature reviews, abstracts, annotated bibliographies, and other writing
- exams, including in-class and take-home exams.

## 2. Cheating

**Cheating** involves violating recognized norms for academic inquiry or specific norms established by faculty for particular assignments or using other methods, including technology, to gain unearned academic advantage. Examples of cheating include but are not limited to the following:

- unauthorized collaboration
- using materials not permitted during an exam, when writing a paper, or in completing other assignments
- receiving assistance beyond what is permitted
- manufacturing or falsifying data
- submitting the same work to satisfy the requirements of two different courses without getting permission from the instructor of the second course or permission from both instructors if the same work is submitted in two courses during a single semester
- knowingly providing assistance of any kind to another person who is attempting to cheat or plagiarize

Violations of academic integrity are among the most serious offenses that students can commit; any violation may result in consequences at both the course and institutional levels. Procedures, findings, and consequences for violations of academic integrity may depend on specific circumstances, such as the student's grade level, educational background, prior violation of academic integrity policies, attempts made to cite or acknowledge sources, and the amount and type of work at issue. Procedures and potential consequences for students are described in [Bates College Academic Integrity Procedures](#).

## **B. Social Misconduct**

**Bates College students are held responsible for their conduct at all times. Any student who becomes disorderly, is involved in any disturbance, interferes with the rights of others, damages property, or is individually or as a member of a group involved in unacceptable social behavior on or off campus may be subject to student conduct action by the Office of Community Standards and/or the Student Conduct Committee.**

### **General Categories of Social Misconduct**

Cases of social misconduct usually fall into one of several general categories. While not exhaustive, the following categories illustrate the expectations of the College and provide examples of misconduct subject to student conduct action. Many of these categories, and the accompanying examples, have a counterpart in the State of Maine Criminal Code. The stipulated definitions of state and local criminal codes and the processes of the criminal justice system are not part of the Bates Code of Student Conduct. Addressing a violation of the College's Code of Conduct does not exempt the individual from prosecution by proper authorities under criminal or civil code, and criminal or civil prosecution does not exempt the individual from being held accountable under the College's Code of Student Conduct.

#### **1. Actions Against Persons**

Conduct which involves force, threat of force, or intimidation directed at an individual or group of individuals may constitute an "action against persons" violation.

Examples of actions against persons violations include:

##### ***Assault***

- This includes any unwanted physical contact, as well as fighting and physical altercations.

##### ***Sexual Misconduct***

- Please refer to the College's [Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy](#) for detailed definitions regarding sexual misconduct violations (e.g., rape, sexual assault, dating violence, domestic violence, and stalking) and the procedures for adjudicating alleged violations.

##### ***Hazing***

- Following Ch. 159 of Maine Public Laws, 1983, Bates prohibits injurious hazing, defined as "any action or situation which recklessly or intentionally endangers the mental or physical health of a student. . . ." Specifically, hazing means an act that, as an explicit or implicit condition for initiation to, admission into, affiliation with, or continued membership in a group or organization, (1) could be seen by a reasonable person as endangering the physical health of an individual or as causing mental distress to an individual through, for example, humiliating, intimidating, or demeaning treatment, (2) destroys or removes public or private property, (3) involves the consumption of alcohol or drugs, or the consumption or other

substances to excess, or (4) violates any College policy. An act may be considered hazing regardless of the person's consent to participate.

### ***Harassment, Intimidation, or Bullying***

- This includes acts of intimidation, stalking, confrontation, verbal slurs, insults or taunts, physical force or threat of physical force made with the intention of causing fear, intimidation, ridicule, humiliation, disparagement, disruption to the educational environment, or damage to property. Such acts may be committed in person, by proxy, via telephone or cell phone, via text message, or any electronic means including social networking websites.
- For conduct concerns that may be related to a protected class (race, gender identity, sexual orientation, ability, national origin, religion, or other identity), please refer to the College's Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy for detailed definitions and the procedures for adjudicating alleged violations.

## **2. Actions Against Property**

Conduct which results in damage to property of another individual or of the College, or conduct which improperly converts another's property to personal use may constitute an "action against property" violation.

Examples of actions against property violations include:

### ***Theft***

- To steal or knowingly possess stolen property or any item reasonably thought to be lost and not abandoned.

### ***Damaging the property of another person or of the College***

- Students may be subject to student conduct action for damage to the property of another person or College property, including their own rooms, in addition to providing restitution for any monetary costs assessed by another person or the College to repair such damage.

### ***Illegally entering College facilities***

- This includes unauthorized possession, use, or duplication of College keys or cards, passwords, or other means of access.

## **3. Dangerous or Disorderly Conduct**

Conduct that is dangerous to self or others, or conduct that creates a disturbance or disrupts the ability of the College to carry on its essential functions may constitute a "dangerous or disorderly conduct" violation. In accordance with the Drug-Free Schools and Communities Act, the College's standards of

conduct prohibit the unlawful possession, use, or distribution of illegal drugs and alcohol by students and employees, on the College's property, or as part of any of its activities.

Examples of dangerous or disorderly conduct violations include:

***Illegally possessing, using, or distributing any scheduled drugs***

- Unlawful possession, distribution, or use of illegal drugs and narcotics, including amphetamines, marijuana, cocaine, heroin, and LSD, renders a student liable to disciplinary action, including confiscation of materials, student conduct action up to and including suspension and dismissal, and/or referral to local police authorities.

***Violating the College's alcohol policy***

- Bates College observes all laws governing the use of alcoholic beverages within the State of Maine. Students are held responsible for complying with all aspects of Maine laws and Bates alcohol policy. The prohibitions of the Bates Student Conduct Code and Maine law include, but are not limited to, the following:
  1. The sale of alcoholic beverages by any person who does not have a license to sell such beverages in full force and effect at the time of the sale;
  2. The sale of alcoholic beverages by any person to a person who has not attained the age of 21 years;
  3. Consumption or purchase of alcoholic beverages by any person who has not attained the age of 21 years;
  4. The furnishing of, procurement of or delivery of alcoholic beverages to a person who has not attained the age of 21 years;
  5. The furnishing of, procurement of, or delivery of alcoholic beverages to a person who is intoxicated;
  6. The presentation of any written or oral evidence of age which is false, fraudulent, or not a person's own for the purpose of ordering, purchasing, or attempting to purchase or otherwise procuring or attempting to procure intoxicating liquor by a person who has not attained the age of 21 years;
  7. Transportation by automobile within the state of Maine of alcoholic beverages by any person who has not attained the age of 21 years;
  8. Possession or use of a keg by any student on the premises of the College except at where the appropriate measures are in place to prevent underage consumption of alcohol;
  9. Possession or consumption of hard alcohol or any beverage containing hard alcohol by any student on the premises of the College, at any College-sponsored event, or while the student is engaged in a College-related activity.

Violations of College policy or Maine law at events or parties occur at the risk of the individuals involved and are not the responsibility of the College.

**Violators of these policies may be subject to student conduct action, including confiscation of materials, the revocation of the privilege of using College facilities for such events and/or referral to the Office of Community Standards or the Student Conduct Committee. The College reserves the right to involve law enforcement authorities and/or undertake legal proceedings against a student for the violation of this policy.**

The College will also utilize its mental health resources to help students involved with drugs and alcohol.

#### ***Possessing a weapon on campus***

- Weapons prohibited on campus include but are not limited to firearms, ammunition, knives, BB or pellet guns, bows, arrows, and slingshots. These items are not permitted except by permission of Bates College Campus Safety, which will register and store them. It is the responsibility of students to check with Bates College Security if there is a question of whether an item would be prohibited under this policy.

#### ***Fire safety violations***

- Possessing or producing explosives and setting fires are prohibited. Intentionally setting off a fire alarm, misuse of a fire extinguisher, or any action that might cause a fire in a College building will be considered a serious offense and may be met with student conduct action, including suspension or dismissal by the Student Conduct Committee. Firecrackers, flares, and explosives are prohibited on campus. Accidentally setting off a false fire alarm incurs a fine that increases for repeated incidents.

#### ***Disorderly conduct***

Conduct which infringes on the freedom and activities of others, or conduct which is disruptive, harassing, or a nuisance may constitute disorderly conduct.

#### ***Lake Andrews Use Policy***

Ice skating is permitted at the user's risk. Unless authorized by the college or as part of a college sponsored event, activities including swimming, rafting (including inflatables), boating of any type, and remote control vehicles are not permitted.

***Failing to leave a College building after a fire alarm has sounded or other notice of fire has been given, whether or not a drill.***

***Urination or defecation in any location not designated for that purpose.***

***Conduct which disrupts normal operations of the College and/or impedes access to College facilities.***



#### **4. Actions Against the Institution**

Conduct which involves the unauthorized accessing or alteration of documents and records controlled by the College, including class papers and examinations, or improper use of College electronic and physical resources, may constitute an “action against the institution” violation.

Examples of actions against the institution violations include:

***Altering a College ID***

***Tampering with College documents or records by hand or electronically***

***Misappropriation of College funds***

***Claiming falsely to represent the College or a College registered organization***

***Use of any College resources, including electronic and physical, in support of any for-profit enterprise. This may include access to student, staff, and faculty information, residence halls, and other campus-owned spaces, etc.***

***Information, network, computer, social media account, and telephone violations including violations of the Information & Library Services Acceptable Use Policy or any other related college policy. This includes the following policy:***

- In line with our shared values around Academic Integrity and Conduct as articulated in the Student Code of Conduct, we would like to remind you that screen capturing or making audio/video recordings of synchronous or asynchronous meetings, lectures, discussions, course materials, or other classroom activities without the prior knowledge and consent of all parties is prohibited. This applies to the use of tape or digital recorders, cell phones, smartphones, computers, and other devices capable of creating a screen capture or making audio/video recordings. Likewise, the editing, sharing, or use of recorded or digitally shared course content outside of their assigned or intended purpose is also prohibited. Students with disabilities who wish to record classroom activity should contact the Office of Accessible Education for information about appropriate protocols.

***Misrepresentation to gain access or use of a service or facility***

- Violations may include lying in order to gain access to a College building, office, lab, etc.

#### **5. Obstruction of College Procedures**

Conduct which interferes with the regular procedures of the College, investigation of alleged Code violations, the process by which they are resolved, or their outcomes, or that violates any College policy, including but not limited to the Computer Use Policy, Residence Hall and Dining Service Regulations, and parking regulations, may constitute an “obstruction of College procedures” violation. Application of this section shall not be used to restrict the exercise of free expression of any member of the College community.

Examples of obstruction of College procedures include:

***Refusing to identify oneself to College employees in the pursuit of their duties or to comply with appropriate instructions (e.g., refusing to provide one's name or to disperse when asked to do so by campus Security )***

***Refusing to appear before College administrators or Security personnel charged with authority in matters of student conduct***

***Refusing to attend or to testify when called as a witness in a student conduct hearing***

***Knowingly providing false information to any College official with intent to deceive during any phase of the student conduct process (including the investigatory stage) or conspiring with others to do so***

***Harassing witnesses or others involved in the student conduct process at any time during the student conduct process, including the time during which any sanction is in effect***

***Violating the terms of any sanction or not completing a sanction imposed by an appropriate authority (e.g., the Office of Community Standards or the Student Conduct Committee) in a student conduct matter.***

***Bribing or attempting to bribe a College official***

***Use or possession of a forged, altered, or falsified document, such as a fake ID***

***Assisting a person in violating a College policy or attempting to violate a College policy***

## Part II: Disciplinary Process

### A. Investigation of Complaints Alleging Misconduct

All reports of misconduct shall be referred to the Office of Community Standards which shall have the authority to investigate such reports and refer students for alleged violations of the Code of Conduct to the appropriate level of the student conduct system. The Senior Associate Dean of Students or their designee oversees the overall student conduct system and delegates authority to other staff in Student Affairs to act as the Judicial Officer(s) both broadly and in given situations. Before referring a student for an alleged violation, the Judicial Officer shall conduct such investigation into the facts and circumstances of the reported misconduct as may be necessary, at a minimum, to establish that there is reasonable cause to believe that (1) there has been a violation of the Student Code of Conduct and (2) a particular student has committed that violation. The Judicial Officer may conduct such additional investigation as the Judicial Officer may deem necessary to determine the pertinent facts of the matter at hand. For cases alleging violations of the sexual misconduct policy, all investigations shall follow the procedures outlined in the Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy.

1. The Judicial Officer calls students in for questioning at an initial stage of an investigation. Students are expected to cooperate with the Judicial Officer and must meet with the Judicial Officer when called upon to do so. For the purposes of this policy, a “respondent” is a student who is responding to an allegation that they violated the Code of Student Conduct. Although any person may bring a matter to the attention of the Judicial Officer for further investigation, for the purposes of this policy, a “complainant” is a student, faculty member, or staff member who has brought a concern to the attention of the Judicial Officer alleging that a student violated the Code of Student Conduct.
2. Any student called upon to provide information in connection with a student conduct matter may ask a current member of the Bates College community (i.e., students, faculty, staff) to serve as an advisor, provided that this individual is willing and available to serve at the appropriate time (i.e., without significantly delaying the investigation). The Senior Associate Dean of Students or their designee, annually or more frequently as needed, shall issue a general call to the College community, inviting faculty, staff, and students to serve as advisors, and shall maintain a list of those willing to serve in this capacity. A student may have an advisor present when the student meets with the Judicial Officer. At the point where an investigation of major misconduct (a case that will likely be referred to the Student Conduct Committee) focuses on an individual student as a probable violator of the Code, that student should be told by the Judicial Officer of their right to have an advisor and be encouraged to use the advisor. The student should at the same time be told that there are faculty members, staff members, and students ready to serve as advisors to respondents who wish to utilize their service. Any time a student meets with the Judicial Officer, and the Judicial Officer is investigating that student for potential referral to the student conduct system, the student should be informed of the nature of the meeting with the Judicial Officer.
3. Students likely to serve as evidentiary witnesses are also to be reminded of their right to have an advisor when they meet with the Judicial Officer pursuant to an investigation. In cases involving an allegation of misconduct that falls into the category of “Actions Against Persons,” the complainant is likely to be an evidentiary witness and should be encouraged to seek an advisor. Complainants should be informed that there are faculty members, staff members,

and students ready to serve as advisors to complainants who wish to utilize their services. The complainant may be another student or a faculty or staff member. In cases of an Action Against Persons, when the complainant declines to be a witness or a formal complainant, the Judicial Officer may nevertheless proceed with a referral for misconduct if sufficient evidence, independent of the complainant's testimony, exists to support the referral. In such cases there will be no complainant. Examples of sufficient independent evidence may include circumstances in which (a) there is sufficient testimony from an eyewitness other than the complainant or (b) there is authentic electronic or physical evidence or video or audio recordings which identifies the respondent and depicts the act or acts of misconduct.

4. The Judicial Officer should provide the respondent (and the complainant in cases alleging Actions Against Persons) with a copy of or a link to the student conduct procedures.
5. When the Judicial Officer refers a student to the Student Conduct Committee (SCC), the student and the student's advisor should be encouraged to meet with a Judicial Educator, who can explain the student conduct process (see Part III, 3.). The student bears the responsibility for deciding whether and when to exercise this right to meet with the Judicial Educator.

#### **B. Composition of the Pool of Members of the Student Conduct Boards**

The pool of members from which the composition of the Student Conduct Committee or the Student Conduct Appeals Committee shall be drawn for a specific case shall be comprised of at least 24 members of the Bates community. The pool shall include a minimum of 8 students, 8 faculty members, and 8 staff members. One member from each category shall be appointed as a non-voting Co-Chair. Student members are appointed by the Bates College Student Government's Representative Assembly. Faculty members are selected by the Committee on Faculty Governance and appointed by the President. Staff members are appointed by the President at the recommendation of the Senior Associate Dean of Students or their designee and may not ordinarily include Student Affairs staff. Ordinarily, all members of the pool shall be appointed by September 1 for the academic year.

The composition of the pool shall, as much as is feasible, reflect the diversity of the Bates student body at large. Specific attention should be given to this during the recruitment and selection of new members.

The Senior Associate Dean of Students or their designee shall arrange yearly training for all members of the pool. The initial training will provide an understanding of the scope of the Code of Student Conduct, the scope of the authority of the Student Conduct Committee and the Student Conduct Appeals Committee, and information regarding sanctioning precedent for previous cases. No member of the pool shall hear a case prior to receiving this initial training.

Additional training will be provided as needed and may include case studies, bias, and social justice topics as they relate to the work of the committees.

#### **C. Procedures for Resolving Alleged Misconduct**

Following an investigation, the College provides several methods for addressing alleged violations of the Code of Student Conduct. The Judicial Officer has the authority and discretion to refer any given case to the method of resolution the Judicial Officer deems most appropriate in a given situation or to determine that there is not sufficient evidence to support a referral for a violation of the Code of Student Conduct. This decision is final and may not be appealed. For cases alleging violations of the sexual

misconduct policy, all resolutions shall follow the procedures outlined in the [Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy](#).

### **1. Judicial Officer Review**

The Judicial Officer shall have authority to render decisions in minor cases of misconduct where outcomes of suspension or expulsion are not under consideration.

Sanctions in these cases may include, but are not limited to, letters to a student's file, loss of various privileges, referral to counseling, community service, removal of a student from College housing or dining, other required actions, or being placed on probation.

The Judicial Officer Review method of resolution is not a formal hearing. Rather, it provides an opportunity for a student accused of minor misconduct to meet with the Judicial Officer, discuss the allegations of misconduct, and have the Judicial Officer determine whether the student is responsible for the alleged violation and the appropriate penalty. For the Judicial Officer to find a violation of the Code, the Judicial Officer must determine that the alleged violation has been established by a preponderance of the evidence. To establish "by a preponderance of the evidence" means to prove that something is more likely than not. Any student called upon to speak to the Judicial Officer in connection with a student conduct matter may ask another member of the current Bates College community to serve as an advisor (see Part III, A.1., below).

The decision in a minor case of misconduct shall not be recorded on the student's permanent record, but will remain in the student's confidential file until graduation. The Judicial Officer shall send the student a letter identifying the misconduct, stating the Judicial Officer's decision regarding sanctions, and notifying the student of the right to appeal to the Co-Chairs of the Student Conduct Boards.

If the Judicial Officer makes a decision in a minor case of misconduct that the student found responsible feels is unjustified, that student may appeal the decision to the Co-Chairs of the Student Conduct Boards. The student appealing the decision must submit the appeal in writing to the Senior Associate Dean of Students or their designee within two class days from the time at which the original decision was communicated to them in writing by the Judicial Officer. Students may appeal the decision of the Judicial Officer only on the following grounds:

1. That the Judicial Officer violated the fair application of the procedures of the student conduct process as outlined in the Code and that such violation may have had a prejudicial effect upon the outcome of the Judicial Officer Review;
2. That new evidence was discovered after the Judicial Office Review and could not readily have been discovered beforehand and such evidence might have had an effect upon the outcome of the hearing; or
3. That the penalty imposed upon the respondent is grossly inappropriate.

The Co-Chairs of the Student Conduct Boards may affirm, reverse, or otherwise modify the original decision of the Judicial Officer. A minimum of two of the three Co-Chairs must be present in order to review an appeal. Decisions will be made by a majority vote of the Co-Chairs present. If there is a tie vote, the original decision of the Judicial Officer will remain in effect.

## 2. Student Judicial Board

The student members of the Student Conduct Committee shall have authority to render decisions in minor cases of misconduct in a manner similar to the Judicial Officer Review process. The Student Judicial Board (“Board”) will hear cases of minor social misconduct that have impacted the residential or larger campus community in some fashion and only where penalties of suspension and expulsion are not being considered. Academic integrity cases shall not be heard by the Student Judicial Board.

Sanctions in these cases may include, but are not limited to, letters to a student’s file, loss of various privileges, referral to counseling, community service, removal of a student from College housing or dining, other required actions, and/or being placed on probation.

The student co-chair of the Student Conduct Committee will convene the Board and will lead the meeting. A quorum of at least three voting members plus one co-chair is required for the Board to be properly constituted. Decisions of the Board are made by a majority vote of the voting members present. The co-chair will only vote in the case of a tie between the voting members.

The Student Judicial Board method of resolution is not a formal hearing. Rather, it provides an opportunity for a student accused of minor misconduct to meet with the Board, discuss the allegations of misconduct, and have the Board determine whether the student is responsible for the alleged violation and the appropriate sanction. The Judicial Officer will provide the Board with copies of the investigation file prior to the hearing for review. For the Board to find a violation of the Code, the Board must determine that the alleged violation has been established by a preponderance of the evidence. To establish “by a preponderance of the evidence” means to prove that something is more likely than not. Respondents and complainants may request that witnesses attend the Board meeting. The Board co-chair is responsible for the calling of witnesses and has discretion over which, if any, witnesses are called. If witnesses attend the meeting, members of the Board may ask questions and the respondent may ask questions through the co-chair. In cases alleging Actions Against Persons, a complainant shall have the right, but shall not be required, to attend the meeting and may ask questions of the respondent and any witnesses through the co-chair. Any student called upon to speak to the Board in connection with a disciplinary matter may ask another member of the current Bates College community to serve as an advisor (see Part III, A.1., below). All hearings of the Student Judicial Board shall be recorded. A copy of the recording shall be maintained by the Judicial Officer.

The decision in a minor case of misconduct shall not be recorded on the student’s permanent record, but will remain in the student’s confidential file until graduation. The Judicial Officer shall send the student a letter summarizing the decision of the Board, identifying the misconduct, stating the Board’s decision regarding sanctions, and notifying the student of the right to appeal to the Co-Chairs of the Student Conduct Boards.

If the Board makes a decision in a minor case of misconduct that the student found responsible feels is unjustified, that student may appeal the decision to the Co-Chairs of the Student Conduct Boards. The student appealing the decision must submit the appeal in writing to the Senior Associate Dean of Students or their designee within two class days from the time at which the original decision was communicated to the student in writing by the Judicial Officer. Students may appeal the decision of the Student Judicial Board on only the following grounds:

1. That the Student Judicial Board violated the fair application of the procedures of the student conduct process as outlined in the Code and that such violation may have had a prejudicial effect upon the outcome of the hearing;
2. That new evidence was discovered after the hearing and could not readily have been discovered beforehand and such evidence might have had an effect upon the outcome of the hearing; or
3. That the penalty imposed upon the respondent is grossly inappropriate.

The Co-Chairs of the Student Conduct Boards may affirm, reverse, or otherwise modify the original decision of the Board. A minimum of two of the three Co-Chairs must be present in order to review an appeal. Decisions will be made by a majority vote of the Co-Chairs present. If there is a tie vote, the original decision of the Judicial Officer will remain in effect.

### **3. Conflict Resolution Options**

The Judicial Officer shall have discretion to refer a manner for mediation, a restorative justice process, or another form of conflict resolution on which community members have been trained. All parties involved in the case must agree to the proposed conflict resolution option and must agree to be bound by the outcome with no review or appeal. The outcome of any conflict resolution option shall not include a formal finding in the student's record and may not result in probation, suspension or expulsion. The outcome of conflict resolution will be kept in the confidential files of those involved for reference only. The record will not be used in any College proceeding or hearing in the future. Should conflict resolution be unsuccessful, the case may still be referred by the Judicial Officer to another adjudication option present in this Code. The Judicial Officer will develop and maintain a program to train interested students, faculty, and staff who may wish to serve as facilitators of various conflict resolution options.

In cases alleging violations of academic integrity policies, conflict resolution options are not considered to be appropriate.

The Judicial Officer or others on campus may refer cases for conflict resolution that do not involve an alleged violation of the Code of Student Conduct.

### **4. Student Conduct Committee**

Cases of misconduct that are not resolved by Conflict Resolution and are more serious than can be resolved by a Judicial Officer Review or through the Student Judicial Board are heard by the Student Conduct Committee (SCC). All major cases of misconduct where there is sufficient evidence to support a referral as described in the investigation process above shall be referred by the Judicial Officer to the Student Conduct Committee. A major case of misconduct is any case wherein, in the judgment of the Judicial Officer, appropriate student conduct action, if taken, might involve suspension or dismissal. The SCC may make use of any of the sanctions in Section C below.

The SCC is charged with the authority to hold hearings, to determine whether or not a violation of College policy has occurred, and to issue appropriate sanctions.

Students whose misconduct is addressed through an SCC hearing have an opportunity to offer their account of the events in question and can provide the Committee with relevant information which might

explain the conduct. The Committee may also hear from several types of additional witnesses, described below in b.5. Students referred for alleged misconduct have an opportunity to respond to information provided by others at the hearing.

The SCC deliberates in closed session to determine whether a violation of College policy has occurred and to decide what sanctions are to be imposed.

#### **a. Composition of the SCC**

1. For each case referred to the SCC, the composition of the panel will be drawn from the pool of eligible and trained members. For the majority of cases, the panel will be composed of six voting members: two students, two faculty members, and two staff members plus two Co-Chairs who shall be non-voting. The selection of the specific individuals to hear a particular case will be made at random from among those eligible. If a member is unable to participate in a hearing for any reason, a substitute will be selected from among those eligible, if time permits. A quorum for a hearing is five members total and must include at least four voting members and one Co-Chair. A member must be in attendance throughout a hearing and may not join a hearing already in progress.
2. The respondent and the complainant (in cases alleging Actions Against Persons) may petition the Co-Chairs of the SCC at a pre-hearing conference to remove, on the basis of actual bias, any standing SCC member from the upcoming hearing. Opposition to any member's participation must be based on a specific and actual bias related to the individual or to the event in question. Challenges must be made at the pre-hearing conference with the Co-Chairs of the SCC. The decision as to whether to remove a Committee member from a hearing panel is at the sole discretion of the Co-Chairs. A Committee member should be removed from a panel only when, in the judgment of the Co-Chairs, the member's presence would seriously compromise the fairness of a hearing. If bias is alleged against either of the Co-Chairs, then the Dean of the Faculty will rule on removing the Co-Chair(s) from the hearing panel. If both Co-Chairs are removed, the remaining Co-Chair will serve as Co-Chair for the hearing. In the event that no Co-Chairs are eligible to serve, the most senior remaining faculty member in the eligible pool will serve as Co-Chair.
3. Members of the SCC shall recuse themselves from a hearing if they have a specific and actual bias related to the individual or event in question. Actual bias exists when a member cannot fairly and impartially render a decision or settle upon an appropriate penalty should the respondent be found to have committed a violation of the Code of Student Conduct. Having a respondent or complainant in one's class is not, on its face, reason for recusing oneself. Nor is social acquaintance with the individual. Nor is the mere fact that a member has sat on another hearing panel in which a party to the present case was a respondent, complainant, a witness, or an advisor, or in another hearing on the same matter as the case at hand. At the hearing, after members of the SCC in attendance have been informed who the parties in the hearing are, who the witnesses in the hearing will be, and what the allegation is, the Co-Chairs shall inquire if any members think it necessary that they recuse themselves from the hearing. Individual members may consult with the Committee as they deliberate about whether or not to recuse themselves. Either Co-Chair may recuse themselves earlier in the process, when they first learn who the parties in the case are and what the allegation is, or at any time thereafter. If both Co-Chairs recuse themselves, the third Co-Chair will serve as Co-Chair for the hearing. In the event that no Co-Chairs are eligible to serve, the most senior



remaining faculty member in the eligible pool will serve as Co-Chair. If, for any reason that cannot be resolved by rescheduling the hearing, the SCC lacks a quorum to hear a case, the Co-Chairs shall so advise the President. The President shall thereupon appoint replacements from the faculty, the staff, and the student body, as needed to maintain the intended composition of the SCC, to hear the case.

#### **b. SCC Hearing**

All authority for further deliberation and judgment in cases referred by the Judicial Officer to the Student Conduct Committee rests with that Committee. The Judicial Officer will aid the Committee in further investigations that the Committee might authorize.

The Student Conduct Committee conducts its inquiry and deliberations through a two-step process: (i) a closed hearing, during which all evidence upon which the Committee will base its subsequent decisions shall be introduced; and (ii) a closed Committee session during which the evidence introduced at the hearing shall be considered by the Committee, and during which both a decision regarding student responsibility for the alleged violations and a decision regarding sanctions shall be reached.

Students called to testify as witnesses in Student Conduct hearings are required to testify and to do so truthfully. A respondent, any complainants, or any prospective witness may ask the Co-Chairs to relieve them of the obligation to testify. The Co-Chairs of the Student Conduct Committee may relieve an individual of the obligation to testify if the Co-Chairs judge that the person's reason for being relieved is a reasonable concern about self-incrimination in a pending or potential criminal matter. When an individual is so relieved, the Student Conduct Committee members are to draw no inferences from the individual's choice not to testify or from the Co-Chairs' decision to relieve the individual from testifying.

The Co-Chairs of the Student Conduct Committee may request the Judicial Officer to begin student conduct action against any student who refuses when called to testify in a Student Conduct hearing. If a witness declines to testify prior to a hearing, or if a witness, after being called by the Co-Chairs of the Student Conduct Committee, unjustifiably fails to appear for or refuses to testify during a hearing, the Co-Chairs may proceed with the hearing without the witness's testimony, may adjourn the hearing, or may take such other measures which, in the Co-Chairs' discretion, are necessary to serve the interests of justice.

1. In cases referred to the SCC, the Judicial Officer informs the student in writing of the allegation, with the alleged violations stated with sufficient specificity to allow the student to prepare for the hearing. At this time the Judicial Officer shall also deliver to the respondent, and in cases of Actions Against Persons to the complainant, a copy of the investigative file, which may include a statement of the facts, dates, times, and events relevant to the allegation, a list of persons having knowledge of the case, and their statements and/ or interview notes pertaining to their statements, available at that time. Any additional information relevant to the allegation which emerges after this initial delivery of the investigative file will be furnished by the Judicial Officer to the respondent, and in the case of Actions Against Persons, to the complainant, as soon as reasonably possible after its receipt by the Judicial Officer.

2. The notice of a Student Conduct Committee hearing also states the time and date of the hearing, which shall be held between two and five class days from the time of notice. The Judicial Officer, a respondent, or, in the case of Actions Against Persons, the complainant, may request that an alternative time period be specified by the Co-Chairs of the Student Conduct Committee. The Co-Chairs may then set an alternative time period within which the hearing is to be held. In the case of an allegation brought very late in a semester, or under other circumstances, the Co-Chairs may postpone a hearing into a subsequent semester. In deciding whether to honor such a request, the Co-Chairs shall consider (i) the health, safety, and educational progress of all involved, including the College community, (ii) the complexity of the case, and (iii) the likelihood that delay or hastening would markedly serve the cause of fairness. The President has the authority to cause a case to be heard earlier or later in exceptional circumstances.
3. Prior to the hearing, the Co-Chairs of the Committee meet with the respondent. The Co-Chairs also meet separately with the complainant in cases involving allegations of Actions Against Persons. These “pre-hearing conferences” have several functions: to hear challenges to SCC hearing panel composition based on actual bias (see subsection a.2 above), to answer questions regarding the hearing process, to provide lists of potential witnesses to the Co-Chairs, and to allow the Co-Chairs to preview the scope of witness testimony. Decisions regarding each of these issues are at the sole discretion of the Co-Chairs. In cases of alleged Actions Against Persons, when all pre-hearing conferences have been held, the Co-Chairs of the SCC will share with the respondent and any complainants a list of all potential witnesses identified in the pre-hearing conferences.
4. There are two types of witnesses who may be called to testify at a SCC hearing: “evidentiary” and “character.” Evidentiary witnesses have direct, firsthand knowledge of events and circumstances relevant to the case. Character witnesses testify regarding the character of the person who has requested their appearance (either the respondent or a complainant in cases alleging Actions Against Persons). Character witnesses must be members of the Bates community (i.e., current student, faculty, or staff). Evidentiary witnesses may be accompanied to the hearing by an advisor from within the Bates community.
5. All witnesses are called by the Co-Chairs of the Student Conduct Committee. All such witnesses are notified by the Judicial Officer of the time and place of the hearing. If the Judicial Officer learns that a called witness is unlikely to appear at a Student Conduct hearing, the Judicial Officer shall notify the respondent, and, in the case of alleged Actions Against Persons, the complainant, that the witness seems unlikely to attend. Any student with knowledge of alleged misconduct may provide the Judicial Officer with names of possible evidentiary witnesses. The Judicial Officer will provide the Co-Chairs of the SCC with a list of potential evidentiary witnesses whom the Judicial Officer has found to have direct knowledge of events and circumstances relevant to the case, be that knowledge favorable or unfavorable regarding the respondent. The Judicial Officer will also indicate to the Co-Chairs any of those potential witnesses the Judicial Officer deems sufficiently redundant in the information they have to offer as to be not needed in the hearing. The Co-Chairs of the SCC will call, *inter alia*, each witness whom the Judicial Officer names as not excessively redundant, so long as the Judicial Officer establishes, to the satisfaction of the Co-Chairs of the SCC, a *prima facie* explanation for how that proposed witness might have direct knowledge of events and circumstances relevant to the case. The Co-Chairs of the SCC should be notified in advance of the hearing, preferably at the prehearing conferences, what witnesses the parties wish to be

called. The respondent and any complainant, in cases alleging Actions Against Persons, may each propose to the Co-Chairs that the Committee call one character witness. The Co-Chairs shall call any proposed character witness, so long as the proposed witness is a member of the Bates community. The Co-Chairs will call specific evidentiary witnesses at the request of the respondent and, in cases alleging Actions Against Persons, at the request of complainants, subject only to the provisos noted below. Evidentiary witnesses identified at the pre-hearing as potential witnesses by the respondent or any complainant will be called by the Co-Chairs of the SCC, provided that (i) the party wishing a witness be called establishes, to the satisfaction of the Co-Chairs of the SCC, a prima facie explanation for how that proposed witness might have direct knowledge of events and circumstances relevant to the case, and (ii) if the list of evidentiary witnesses proposed by any party exceeds six, the party wishing a witness to be called establishes, to the satisfaction of the Co-Chairs of the SCC, a prima facie explanation for why that specific witness is not redundant, given other witnesses. The Co-Chairs will exercise their judgment about the adequacy of such explanations so as to protect the integrity and effective functioning of the SCC; considerable latitude will be allowed to respondents and complainants in the identification of evidentiary witnesses. Evidentiary witnesses identified only after the pre-hearing as potential witnesses by the respondent or any complainant will be called by the Co-Chairs of the SCC, subject to three provisos: (i) the party wishing the witness be called establishes, to the satisfaction of the Co-Chairs of the SCC, a prima facie explanation for how that proposed witness might have direct knowledge of events and circumstances relevant to the case. (The Co-Chairs will exercise their judgment about the adequacy of such explanations so as to protect the integrity and effective functioning of the SCC; considerable latitude will be allowed respondents and complainants in the identification of evidentiary witnesses.); (ii) the Co-Chairs conclude that the proposed witness's testimony will be helpful to the SCC; and (iii) the Co-Chairs conclude that adding the witness at that particular juncture in the process would not unfairly burden other parties preparing for the hearing.

6. On the morning of the SCC hearing, the Co-Chairs of the Student Conduct Committee shall issue to the respondent, and to the complainant in cases alleging Actions Against Persons, the final list of witnesses who will appear at the hearing. This final witness list shall be made available at the Office of Community Standards, and it shall be the responsibility of the respondent and, if applicable, complainant to pick up the list at the time. Names may be added to the witness list after this time, if the Co-Chairs judge that their testimony will be helpful to the SCC.
7. A respondent who has been properly notified of the Committee hearing and who fails to appear shall be considered to have waived the right to be heard by the Committee, and the hearing may proceed without the respondent.
8. Any student participating in a hearing may be accompanied to the hearing by an advisor from within the Bates community (see Part III, 1.).
9. The hearing shall be private. Only the members of the Committee, the Judicial Officer, the respondent, and the respondent's advisor are present. Witnesses may be present only as they are called to testify. A complainant in cases alleging Actions Against Persons, and the complainant's advisor, may be present during any testimony which relates to the incident that is the subject of the complaint or that relates directly to the complainant. Discretion on these matters rests with the Co-Chairs of the Committee.

10. Each member of the Committee and the Judicial Officer shall have the opportunity to question the respondent and all witnesses. The respondent may question all witnesses through the Co-Chairs. In cases alleging Actions Against Persons, the complainant may also question witnesses through the Co-Chairs when testimony is relevant to the complaint at issue. The Co-Chairs may instruct a student or witness not to answer questions that the Co-Chairs deem to be irrelevant or improper.
11. At the conclusion of all testimony and statements, the Committee meets in closed session to determine whether or not the respondent has violated the Code as alleged. For the Committee to find a violation of the Code, the Committee must determine that the violation has been established by a preponderance of the evidence. To establish “by a preponderance of the evidence” means to prove that something is more likely than not. The Judicial Officer is not present during the Committee’s deliberation and its vote. Individual cases should be heard on their own merits and not be used to set College policy, except as an incidental result of the Committee’s decision.
12. If the Committee finds that a violation of the Code has occurred, it continues to meet in closed session to determine the sanction. During sanction deliberations the Judicial Officer may be called back to provide non-evidentiary information as requested by the Committee. The Judicial Officer will present and the Committee will consider violations adjudicated by Judicial Officer Review, the Student Judicial Board, the Student Conduct Committee, or other relevant information in the student’s file. The Judicial Officer will not participate in discussions or make recommendations concerning sanctions. The respondent and the respondent’s advisor may be present at the initial stage of sanction deliberation to respond to non-evidentiary information provided by the Judicial Officer to the Committee from the respondent’s file. The Committee may ask questions of the respondent based on the information from the file or the respondent’s response to that information.
13. When a student is found to have violated the Student Conduct Code, the Co-Chairs of the SCC shall orally convey to the student the Committee’s rationale for its decisions with regard both to the violation and to the sanction. The Judicial Officer shall provide to the respondent a written summary of the decision.
14. Decisions of the Committee on Student Conduct shall be final, subject only to appeal by the respondent and the complainant in cases alleging Actions Against Persons.
15. Except as otherwise stated by the Committee, any action decided upon by the Committee shall take effect two class days after the decision is made unless the Committee decision is appealed, at which point the action will be suspended pending appeal.
16. The Co-Chairs of the SCC shall ensure that for every SCC hearing a qualified notetaker shall take detailed notes and that an audio recording is made of all portions of the hearing at which the respondent is entitled to be at. The detailed notes shall form the basis of a summary record of the hearing. The Co-Chairs may review and amend the summary record as appropriate. The summary record together with the audio recording and any witness statements, documents, photographs, or other items admitted into evidence, shall be the official record of the hearing. These notes, once approved by the Co-Chairs of the SCC, together with the audio recording shall be the official record of the hearing. The Office of Community Standards shall have custody of the official record of every SCC hearing and shall maintain this material in a secure location for a period of not less than seven (7) years after the last date of the hearing. The official record of an SCC hearing will be made available to an

appealing student and to members of the Appeals Committee only under controlled circumstances assuring that the official record cannot be lost or altered.

### **c. Voluntary Resolution Without Hearing**

At any time prior to the start of a hearing, the respondent may elect to seek a voluntary resolution without a hearing by the Student Conduct Committee. Such a voluntary resolution may be achieved in one of two ways:

#### **1. Voluntary Resolution by Agreement**

The respondent may seek resolution of a pending allegation by asking the Judicial Officer to recommend a resolution. The Judicial Officer, after consulting with the complainant (if any) and any other affected person(s) and the Co-Chairs and after considering what result would be in the best interest of the College, shall then propose a final resolution. If the respondent agrees to the resolution proposed by the Judicial Officer, the Judicial Officer shall give notice of the resolution to the complainant and shall apply to the Co-Chairs of the Student Conduct Committee for approval of the proposed resolution. The Co-Chairs shall then schedule a voluntary resolution review meeting as soon as possible to consider the proposed resolution and shall give notice of the place and time of that meeting to the Judicial Officer, the respondent, and the complainant.

The Judicial Officer and the respondent shall attend the voluntary resolution review meeting called by the Co-Chairs of the Student Conduct Committee. The respondent's advisor and support person, if any, the complainant, and the complainant's advisor and support person, if any, shall have the right but shall not be obliged to attend. The voluntary resolution review meeting shall be private. Only the Co-Chairs, the Judicial Officer, the respondent, the complainant, their advisors, and their support persons, may be present.

At the meeting the Co-Chairs will inquire into the proposed resolution and the facts and circumstances supporting the violation. If the Co-Chairs, after inquiry of those attending the meeting, determine that the proposed resolution is fair, appropriate, and in the best interest of the College, the Co-Chairs shall approve the proposed resolution, and shall prepare a written statement of the resolution and its approval. The voluntary resolution, once approved by the Co-Chairs, shall have the same force and effect as a decision and sanction imposed by the Student Conduct Committee and shall become effective immediately.

If the Co-Chairs do not approve the resolution, they may propose changes to the resolution to which both the respondent and the Judicial Officer must agree. If the Judicial Officer or the respondent do not approve the changes to the resolution, if the Co-Chairs cannot reach consensus on a decision, or if the Co-Chairs wish for the full committee to hear the case, the allegation shall be heard by the Student Conduct Committee. Any statement made by a respondent at a voluntary resolution review meeting cannot, in itself, be entered as evidence at a subsequent SCC hearing on the allegation considered in the voluntary resolution review meeting.

Nothing contained in this subsection titled "Voluntary Resolution Without Hearing" is intended to limit the Judicial Officer's investigation of the matter at hand. In particular, even though the statements of a respondent made at a voluntary resolution review meeting are not themselves admissible in a hearing

before the Student Conduct Committee, the Judicial Officer may nevertheless use information contained in those statements to guide further investigation of the matter. Evidence gathered in such further investigation will be admissible in a subsequent Student Conduct Committee hearing.

## 2. Voluntary Resolution by Withdrawal

A respondent has the right to withdraw from the College at any time, rather than proceed to a hearing before and decision by the Student Conduct Committee. The respondent shall notify the Judicial Officer of their decision to withdraw from the College. The withdrawal must be effective immediately or on a date approved by the Senior Associate Dean of Students or their designee. A student who elects to withdraw from the College while an allegation is pending before the Student Conduct Committee shall have no right to apply for readmission. In exceptional circumstances, however, the Senior Associate Dean of Students or their designee may grant permission to apply for readmission to a withdrawing or withdrawn student. If such special permission is granted, readmission will not be automatic and may be denied or offered subject to such terms and conditions as the Senior Associate Dean of Students or their designee may deem to be appropriate. The transcript of a student who withdraws under these circumstances shall contain the notation "Voluntary withdrawal with disciplinary charges pending." A respondent exercising the right to withdraw voluntarily under this subsection must, as a requirement of such withdrawal, execute and deliver to the Senior Associate Dean of Students or their designee, on a form provided by the Senior Associate Dean of Students or their designee, a written statement confirming (a) the respondent's voluntary withdrawal with disciplinary charges pending, (b) the date on which such withdrawal shall be effective, (c) the respondent's acknowledgement that the respondent's official college transcript will thereafter bear the notation "Voluntary withdrawal with disciplinary charges pending," and (d) any terms and conditions of the withdrawal.

There shall be no right of appeal from a voluntary resolution (a) by agreement or (b) by withdrawal, and all such voluntary resolutions shall be final. The Judicial Officer shall inform a respondent that these options for voluntary resolution of an allegation without hearing are available at the time of giving written statement of the charge to the respondent under Section II.B.4.b.1.

### **d. Sanctioning Conference**

In cases where the allegation or allegations in question are not being disputed by the respondent, the respondent may request a Sanctioning Conference to determine the sanction only.

The Judicial Officer and the respondent shall attend the Sanctioning Conference called by the Co-Chairs of the Student Conduct Committee. The respondent's advisor and support person, if any, the complainant, and the complainant's advisor and support person, if any, shall have the right but shall not be obliged to attend. The Sanctioning Conference shall be private. Only the Co-Chairs, the Judicial Officer, the respondent, the complainant, the respondent's and complainant's advisors, and the respondent's and complainant's support persons, may be present.

At the Sanctioning Conference, the Co-Chairs will inquire into the facts and circumstances of the violation. The Judicial Officer will present evidence of other allegations adjudicated by Judicial Officer Review, the Student Judicial Board, the Student Conduct Committee, or other relevant information in the student's file. The Judicial Officer will not participate in or make recommendations concerning sanctions discussed or voted on by the Co-Chairs. The respondent and the respondent's advisor may be present at

the initial stage of the sanction deliberation to respond to non-evidentiary information provided by the Judicial Officer to the Co-Chairs from the student's file. The Co-Chairs may ask questions of the respondent based on the information conveyed from the file or the respondent's response to that information. The Co-Chairs, after inquiry of those attending the conference, shall determine the appropriate resolution and shall prepare a written statement of the resolution. The outcome shall have the same force and effect as a decision and sanction imposed by the Student Conduct Committee and shall become effective two class days after the decision has been conveyed, unless appealed. Decisions made through a Sanctioning Conference are final and only subject to appeal to the Appeals Committee. Appeals from a Sanctioning Conference may only be made on the grounds that the penalty is grossly inappropriate.

#### **e. Statement on Confidentiality and Public Reporting**

All participants to a student conduct hearing are reminded of their obligation to maintain confidentiality. The names of individuals involved in a case as well as all pre-hearing proceedings, testimony, evidence, deliberations, and discussion shall remain confidential. Similarly, the hearing record and all proceedings on appeal are confidential. Violating this confidentiality may be considered a form of retaliation and may be investigated as a violation of this Code.

In order to inform the College community about matters of student discipline, however, the following information, excluding all references personally identifying the individuals involved in a case, may be made available for inspection to the College community:

1. The formal findings and decisions of the Student Conduct Committee;
2. A file of cases heard by the Student Conduct Committee maintained by the Judicial Officer, in cooperation with the Co-Chairs of the SCC, which shall include formal findings, decisions of the Committee, and any sanctions. In appealed cases, actions taken by the Appeals Committee shall also be included; and
3. A report by the Co-Chairs of the Student Conduct Committee to the Faculty on all action taken by the Judicial Officers and the Student Conduct Committee since the preceding report. Information contained in items 1 and 2 excluding all references personally identifying the individuals involved in a case, may be published in *The Bates Student*. The Judicial Officer shall be exempt from the rule of confidentiality in responding to inquiries meeting any of the exceptions contained in 34 C.F.R. §99.31, issued pursuant to authority of the Family Educational Rights and Privacy Act (20 U.S.C. 1232(g)), as may from time to time be applicable.

#### **f. Post-Hearing**

A student found by the Committee to have violated the Code must abide by the sanctions imposed by the Committee. Failure to abide by the terms of SCC sanctions should be brought to the attention of the Judicial Officer for investigation and possible further student conduct action. Any sanctions imposed by the Student Judicial Board or Judicial Officer Review, and any terms or conditions of Conflict Resolution, are similarly enforceable. If a student has appealed a sanction as imposed by the SCC, any prohibitions against contact between the respondent and any others involved remains in place. The students involved

should refrain from contact with any members of the SCC and the Appeals Committee. Any attempt to influence or intimidate may result in investigation and further student conduct action.

In most cases, the Office of Community Standards releases de-identified information on the decision of the Committee to the campus community via *The Bates Student*. In some instances, for example where a case involves situations or violations which have not been brought before the SCC in the past, the Committee may choose to issue an explanation of the general policy which was followed in coming to their decision in the case. The Student Conduct Committee is restricted from speaking about the specific details of any case by confidentiality rules which protect the privacy of all students involved in the case. The function of educating the student body regarding the community standards of student life is the responsibility of the Office of Community Standards and takes place outside the context of specific cases.

The President (or designee) may withhold the degree of a student found in violation of this Code and who has not fulfilled each condition or requirement imposed as a sanction by the SCC. The degree may be withheld until the fulfillment of all outstanding obligations.

#### **g. Interim Measures & Interim Suspension**

Where a respondent poses an immediate threat of harm to the safety or well-being of an individual or members of the campus community, or to the performance of normal college functions, the college may remove a respondent from the college on a temporary, emergency basis. Pending resolution of the case, the individual may be denied access to campus, campus facilities, and/or all other college activities or privileges for which the individual might otherwise be eligible. Due to the potentially significant impact of this action, the decision to remove a respondent is not taken lightly. Interim suspension will occur only after an individualized safety and risk analysis has determined that an immediate threat to the safety or well-being of a student or other individual justifies removal. This risk analysis is performed by the Senior Associate Dean of Students or their designee in conjunction with the [Bates Care Collaborative](#) using its standard objective violence risk assessment procedures. If this analysis suggests it is appropriate to remove an individual, the Senior Associate Dean of Students or their designee will forward a recommendation for removal to the Dean of Students who will make the final determination.

In all cases in which an interim suspension is imposed, the student or will be given notice of the action, including a summary of the basis for the interim suspension, and the option to request to meet with the Senior Associate Dean of Students or their designee and Dean of Students prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause 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 interim suspension is appropriate. When this meeting is not requested in a timely manner, objections to the interim suspension will be considered waived and the interim suspension will be imposed. A respondent may be accompanied by an advisor when attending this show cause meeting. There is no appeal process for interim suspension decisions.

The Senior Associate Dean of Students or their designee, in coordination with the Dean of Students, has discretion under this policy to implement or stay an interim suspension and to determine the conditions and duration. Violation of the terms of an interim suspension under this policy will be grounds for discipline, which may include expulsion.



The college will implement the least restrictive interim measures possible in light of the circumstances and safety concerns. These actions may be implemented at the discretion of the Senior Associate Dean of Students or their designee and could include, but are not limited to:

- removing a student from a residence hall;
- 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;
- imposing no contact orders; and
- suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate athletics.

All interim measures taken pending a hearing must be documented in writing to the respondent. There is no appeal process for interim measures decisions. Whenever possible, alternative coursework options may be pursued to minimize the academic impact as much as possible.

#### **D. Disciplinary Actions**

The normal actions taken on student misconduct are as follows:

1. *Censure*. Penalties involving censure are available to the Judicial Officer at a Judicial Officer Review, the Student Judicial Board, and to the Student Conduct Committee. The term "censure" applies to a variety of actions resulting in letters to a student's file and/or loss of privileges and may include any one or any combination of the following actions:
  - a. Loss of the privilege of participating in any public function (e.g., literary, dramatic, forensic, radio, television, musical, or athletic) wherein the participant will be thought of as a representative of Bates College;
  - b. Loss of housing or dining privileges on campus;
  - c. Loss of privilege of participating in social or ceremonial events on campus;
  - d. Loss of the privilege of maintaining a motor vehicle on campus;
  - e. A requirement that a student resign membership in any or all offices, elected or appointed, held in campus organizations;
  - f. A letter from either the Judicial Officer or the Co-Chairs of the Student Conduct Committee with a copy to the parent(s) or guardian(s);
  - g. Any other restriction (except probation, suspension, or dismissal) that seems appropriate to the violation.
2. *Required Action*. Penalties that require a particular action of a student are available to the Judicial Officer at a Judicial Officer Review, the Student Judicial Board, and to the Student

Conduct Committee. This may include requests to attend various forms of counseling or educational sessions. A student may be told by the Committee, Board or the Judicial Officer to engage in some form of community service (this service may take place either on or off the Bates campus, or both). The Committee, Board or Judicial Officer may either specify the terms of such counseling, education or service, or may designate another individual or body to determine appropriate terms.

3. *Disciplinary Probation.* The term “disciplinary probation” means that a sanction of suspension or dismissal is held in abeyance and will take effect only after the Committee finds that the student has committed a further violation. If a student already on disciplinary probation comes before the Committee for a second case of misconduct and is found to have violated the Code of Student Conduct again, the first penalty held in abeyance now goes into effect. The Committee also may take additional action on the second offense. Disciplinary probation is not recorded on the student’s permanent record, but will remain in the student’s confidential file until graduation.
4. *Suspension.* The Committee may suspend a student for a specified period of time, or indefinitely. The Committee also may impose conditions to a student’s readmission to the College. A student who is suspended must leave the campus and may not return until the suspension is revoked. Unless otherwise specified, the suspension goes into effect immediately (within two class days) and the student is dropped from all courses. In some cases, the Committee may decide to defer the suspension until the end of the semester. Suspension will be noted on the student’s official transcript, but only during the time that it is in effect.
5. *Dismissal.* The Committee may dismiss (i.e., expel) a student. This severs with finality a student’s connection with the College. Dismissal will be noted on the student’s permanent record and on the student’s official transcript.

In determining appropriate sanctions, the Student Conduct Committee may decide that some combination of these penalties should be imposed. The Committee’s sanctioning decisions should specify any special conditions. Unless otherwise provided for by the Committee, all sanctions go into effect two class days after the hearing.

## **E. Appeals**

### **Student Conduct Appeals Committee**

#### **a. Composition**

1. The Appeals Committee for any given case is composed of one voting student member, one voting faculty member, one voting staff member, and a non-voting Co-Chair. All members for a given case will be selected at random from the pool of eligible members who did not serve on the Student Conduct Committee for the case. The Co-Chair shall be a faculty member, staff member, or student Co-Chair who did not serve as Co-Chair for the Student Conduct Committee hearing. In the event the remaining Co-Chair(s) are not eligible to serve for any reason, the most senior remaining faculty member in the eligible pool will serve as Co-Chair. The Co-Chair will vote at the hearing only in the case of a tie. Every member hears cases brought before the Committee unless a member is excused or recused. A quorum for a

hearing is two voting Committee members and Co-chair. Ordinarily, a member must be in attendance throughout a hearing and may not join a hearing already in progress. Recusal procedures shall be conducted in the same manner as the Student Conduct Committee. The Dean of Students serves as a member of the Appeals Committee in a non-voting, ex officio capacity.

## b. Appeal Committee Procedures

### 1. Right to Appeal

a. A respondent against whom a sanction has been imposed by the SCC shall have the right to appeal the decision to the Appeals Committee.

b. A complainant shall have the right to appeal any decision to the Appeals Committee.

c. The Judicial Officer shall have the right to appeal the sanction imposed by the SCC to the Appeals Committee.

2. Appeals may be grounded only upon the Judicial Officer's belief that the sanction is not commensurate with the violation or upon the respondent's or complainant's belief that:

a. the SCC violated the fair application of the procedures of the student conduct process as outlined in the Code and such violation may have had a prejudicial effect upon the outcome of the hearing;

b. new evidence was discovered after the hearing and could not readily have been discovered before the hearing and such evidence might have had an effect upon the outcome of the hearing; or

c. the sanction imposed upon the respondent is grossly inappropriate.

### 3. Notification of Appeal

a. The appellant shall file written notice of appeal with the Dean of Students within 10 calendar days from the time the appellant is told of the decision. This letter must state clearly the specific ground(s) on which the appeal is being made.

b. All authority for further deliberation and judgment of an appeal rests with the Appeals Committee. The Appeals Committee will decide upon the scope and procedures of its deliberations. All deliberations of the Appeals Committee shall be private and in closed session.

c. Decisions of the Appeals Committee shall be rendered by a majority vote of the voting members.

### 4. Disposition of Appeal

a. Any decision of the Appeals Committee shall be based solely upon the record and, in appropriate cases, upon a showing of new evidence relevant to the grounds for appeal. All decisions shall be in

writing, including a rationale. Findings of fact shall not be set aside unless clearly erroneous, and harmless errors shall be ignored.

b. The decision shall affirm the original decision of the SCC unless the Appeals Committee sustains one of the above specified grounds for appeal, in which case the Appeals Committee may:

1. reverse a finding of violation;
2. alter a penalty; or
3. remand a case to the SCC (in the form of an ad hoc panel as described in Section B.4.a.1.) for a new hearing in situations where there is new evidence to consider or if there were procedural errors.

c. The decision of the Appeals Committee is the final decision of the College on the matter.

5. The Appeals Committee Co-Chair, through the Dean of Students, shall notify both the respondent and complainant of the outcome of the appeal.
6. The faculty Co-Chair shall report to the faculty on action taken by the Appeals Committee. Ordinarily this is done at the next faculty meeting subsequent to a decision.

#### F. Time

Any time period, deadline, or date prescribed by this Code may be changed or modified on request of the Judicial Officer, a respondent, or, in the case of Actions Against Persons, the complainant, by the Co-Chairs of the Student Conduct Committee. In deciding whether to honor such a request, the Co-Chairs shall consider (i) the health, safety, and education progress of all involved including the College community, (ii) the complexity of the case, and (iii) the likelihood that delay or hastening would markedly serve the cause of fairness. The President shall also have authority to cause a case to be heard earlier or later in exceptional circumstances.

## Part III: Resources, Rights, and Responsibilities

### A. Resource Persons

#### 1. *Advisor*

Any student called upon to provide information in connection with a student conduct matter may ask a current member of the Bates College community (i.e., students, faculty, staff) to serve as an advisor, providing that this individual is willing and available to serve at the appropriate time (i.e., without significantly delaying the investigation and/or hearing). Staff and faculty not currently employed by Bates College, alumni of the College, and students not currently registered at the College may not serve as advisors. It is up to the student to decide whether and when to have an advisor present; the student may choose not to exercise this option. There are always faculty members, staff members, and students who have agreed to serve as advisors to any respondent or complainant who asks. The Judicial Officer has the names of these willing “standing” advisors. In some cases a particular standing advisor may be unavailable. Standing advisors are not intended to differ from other advisors whom students might select in any regard other than being generally available for service. The Judicial Officer will provide a basic training annually to all standing advisors detailing the policies and procedures contained in the Code and the role of the advisor in the process.

The role of the advisors is one of support. Advisors should assure that their advisees clearly understand all questions asked, and that their advisees clearly communicate their account of events. Advisors may wish to contact the Judicial Educator or the Co-Chairs of the Committee to gain a fuller understanding of the student conduct process. Advisors assist their advisees prior to a hearing, attend the pre-hearing conference with the Co-Chairs, and are present with their advisees while the advisee is before the Student Conduct Committee. Advisors to respondents and complainants also may help their advisees identify appropriate witnesses. During the hearing, the advisor may pose questions to witnesses through the Co-Chairs and may make a statement to the SCC at the end of the hearing.

An individual who is scheduled to appear before the Student Conduct Committee as an evidentiary or expert witness may not act as an advisor. In the event that the student’s advisor has been asked to serve as a character witness, this testimony is presented at the conclusion of the hearing.

#### 2. *Support Person*

In student conduct hearings regarding alleged Actions Against Persons, both the respondent and the complainant may ask a current member of the Bates community to provide personal support to the student during a student conduct hearing, providing the chosen individual is willing and able to serve at the appropriate time. The supporter is separate from the student’s chosen hearing advisor, if there is one. The supporter may attend the pre-hearing conference with the student and may speak with the student during the student conduct hearing, but may not ask any questions or give any testimony at the hearing. It is up to the student whether to have a support person present; the student may choose not to exercise this option.

### 3. *Judicial Educators*

The Judicial Educators serve as resource persons, not currently associated with the SCC or the Office of Community Standards, who are available to explain the student conduct procedures of the College. Ordinarily, the Co-Chairs of the Student Conduct Committee shall recommend and the President appoint two former members of the Committee to serve as Judicial Educators for each academic year.

While the Judicial Officer may provide the student with an initial outline of the student conduct process during the investigation, any student or faculty person involved in a conduct case (including witnesses and advisors) may make use of a Judicial Educator to answer questions about the College's conduct procedures.

The Judicial Educators are available to students even before an investigation is begun. For example, a student who has a grievance against another student may wish to speak with a Judicial Educator to learn what options are available for pursuing the matter on campus. When a student conduct process begins, the respondent (and the complainant in cases alleging Actions Against Persons) should be encouraged to meet with a Judicial Educator, but such a meeting is not mandatory.

#### **B. Summary of Student Rights and Responsibilities**

*1. Respondent's Rights and Responsibilities* Respondents have opportunities to make decisions affecting their own welfare throughout the process by which an allegation of misconduct is adjudicated. This is fundamental to the principles of fairness upon which the Code and its procedures are constructed. Respondents accused of either academic or social misconduct always have the right to be heard and to present their side of the story. Specifically, respondents have the following rights and responsibilities:

1. The right to notification of the allegation with sufficient specificity to allow for preparation to defend against the allegation.
2. The right to be accorded the procedures outlined in the Code of Student Conduct, including a pre-hearing conference at which the student may challenge, on the basis of actual bias, the presence of any member of the SCC at the hearing; to meet with a Judicial Educator and to have an advisor, if the respondent so chooses; and the right to propose evidentiary witnesses, one character witness, and one expert witness.
3. The right to adjudication of allegations at a hearing.
4. The right to attend the hearing, to make a statement to the Student Conduct Committee, and to question witnesses through the Co-Chairs.
5. The right to respond to all statements, testimony, or other evidence offered at the hearing (however, the respondent may not make statements while witnesses are testifying and being questioned).
6. The right to be free from harassment and retaliation from the complainant or other witnesses (or parties acting on their behalf) at any time during or after the investigation and hearing.
7. The right to appeal a decision of the Student Conduct Committee to the Appeals Committee.
8. The responsibility to refrain from contact (direct or indirect) with the complainant or other witnesses, certain members of the Bates community or members of the community at large

involved in the pending case, or with members of the Student Conduct Committee, when so directed by the Judicial Officer, the Student Conduct Committee, or its Co-Chairs.

9. The responsibility to make a good-faith effort at conflict resolution options when this option is chosen by all parties as an alternative method of resolution.
10. The responsibility to abide by the instructions of the Co-Chairs of the Student Conduct Committee, including instructions regarding witness (The Co-Chairs of the SCC always have the authority to remove from the hearing any individual whose conduct unduly interferes with the proceedings).
11. The responsibility to testify truthfully at the hearing.
12. The responsibility to abide by the terms of a conflict resolution agreement or by any sanctions determined by the Student Conduct Committee, a Judicial Officer Review, or the Student Judicial Board.

The respondent may consult with an attorney, but that attorney may not be involved in the College's student conduct processes. In the very specific circumstance where the College has initiated student conduct proceedings while a criminal case arising out of the same conduct is pending against the student in court, the student shall be allowed to have an attorney present during the College student conduct proceedings. Even then, any attorney retained by the student has an extremely limited role as an advisor: the attorney may not make statements or ask questions at the hearing, but is simply available to advise the student during the proceedings. Note that if a current member of the College community is otherwise eligible to serve as an advisor to a student, that individual will remain eligible to serve as an advisor regardless of the individual's status as a practicing or nonpracticing attorney, or of the individual's experience or education in the legal field.

**Note: The Committee Co-Chairs always have the right to remove from the hearing any individual, including an attorney, whose conduct unduly interferes with the proceedings. In the event that the respondent plans to have an attorney attend the Student Conduct Committee hearing, the respondent must inform the Co-Chairs in a timely manner so that the College can determine whether it wants its own attorney present.**

*2. Complainant's Rights and Responsibilities (The rights and responsibilities described in this section are equally applicable, where relevant, to students and to faculty or other College employees who accuse a student of misconduct).*

While all cases which are brought before the Student Conduct Committee are presented by the Judicial Officer, in some cases there is a principal witness who alleges to have been injured by the respondent. This second party, the "complainant," also has much at stake at the student conduct hearing, and has certain rights that the process must respect. For purposes of a Student Conduct Committee hearing, a student or College employee who accuses a student of misconduct is an evidentiary witness (as distinguished from a character or expert witness). In cases involving an allegation of Actions Against Persons, the complainant has a particular set of rights and responsibilities, noted below at c. and d.

1. The right to bring to the attention of the Judicial Officer an incident of misconduct by a student. This does not include the right to insist on a hearing before the Student Conduct

Committee, since it is the Judicial Officer who has authority to conduct an investigation and to determine whether a case should go forward.

2. The right to meet with a Judicial Educator and to have an advisor, if the complainant so chooses.
3. The right to meet with the Co-Chairs of the SCC at a pre-hearing conference at which the complainant may challenge, on the basis of actual bias, the presence of a member of the SCC at the hearing; to make a statement at the hearing; and to propose evidentiary witnesses, one character witness, and one expert witness; the right to be present during any testimony which relates directly to the complainant and the right to pose questions through the Co-Chairs when the testimony relates directly to the complainant; and the right to be informed of the decision of the Student Conduct Committee. (The right to be present at the hearing is not absolute, however; the complainant may not make statements while witnesses are testifying and being questioned.)
4. The right to be free from harassment and retaliation from the respondent or other witnesses (or parties acting on their behalf) at any time during or after investigation and hearing.
5. The right to be informed of the outcome of the student conduct proceeding.
6. The right to be notified of the option to notify proper law enforcement authorities, including local police, and the option to be assisted by campus authorities in notifying such authorities, if the complainant so chooses.
7. The responsibility to testify truthfully at the hearing.
8. The responsibility to refrain from contact (direct or indirect) with the respondent or other witnesses, certain members of the Bates community or members of the community at large involved in the pending case, or with members of the Student Conduct Committee, when so directed by the Judicial Officer, the Student Conduct Committee, or its Co-Chairs.
9. The responsibility to make a good-faith effort at conflict resolution when this option is chosen by all parties as an alternative method of resolution.
10. The responsibility to abide by the instructions of the Co-Chairs of the Student Conduct Committee, including instructions regarding witness (The Co-Chairs of the SCC always have the authority to remove from the hearing any individual whose conduct unduly interferes with the proceedings).

The complainant may consult with an attorney, but that attorney may not be involved in the College's student conduct processes. In the very specific circumstance where the College has initiated disciplinary proceedings while a criminal case arising out of the same conduct is pending against the respondent in court, the complainant shall be allowed to have an attorney present during the College student conduct proceedings. Even then, any attorney retained by the student has an extremely limited role as an advisor: the attorney may not make statements or ask questions at the hearing, but is simply available to advise the student during the proceedings. Note that if a current member of the Bates College community is otherwise eligible to serve as an advisor to a student that individual will remain eligible to serve as an advisor regardless of the individual's status as a practicing or nonpracticing attorney, or the individual's experience or education in the legal field.



Respondents and complainants are reminded that they have a number of resources available to them when instances of misconduct are being addressed by the College. As specified in the rights and responsibilities above, both have available to them the Judicial Educator as well as an advisor from within the Bates community. There are also resources outside the College of which they may avail themselves. Any person who feels they have been the victim of a crime always has the option of going to local law enforcement officers and pursuing the case through the criminal court system.

Respondents or complainants may benefit from meeting with a psychological, religious, or substance abuse counselor to discuss the difficult issues and problems raised by the alleged incident of misconduct. While counselors are available through the College and confidentiality is maintained, in some instances parties to a conduct case may feel more comfortable seeking the assistance of someone not associated with the College, and they should feel free to do so.