

Matthew C. Williams
ID Bar No. 6271
WILLIAMS LAW, PLLC
812 First St. S.
Nampa, ID 83651
Telephone: (208) 908-6066
matt@williamslawoffice.net

Counsel for Plaintiffs

** Pro Hac Vice application forthcoming*

Tyson C. Langhofer*
VA Bar No. 95204
Michael R. Ross*
TN Bar No. 35304
Mathew W. Hoffmann*
DC Bar No. 1617417
ALLIANCE DEFENDING FREEDOM
44180 Riverside Pkwy
Lansdowne, VA 20176
Telephone: (571) 707-4655
Facsimile: (571) 707-4790
tlanghofer@ADFlegal.org
mross@ADFlegal.org
mhoffmann@ADFlegal.org

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO
CENTRAL DIVISION

PETER PERLOT, MARK MILLER, and RYAN
ALEXANDER,

Plaintiffs,

v.

C. SCOTT GREEN, President of the University
of Idaho, BRIAN ECKLES, Dean of Students,
ERIN AGIDIUS, Director of the Office of Civil
Rights & Investigations, and LINDSAY EWAN,
Deputy Director of the Office of Civil Rights
and Investigations, all individually and all in
their official capacities,

Defendants.

Civil Case No.:

**VERIFIED COMPLAINT
Jury Trial Demanded**

PLAINTIFFS' VERIFIED COMPLAINT

Plaintiffs, for their Verified Complaint against Defendants, state the following:

INTRODUCTION

1. It is unconstitutional for the government to punish a private speaker because of the speaker's motivating ideology, opinion, or perspective, or because of the content of that speaker's expression. This prohibition against viewpoint and content discrimination applies fully to public universities.

2. The University of Idaho has failed to abide by this fundamental, clearly established principle because it has enforced its anti-harassment policies to punish students based on the content and viewpoint of those students' protected speech.

3. On April 1, 2022, the University of Idaho College of Law in Moscow, Idaho held a "moment of community" in response to an anti-LGBTQ+ slur that was left on a whiteboard at the University's Boise campus.

4. Members of the Christian Legal Society ("CLS") chapter at the College of Law gathered at the "moment of community" to condemn the slur and to publicly support and pray in solidarity with their fellow students at the University.

5. But while they were there, a student approached them and asked why the chapter required its officers to affirm the belief that marriage is between one man and one woman.

6. One CLS member respectfully explained that the chapter requires this because it is the only view of marriage and sexuality affirmed in the Bible.

7. Soon after, a second CLS member left a handwritten note for the student and told her that he would be happy to discuss this further with her so that they could both fully be heard and better understand one another's views.

8. The next Monday, April 4, this student and several others publicly denounced CLS's actions at a panel with the American Bar Association. The student even said that one of the CLS students told her to go to hell, which was untrue.

9. A third CLS member attended that meeting and explained that these statements were inaccurate, that the biggest discrimination he had seen on campus was the discrimination against CLS and its religious beliefs, and that he was concerned about the state of religious freedom on campus.

10. Three days later, all three of these CLS members received no-contact orders from the University's Office of Civil Rights and Investigations. The orders prohibit any communication between Plaintiffs and another student. The CLS members did not receive notice that anyone had complained about them and were not given an opportunity to review the allegations against them or defend themselves.

11. Instead of allowing the students to disagree civilly and respectfully with one another and to discuss these important issues, the University chose instead to censor Plaintiffs.

12. The University issued these no-contact orders under their Title IX Sexual Harassment Policy and their Code of Conduct and Disciplinary Policies.

13. But the University has applied these Policies to the students because of their protected speech, not any conduct.

14. The University has also applied these Policies to the students because the University deemed the content of their speech controversial and because their viewpoints are disfavored or unpopular.

15. These actions violate the students' clearly established rights under the First Amendment's Free Speech Clause.

16. Further, the University's Policies and their application of those Policies also violate the students' clearly established rights to exercise their religious beliefs under the First Amendment, to procedural due process, and to religious exercise under Idaho's Free Exercise of Religion Protected Act.

17. These three students now sue as Plaintiffs and are entitled to their requested declaratory, injunctive, and monetary relief.

JURISDICTION & VENUE

18. Plaintiffs sue under 42 U.S.C. § 1983 for violations of the First and Fourteenth Amendments to the United States Constitution and under Idaho Code § 73-402 for violations of Idaho’s Free Exercise of Religion Protected Act.

19. Plaintiffs seek declaratory relief under 28 U.S.C. §§ 2201–02 and Federal Rule of Civil Procedure 57, injunctive relief under 42 U.S.C. § 1343 and Federal Rule of Civil Procedure 65, damages under 42 U.S.C. § 1343 and Idaho Code § 73-402(4), and reasonable attorneys’ fees and costs under 42 U.S.C. § 1988 and Idaho Code § 73-402(4).

20. This Court has original jurisdiction over the federal claims under 28 U.S.C. §§ 1331 and 1343 and supplemental jurisdiction over state claims under 28 U.S.C. § 1367.

21. This Court also has jurisdiction under 28 U.S.C. § 1343 because Plaintiffs seek to recover damages and equitable relief under 42 U.S.C. § 1983.

22. Venue is proper in this district and division under 28 U.S.C. § 1391(b) and Dist. Idaho Loc. Civ. R. 3.1 because a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred in this district and because Defendants reside in this district and division.

PLAINTIFFS

23. Plaintiffs Peter Perlot, Mark Miller, and Ryan Alexander are students at the University of Idaho College of Law (the “Law School”) and are officers or members of the Law School’s Christian Legal Society.

24. Plaintiff Perlot is a third-year law student and the President of CLS.

25. Plaintiff Miller is a second-year law student and an active member of CLS.

26. Plaintiff Alexander is a first-year law student and the 1L Representative of CLS.

27. Plaintiffs are professing Christians.

28. Plaintiffs' religious beliefs include that God created the institution of marriage to unite one man and one woman.

29. Plaintiffs are motivated by their sincerely held religious beliefs to share the Gospel of Jesus Christ and to speak on campus on many topics from a Christian worldview.

30. Plaintiffs believe that their on-campus speech is a way to share the Gospel with non-Christians and a way to disciple and equip other Christians on campus to grow and mature in their faith.

DEFENDANTS

31. Defendant C. Scott Green is the President of the University of Idaho (the "University").

32. The Idaho State Board of Education has appointed Defendant Green to be "the chief program and administrative officer" for the University of Idaho and given Green "full power and responsibility . . . for the organization, management, direction, and supervision" of the University and "all of its units, divisions, and services." Ex. 1 (Idaho State Board of Education Governing Policies and Procedures, Section I.E.2.a).

33. The Idaho State Board of Education has authority to delegate this power under Idaho Code § 33-107(4)(c).

34. Defendant Green directly oversees the University's Office of Civil Rights and Investigations. Ex. 2 (University Organization Chart).

35. Defendant Green knows or should know that the challenged University Policies unconstitutionally regulate student speech and have been applied unconstitutionally to Plaintiffs' speech. Although Defendant Green knows this, he has not amended or repealed those Policies or taken any other corrective action as to their application here.

36. Defendant Green is sued for declaratory and injunctive relief in his official capacity and for damages in his individual capacity.

37. Defendant Eckles is the Vice Provost for Student Affairs and the Dean of Students.

38. As the Dean of Students, Mr. Eckles oversees all aspects of student discipline, including any discipline for students who violate the Student Code of Conduct. Ex. 3 (Office of the Dean of Students and Student Conduct webpages).

39. Defendant Eckles knows or should know that the challenged University Policies unconstitutionally regulate student speech and have been applied unconstitutionally to Plaintiffs' speech. Although Defendant Eckles knows this, he has not amended or repealed those Policies or taken any other corrective action as to their application here.

40. Defendant Eckles is sued for declaratory and injunctive relief in his official capacity and for damages in his individual capacity.

41. Defendant Erin Agidius is the Director of the Office of Civil Rights and Investigations for the University.

42. As Director, Defendant Agidius oversees all aspects of the Office of Civil Rights and Investigations, including "training, education and investigation of complaints." Ex. 4 (Office of Civil Rights & Investigations, "Meet Our People").

43. Defendant Lindsay Ewan is the Deputy Director of the Office of Civil Rights and Investigations for the University.

44. As Deputy Director, Defendant Ewan "supervises and directs the work of the civil rights investigators in the course of investigations involving students and employees." *Id.*

45. Defendants Agidius and Ewan know or should know that the challenged University Policies unconstitutionally regulate student speech. Although Defendants Agidius and Ewan know this, they have not amended or repealed those Policies or

taken any other corrective action as to their application here.

46. Defendants Agidius and Ewan have unconstitutionally applied the challenged Policies to censor Plaintiffs' speech.

47. Defendants Agidius and Ewan are sued for declaratory and injunctive relief in their official capacities and for damages in their individual capacities.

48. Each of the acts and Policies alleged in this Complaint are and were attributed to Defendants who have acted and continue to act under color of a statute, regulation, or custom of the State of Idaho.

FACTUAL ALLEGATIONS

I. Defendants' challenged Policies

49. The University's Office of Civil Rights and Investigations (the "Office of Civil Rights") and Dean of Students implement and enforce several nondiscrimination Policies.

50. The University's Title IX Sexual Harassment Policy (the *Title IX Policy*), along with the Student Code of Conduct and the Disciplinary Process for Alleged Violations of Student Code of Conduct (together the *Conduct and Discipline Policies*), prohibit different types of harassment and discriminatory behavior.

A. The Title IX Policy

51. The University's *Title IX Policy* requires the Office of Civil Rights to issue various interim measures, including no-contact orders, in response to complaints about sexual harassment.

52. The University recently updated its *Title IX Policy* in January 2022 to be consistent with federal regulations regarding Title IX. Ex. 5 (Policy 6100 – Title IX Sexual Harassment); see 34 C.F.R. §§ 106.30–.46.

53. The University's Policy prohibits "sexual harassment," which it defines to include "conduct on the basis of sex" that is "determined by a reasonable person to be

so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity." Ex. 5 at 3, Sec. D-19.b.

54. If a student reports sexual harassment, the Policy *requires* the Office of Civil Rights to immediately "[i]mplement appropriate supportive measures for both the respondent and the complainant. Supportive measures may be implemented with or without the filing of a formal complaint." *Id.* at 4, Sec. E-1.b.

55. "Supportive measures" include "[m]utual restrictions on contact between the parties." *Id.*, Sec. E.1.b.1(e).

56. The Policy does not require the Office of Civil Rights to determine that sexual harassment occurred or likely occurred.

57. The Policy does not require Defendants to give notice or a hearing to the respondent before issuing these so-called "supportive measures."

58. The Policy does not require Defendants to find that sexual harassment is likely to occur in the future.

59. The Policy does not provide for any appeal of "supportive measures" Defendants impose such as no-contact orders.

60. Moreover, the Office of Civil Rights "has sole authority to determine what supportive measures are to be implemented." *Id.* at 5, Sec. E.1.b.2.

B. The Conduct and Discipline Policies

61. Similarly, the *Conduct and Discipline Policies* prohibit several types of harassing and discriminatory behaviors and grants the Office of Civil Rights and Dean of Students wide latitude to investigate and issue "interim action" they deem fit.

62. As relevant here, the Policies prohibit four types of behavior:

- a. "Persistent or severe, verbal abuse, threats, intimidation, harassment, coercion, bullying, derogatory comments, vandalism, or other conduct

that threatens or endangers the mental or physical health or safety of any person or causes reasonable apprehension of such harm. A single instance may be considered severe enough to merit sanctions.”

- b. “Sexual harassment, which . . . includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct or communication of a sexual nature when . . . [s]uch conduct is sufficiently severe or pervasive as to have the effect of creating an intimidating, hostile or offensive educational environment or negatively affecting a student’s educational opportunities. A single instance may be considered severe enough to merit sanctions.”
- c. “Gender-based and sexual orientation harassment . . . which is defined as any act of verbal, non-verbal, or physical aggression, intimidation, or hostility based on sex, sex-stereotyping, gender, or gender-stereotyping, even if those acts do not involve conduct of a sexual nature.”
- d. “Discrimination” based on “race, color, national origin, religion, sex, sexual orientation, gender identity/expression, age, disability or status as a Vietnam-era veteran.”

Ex. 6 at 4–5 (Policy 2300 – Student Code of Conduct); Ex. 7 (Policy 3200 – Policy of Nondiscrimination); Ex. 8 (Policy 3215 – Non-Discrimination on the Basis of Sexual Orientation and Gender Identity/Expression).

63. The *Discipline Policy* authorizes Defendants to take any necessary “interim action” for actual or potential violations of any of the prohibitions in the *Code of Conduct*, including the prohibitions above. Ex. 9 at 10, Sec. H (Policy 2400 – University Disciplinary Process for Alleged Violations of Student Code of Conduct).

64. On information and belief, Defendants interpret the *Discipline Policy* to allow “interim action” even if a formal complaint is not filed.

65. The authorized “interim action” includes “[i]ssuance of a no-contact order.” *Id.* Sec. H-4.b.

66. The *Discipline Policy* does not require Defendants to determine that the *Conduct Policy* was violated or likely violated.

67. The *Discipline Policy* does not require Defendants to give notice or a hearing to a respondent before issuing a no-contact order, *id.*, Sec. H-2, and even states that “[a] no-contact order should be routinely issued in Title IX cases.” *Id.*, Sec. H.3.

68. The *Discipline Policy* does not require Defendants to find that there is a risk of future violations before issuing a no-contact order.

69. In fact, the *Discipline Policy* exempts the issuance of no-contact orders from any factual finding of future harm. *Id.*, Sec. H-2.

70. Similarly, in Title IX cases, Defendants’ *Discipline Policy* exempts the issuance of a no-contact order from any “specific determination” that future harm is likely to occur. *Id.*, Sec. H-3.

71. Defendants’ *Discipline Policy* allows an appeal of a no-contact order only to the same officer that issued the order. *Id.* at 11, Sec. H-7.

72. Defendants provide “no formal procedures for this appeal.” *Id.*, Sec. H-7.

73. During the pendency of the appeal, the no-contact order “remain[s] in effect.” *Id.*, Sec. H-7.

II. Defendants punish Plaintiffs for defending Christian Legal Society’s religious beliefs.

74. Defendants have applied their *Title IX Policy* and *Conduct and Discipline Policies* against each of the Plaintiffs based on Plaintiffs’ religious speech.

A. Plaintiffs went to great efforts to get the University to approve their Christian Legal Society chapter.

75. Plaintiff Miller and several other students founded the University’s Christian Legal Society chapter in the Fall of 2021.

76. The Christian Legal Society is “a fellowship of Christians dedicated to serving Jesus Christ through the practice and study of law, the defense of religious freedom and life, and the provision of legal aid to the needy.” *About Us*, Christian

Legal Society, <https://www.christianlegalsociety.org/about> (last visited Apr. 20, 2022).

77. CLS has over 54 chapters of practicing attorneys and 120 chapters of law students across the country. Christian Legal Society, Annual Report 2020, at 27–28, https://www.christianlegalsociety.org/sites/default/files/site_files/AnnualReport_2020_low.pdf (last visited Apr. 20, 2022).

78. The chapter’s Constitution specifically states that “[a]ll officers must also affirm the CLS Community Life Statement and agree to operate the Chapter under its principles.” Ex. 10 at 2 (CLSUI Chapter Constitution).

79. The CLS Community Life Statement provides in part: “We renounce unbiblical behaviors, including deception, malicious speech, drunkenness, drug abuse, stealing, cheating, and other immoral conduct such as using pornography and engaging in sexual relations other than within a marriage between one man and one woman.” Ex. 11 (CLS Community Life Statement).

80. The Community Life Statement also contains other traditional and well-known Christian beliefs, including the following:

- a. “We believe that the Bible, God’s written word, is the ultimate guide for our values, attitudes, and behaviors”;
- b. “We seek to respect the uniqueness of all people, including our differences in race, sex, ethnicity, and talents, for each bear’s God’s image”;
- c. “We acknowledge that every person has engaged in attitudes and behaviors that fall short of God’s standards, and we rejoice in God’s forgiveness to all repentant believers”; and
- d. “We acknowledge the Biblical mandate to treat all persons with love and respect, even if we disagree over these values, attitudes, and behavior.”

Id.

81. Plaintiff Miller and the students attempted to register their own CLS chapter at the beginning of the school year but were continually delayed by the law school's student government body.

82. Several students, including members of the student government, expressed disapproval of the chapter because its Constitution requires officers to affirm that marriage is between one man and one woman.

83. During two separate sessions, the student government debated whether they would allow CLS to require its leaders to hold beliefs consistent with CLS' mission and purpose.

84. Additionally, several CLS officers also received emails from other students objecting to CLS' religious beliefs. One student stated that CLS's religious belief "is an invalidation of someone's very existence who is a LGBTQ person" and that he has "been spreading word about this issue to other students because I believe many do not know about it and would find it concerning as I have." Ex. 12 (Email, "Concerning Actions by the Christian Legal Society").

85. Because of the hostility towards CLS' religious beliefs, the Dean of the law school had to intervene and approve the chapter in November 2021.

86. The chapter has a faculty advisor who teaches at the Law School.

87. Since then, the chapter has met weekly to hold Bible studies and has about ten regular members.

88. The chapter also regularly holds events open to all law students. In the Fall of 2021, it hosted a speaker to discuss church law. And on April 20, 2022, it jointly hosted a panel on religious liberty with the law school's Federalist Society and ACLU chapters.

B. Plaintiffs Perlot and Miller are approached by another law student to question their group's religious beliefs.

89. On April 1, 2022, the law school held a “moment of community” in response to an incident at the Boise campus.

90. Law school Dean Johanna Kalb emailed all law students and explained that someone wrote a derogatory slur directed at the LGBTQ+ community on a classroom whiteboard at the Boise campus. Ex. 13 at 1 (Emails from Deans regarding Moment of Community).

91. Her email also reiterated the need to “disagree and debate, while also caring for and respecting each other.” *Id.*

92. She also stated,

I want to be very clear that I expect and hope that our classrooms and hallways will be a place of robust discussion and debate. In every place I've worked, including here, I have had the great fortune to discuss and learn from faculty, staff, and students whose views differ from my own. I have made mistakes and learned from them, and I've grown and changed as a result, as a person and as a lawyer. The foundation for all of these discussions is mutual respect and grace. Bullying is not a conservative or a liberal value, and I will do everything in my power to stop it.

Id.

93. The law school's associate deans sent a follow up email inviting everyone who has ever “felt marginalized or excluded” or who “just want[s] to show support for those who have” to participate in a “moment of community” on the front steps of the law school buildings on each campus. *Id.* at 1.

94. Plaintiffs Perlot and Miller, along with most of the other CLS members and their faculty advisor, desired to participate in this event to denounce the slur and marginalization of any members of the community.

95. Plaintiff Alexander was unable to attend the event because he was ill.

96. When they arrived the morning of the event, Plaintiffs Perlot and Miller and about eight other members of CLS formed a circle on the steps in front of the law school and began praying.

97. As prayer continued, about 30 other individuals who were not part of CLS also joined the gathering.

98. One of those individuals was the subject of the no-contact orders against Plaintiffs. To respect her privacy, Plaintiffs refer to her as Ms. Doe.¹

99. After the prayer ended, Ms. Doe asked the CLS members why the CLS constitution states that marriage is between one man and one woman.

100. Mr. Miller responded that this requirement is based on a biblical view of marriage and sexuality.

101. Ms. Doe responded that she did not think the Bible supported that belief.

102. Mr. Miller explained that the Bible defines marriage between a man and a woman in several places and that it condemns homosexuality, just like every other sin.

103. Ms. Doe did not say anything further to Mr. Miller or any other CLS members, and their conversation concluded at that point.

104. In this conversation, Mr. Miller and Ms. Doe civilly and respectfully expressed their disagreement with one another.

105. Other attendees at the event, including some faculty members, also witnessed the conversation.

106. After the event, Plaintiff Perlot left a handwritten note for Ms. Doe at her desk when she was not present. The note invited her to come to a CLS event or to talk with him if she wanted to have more discussion about that issue or to learn more about CLS.

¹ Plaintiffs have also redacted Ms. Doe's name and other unnecessary personally identifying information from the exhibits to the Complaint.

107. Plaintiff Perlot did this because he thought that a one-on-one conversation would allow both he and Ms. Doe an opportunity to be fully heard and better understand one another's views.

108. Several other members of the campus community expressed hostility toward Plaintiffs even though Plaintiffs civilly and respectfully explained their beliefs and even though they did so in response to a direct question about those beliefs.

109. The following Monday, on April 4, several students staged walkouts for two of the classes taught by the CLS faculty advisor.

110. Another professor placed a sign on her office door that reads "I stand with our LGBTQI+ students, staff, and faculty and everyone who has experienced discrimination at this law school. At this public university your personal religious beliefs are not an excuse to deprive others of their rights under the law." Ex. 14 (Sign Posted by Professor).

111. The president of the Law School's student government also condemned Plaintiffs' religious beliefs in a Facebook post. He stated that he was "sickened and saddened" by what CLS did and that "[w]hat was meant to be a showing of love and support devolved into proselytizing." Ex. 15 (Facebook Post).

112. He also stated that "[p]reaching that marriage is between a man and a woman is beyond the pale" but begrudgingly affirmed that the CLS students were "within [their] constitutional rights" to pray and talk at the event. *Id.*

113. On information and belief, Defendants have not restricted the speech of or otherwise punished the professor or any of the students who engaged in the above expression.

C. Plaintiff Alexander and other students defend the Christian Legal Society at a subsequent event.

114. The Monday after the event, the Law School hosted members of the accreditation panel of the American Bar Association (the "ABA").

115. Before the ABA arrived, the Law School told all of the students that there would be an ABA panel for the students on April 4 to talk about any concerns that the students had.

116. Plaintiffs Alexander and Perlot and 3 other CLS members attended the event.

117. At the panel, several students, including Ms. Doe, stated that certain students from the Christian Legal Society had religious beliefs that were bigoted and anti-LGBTQ+.

118. Ms. Doe even stated that she had personally experienced instances of bigotry and that some students in the room had told her to go to hell.

119. None of the Plaintiffs have ever told Ms. Doe to go to hell.

120. After the other students made their comments, Plaintiff Alexander spoke up and explained that Ms. Doe is the one who initiated the conversation on April 1 and that the biggest instance of discrimination was actually the delay in registering CLS last fall.

121. Plaintiff Alexander also stated that the CLS members just wanted to live in a manner consistent with their religious beliefs and that he was concerned about the state of religious freedom on campus.

122. Plaintiff Alexander said nothing further at the event. Neither Plaintiff Alexander nor Plaintiff Perlot spoke with Ms. Doe directly during or after the ABA panel.

D. The University issues no-contact orders against Plaintiffs because of their religious expression.

123. That same day, April 4, Defendant Ewan interviewed Plaintiff Miller about the events that happened during the “moment of community” on April 1. In that interview, Mr. Miller explained what happened and how his conversation with Ms. Doe proceeded.

124. Defendant Ewan told Mr. Miller that he was not in trouble and that she was simply trying to understand what happened on April 1.

125. During the interview, Defendant Ewan also stated that Title IX allowed her office to provide “supportive measures to those in need” and asked Plaintiff Miller to keep this in mind in case he or any of his colleagues were feeling anxious or concerned about attending classes after the events on April 1.

126. Then on April 7, each of the Plaintiffs received a no-contact order issued by Defendant Ewan. Exs. 16, 17, & 18.

127. The orders prohibit each of the Plaintiffs from having any contact with Ms. Doe and are substantively identical.

128. The orders prohibit Plaintiffs from “contacting Ms. Doe in any way, from this point forward, and until otherwise notified,” and “under any circumstances.”

129. The orders say contact “can be defined as, but is not limited to”: “[w]ritten,” “[v]erbal,” “[e]lectronic,” and “[n]on-[v]erbal” communication, including mail, letters, text messages, telephone, voicemail, in person, email, social media, skype, pictures, videos, or music.

130. The orders further mandate that Plaintiffs “sit on opposite sides of the room” from Ms. Doe during any courses they may have with her.

131. Plaintiffs must first obtain permission from the Office of Civil Rights if they believe they have a “legitimate reason” to contact Ms. Doe.

132. The orders warn that the Office of Civil Rights “may be in contact with you regarding other measures that may need to be taken as a result of this no-contact order.” These actions may include class schedule adjustments, residence hall restrictions, or on campus work schedule adjustments.

133. The orders apply both on- and off-campus.

134. The orders do not have a termination date. *Id.*

135. The orders state that even classroom interaction with Ms. Doe must first be

approved by the Office of Civil Rights and “shall pertain only to relevant academic work being discussed.” *Id.*

136. The orders state that “[a]ny action deemed to be in violation of this no-contact order will be taken seriously and considered retaliation. Further action may be taken by this administration as a result, which could include suspension or expulsion.” *Id.*

137. The orders also state that Ms. Doe has received a similar no-contact order prohibiting her from contacting any of the Plaintiffs.

138. Defendants did not conduct any investigation regarding Plaintiffs Perlot and Alexander, present any factual findings or witnesses to any Plaintiff, or give any Plaintiff an opportunity to respond to the complaints against them before the Office of Civil Rights issued the orders.

139. Defendant Ewan admitted to Plaintiff Perlot that “[n]o investigation has occurred” and “no facts have been determined.” Ex. 19 (Follow-up emails between Perlot and Defendant Ewan).

140. In fact, Defendants did not even contact Plaintiffs Alexander or Perlot before issuing these orders.

141. Rather, Defendants told Plaintiff Perlot that they issued the no-contact order because it “was requested by [Ms. Doe] and deemed reasonable based on the information presented.” *Id.*

142. The no-contact orders do not specify the reason the orders were issued.

143. On information and belief, Defendants issued the no-contact order against Plaintiff Miller because he responded to Ms. Doe’s questions about CLS’ religious beliefs at the “moment of community” on April 1.

144. On information and belief, Defendants issued the no-contact order against Plaintiff Perlot because of the note he left Ms. Doe after the “moment of community” offering to speak with her further if she so desired.

145. On information and belief, Defendants issued the no-contact order against

Plaintiff Alexander because of his comments defending CLS' religious beliefs at the ABA meeting on April 4.

146. On information and belief, Defendants issued these no-contact orders under the *Conduct and Discipline Policies* and the *Title IX Policy*.

E. Plaintiffs are suffering ongoing harm from the no-contact orders.

147. Because of these orders, all Plaintiffs credibly fear that Defendants will sanction Plaintiffs or issue other no contact orders if Plaintiffs express their religious beliefs, even if they do so in direct response to a question asking what their beliefs are and why they hold those beliefs.

148. Defendants' no-contact orders have inflicted great stress and anxiety on Plaintiffs.

149. Plaintiffs fear that any expression of their sincerely held religious beliefs will run afoul of Defendants' interpretation of their Policies.

150. Plaintiffs worry what they can and cannot say on campus without running afoul of Defendants' Policies.

151. Plaintiffs therefore have self-censored on campus when expressing their religious beliefs and other beliefs that some may disagree with.

152. Before speaking, Plaintiffs weigh how other students will receive their speech and whether their speech will prompt those students to complain to Defendants.

153. Plaintiffs must also contend with the constant fear that Defendants may issue future no-contact orders on the basis of their protected speech at any time and without prior notice or process.

154. Plaintiff Alexander is the same year as Ms. Doe and currently has four classes with her. He is worried about addressing or responding to Ms. Doe or even Ms. Doe's statements or ideas in these classes, and is concerned that Defendants may deem his seat not on the "opposite side[] of the room" and therefore in violation of the order.

155. Before the April 4 event, Plaintiff Alexander had only made cordial small talk with Ms. Doe and had not engaged in any lengthy discussion with her.

156. Before the April 1 incident, Plaintiffs Miller and Perlot had never engaged in conversation with Ms. Doe.

157. Plaintiffs also suffer stress and anxiety from the future consequences of Defendants' no-contact orders.

158. Plaintiffs are all in law school and intend to apply for admission to the bar so that they can practice law.

159. Bar applications often ask questions relating to discipline by academic institutions.

160. A disciplinary record from an academic institution could jeopardize admission to the bar.

161. For example, Idaho's application for admission to the bar asks whether an applicant has "ever been investigated, suspended, expelled, or disciplined, formally or informally, by any school, college, or university."

162. At the very least, Defendants' no-contact orders signal an investigation and may constitute informal discipline.

163. Plaintiffs thus credibly fear that Defendants' no-contact orders may endanger their future careers and cause them to have diminished earning potential.

164. Plaintiffs have observed that the University allows students to discuss almost any content with each other, whether in the classroom, in the hallways, or elsewhere on or off campus.

165. Indeed, the Law School Dean even emphasized this in her email announcing the "moment of community": "I expect and hope that our classrooms and hallways will be a place of robust discussion and debate." Ex. 13.

166. Plaintiffs have also observed that the University allows, and even promotes, students who express viewpoints on sexuality and marriage opposed to their own,

including those who have expressly condemned Plaintiffs' and CLS' views on sexuality.

167. Plaintiffs attempted to resolve this dispute without court intervention.

168. On April 8, Mr. Langhofer, counsel for the Plaintiffs, spoke with the University's general counsel, James E. M. Craig.

169. Mr. Langhofer explained that the no-contact orders violated Plaintiffs' First Amendment rights because they were issued based on the content and viewpoint of Plaintiffs' religious speech. Mr. Langhofer further explained that the no-contact orders violated Plaintiffs' due process rights because the University had conducted no investigation and issued the orders without any formal or even informal hearing.

170. Over the following two weeks, Mr. Langhofer communicated multiple times with the University's counsel through email and telephone.

171. Unfortunately, the University refused to rescind the no-contact orders. The University insisted that Title IX authorizes the University to issue these no-contact orders as supportive measures solely because Ms. Doe disagreed with Plaintiffs' expression of their religious beliefs.

172. As a result, Plaintiffs were forced to file this lawsuit.

**FIRST CAUSE OF ACTION
First Amendment: Freedom of Speech
(42 U.S.C. § 1983)**

173. Plaintiffs repeat each of the allegations in paragraphs 1–172.

174. The First Amendment's Free Speech Clause, incorporated and made applicable to the states by the Fourteenth Amendment, prohibits censorship of religious expression.

175. Private student expression is protected by the First Amendment.

176. A University cannot restrict a student's private expression based on either its content or its viewpoint unless that restriction serves a compelling governmental interest and is narrowly tailored to that interest.

177. Defendants here have censored Plaintiffs based on the content and viewpoint of their speech.

178. Plaintiffs' expression, including at the "moment of community" event and the ABA panel, is protected speech under the First Amendment.

179. Pursuant to their *Title IX Policy* and *Conduct and Discipline Policies*, Defendants issued no-contact orders that singled out Plaintiffs' expression and prevented them from engaging in religious expression with Ms. Doe.

180. Defendants' no-contact orders have also chilled Plaintiffs from engaging in religious expression with other students at the Law School or the rest of the University.

181. Defendants have thus censored Plaintiffs based on Plaintiffs' religious views and on the content of their speech.

182. Defendants allow speech between students on a wide variety of content. Nor have Defendants censored students who express views on sexuality and marriage opposed to Plaintiffs' views, including speech expressly condemning Plaintiffs and CLS.

183. Defendants' censorship does not serve any compelling government interest, nor is it narrowly tailored to any such interest.

184. In addition to the fact that it is not a content-neutral restriction, Defendants' no-contact order is unconstitutional because it is not narrowly tailored to serve a significant government interest and does not leave open ample alternative channels of communication.

185. Defendants' *Title IX Policy* and *Conduct and Discipline Policies* also violate the First Amendment's Free Speech Clause because they grant Defendants unbridled discretion to restrict protected speech.

186. By permitting Defendants to issue no-contact orders without first requiring them to find an actual violation of these Policies and without providing notice and a

hearing to the respondent, Defendants have license to issue no-contact orders against views or content they deem controversial or unpopular.

187. Further, Defendants can issue no-contact orders for an indefinite duration and have discretion to restrict different types of content or viewpoints in the no-contact orders themselves.

188. Defendants' no-contact orders and the *Title IX Policy* and *Conduct and Discipline Policies* that authorize them also violate the First Amendment's Free Speech Clause because they are unconstitutional prior restraints on speech.

189. Defendants cannot justify the no-contact orders under strict scrutiny. Nor can Defendants justify them as a content-neutral regulation under intermediate scrutiny.

190. Defendants also cannot justify the *Title IX Policy* and *Conduct and Discipline Policies* to the extent that they authorize no-contact orders that are issued solely on a student's expressive activity because the Policies are overbroad, impose prior restraints, and grant unbridled discretion.

191. Defendants' *Conduct and Discipline Policies* also violate the First Amendment's Free Speech Clause because they are facially overbroad.

192. Defendants' definition of harassment, sexual harassment, and gender-based and sexual orientation harassment reaches a substantial amount of constitutionally protected speech.

193. By defining harassment or sexual harassment to include even "[a] single instance" of verbal conduct and defining gender-based and sexual orientation harassment to include "any act of verbal . . . aggression, intimidation, or hostility," the University can punish virtually any protected expression as harassment.

194. The overbreadth of the *Conduct and Discipline Policies* chills Plaintiffs' speech.

195. To the extent that Defendants issued the no-contact orders based on any of

these types of harassment or potential harassment, Defendants have unconstitutionally discriminated against Plaintiffs under these Policies because Plaintiffs engaged in protected expression.

196. Defendants' *Conduct and Discipline Policies* and their enforcement of those Policies are therefore unconstitutionally overbroad and violate Plaintiffs' free speech rights under the First Amendment's Free Speech Clause.

197. Defendants' *Title IX Policy* and *Conduct and Discipline Policies*, both facially and as applied, violate the Free Speech Clause of the First Amendment.

198. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm, and are entitled to an award of monetary damages and equitable relief.

SECOND CAUSE OF ACTION
First Amendment: Free Exercise of Religion
(42 U.S.C. § 1983)

199. Plaintiffs repeat each of the allegations in paragraphs 1–172.

200. Plaintiffs are motivated by their sincerely held religious beliefs to speak on campus on many topics from a Christian worldview. Plaintiffs believe their on-campus speech is a way to share the Gospel of Jesus Christ with non-Christians and a way to disciple and equip other Christians on campus to grow and mature in their faith.

201. The First Amendment's Free Exercise Clause guarantees religious believers—at a bare minimum—equal treatment.

202. A public university policy that burdens religious exercise and is not both neutral and generally applicable must satisfy strict scrutiny.

203. And a public university policy that targets religious beliefs is never permissible.

204. Defendants' application of their *Title IX Policy* and *Conduct and Discipline Policies* burdens religious exercise because Defendants apply these Policies to exclude

certain religious viewpoints.

205. These Policies, as applied, are not neutral or generally applicable.

206. Rather, Defendants have specifically targeted Plaintiffs' speech on sexuality and marriage because of the religious views Plaintiffs expressed at the "moment of community" and the ABA panel.

207. Defendants' application of their *Title IX Policy* and *Conduct and Discipline Policies* does not support a compelling government interest and is not narrowly tailored to any such interest.

208. Defendants' application of these Policies thus violates the Free Exercise Clause of the First Amendment.

209. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm, and are entitled to an award of monetary damages and equitable relief.

**THIRD CAUSE OF ACTION
Fourteenth Amendment Right to Due Process of Law
(42 U.S.C. § 1983)**

210. Plaintiffs repeat each of the allegations in paragraphs 1–172.

211. Before a public university can discipline a student, procedural due process requires at a minimum that the student be given notice and an opportunity for a hearing before an impartial tribunal.

212. By issuing no-contact orders against Plaintiffs and threatening penalties for violating those orders, Defendants disciplined them for their religious speech.

213. But Defendants, pursuant to the *Title IX Policy* and *Discipline Policy*, did not give notice or an opportunity for a hearing before an impartial tribunal to any of the Plaintiffs.

214. Nor did Defendants set a hearing after the no-contact orders were issued to determine whether to keep the orders in place after a certain point.

215. In fact, the no-contact orders remain in place indefinitely unless the Office of

Civil Rights orders otherwise.

216. Defendants have thus violated Plaintiffs' right to procedural due process under the Fourteenth Amendment.

217. Additionally, by punishing and threatening to punish Plaintiffs under vague and overbroad Policies for their expression, Defendants have violated and are violating Plaintiffs' right to due process of law under the Fourteenth Amendment.

218. Defendants' no-contact orders and *Title IX Policy* and *Conduct and Discipline Policies* are unconstitutionally vague.

219. Defendants' no-contact orders, *Title IX Policy*, and *Conduct and Discipline Policies* utilize terms that are inherently subjective and elude any precise or objective definition that would be consistent from one official, professor, or student to another, because they are incapable of providing meaningful guidance to Defendants and other University officials, and because they force Plaintiffs to guess whether expression that the First Amendment protects is in fact allowed on campus.

220. The no-contact orders fail to define such terms as "approach," "any attempt to communicate with them in any form," "sit on opposite sides of the room," and "legitimate reason to contact."

221. Defendants' *Title IX Policy* and *Conduct and Discipline Policies* fail to define any criteria for the imposition of no-contact orders and fail to employ safeguards to ensure Defendants do not issue no-contact orders on the basis of even a single instance of protected speech.

222. Defendants' *Conduct and Discipline Policies* fail to define terms such as "verbal abuse," "verbal . . . conduct or communication," "act of verbal . . . aggression, intimidation, or hostility," "sexual orientation," "gender identity/expression," and "[a] single instance may be considered severe enough to merit sanctions."

223. Defendants' *Title IX Policy* and *Conduct and Discipline Policies* are also unconstitutionally vague because they grant University officials unbridled discretion

in deciding when to issue no-contact orders.

224. The lack of objective criteria, factors, or standards in Defendants’ no-contact orders, *Title IX Policy*, and *Conduct and Discipline Policies* renders the no-contact orders and Policies unconstitutionally vague and in violation of Plaintiffs’ right to due process of law.

225. Because of Defendants’ actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm, and are entitled to an award of monetary damages and equitable relief.

**FOURTH CAUSE OF ACTION
Idaho Free Exercise of Religion Protected Act
(Idaho Code § 73-402)**

226. Plaintiffs repeat each of the allegations in paragraphs 1–172.

227. Idaho’s Free Exercise of Religion Protected Act states that the “government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability” unless the government shows that the application of the burden is “[e]ssential to further a compelling governmental interest” and is “[t]he least restrictive means of furthering that compelling governmental interest.” Idaho Code § 73-402(2)–(3).

228. Plaintiffs are motivated by their sincerely held religious beliefs to speak on campus on many topics from a Christian worldview. Plaintiffs believe their on-campus speech is a way to share the Gospel of Jesus Christ with non-Christians and a way to disciple and equip other Christians on campus to grow and mature in their faith.

229. Defendants’ application of the *Title IX Policy* and *Conduct and Discipline Policies* burdens religious exercise because Defendants apply these Policies to exclude certain religious viewpoints.

230. This prevents Plaintiffs from freely sharing their Christian viewpoints on a number of topics with others at the Law School and thus substantially burdens Plaintiffs' religious exercise.

231. Defendants' application of their *Title IX Policy* and *Conduct and Discipline Policies* does not support a compelling governmental interest and is not the least restrictive means of furthering any such compelling governmental interest.

232. Defendants' application of these Policies thus violates Idaho's Free Exercise of Religion Protected Act.

233. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm.

234. Plaintiffs seek only damages, costs, and attorney's fees against Defendants in their individual capacities under the Idaho Free Exercise of Religion Protected Act.

PRAYER FOR RELIEF

Thus, Plaintiffs respectfully request that this Court:

- A. Enter a judgment declaring that Defendants' no-contact orders, *Title IX Policy*, and *Conduct and Discipline Policies*, facially and as-applied, violate Plaintiffs' rights under the First Amendment and Fourteenth Amendment;
- B. Enter a preliminary and permanent injunction ordering Defendants sued in their official capacities, including their agents, officials, servants, employees, and any other persons acting on their behalf, to (1) stop enforcing the no-contact orders and their *Title IX Policy* and *Conduct and Discipline Policies* against protected expression, whether through formal discipline, "interim action," "supportive measures," or in any other way; (2) terminate any investigation related to the no-contact orders issued to Plaintiffs based on allegations of protected speech alone; and (3) remove any reference to the no-contact orders and investigations related to the no-contact orders in the University's records for Plaintiffs;

- C. Award compensatory damages for the reputational harm and emotional harm and distress Defendants have caused Plaintiffs;
- D. Award nominal damages for the violation of Plaintiffs' constitutional and statutory rights;
- E. Award Plaintiffs' reasonable attorneys' fees and costs under 42 U.S.C. § 1988 and Idaho Code § 73-402(4); and
- F. Award any other relief to which Plaintiffs may be entitled.

Respectfully submitted this 25th day of April, 2022.

/s/ Matthew C. Williams

Matthew C. Williams
ID Bar No. 6271
WILLIAMS LAW, PLLC
812 First St. S.
Nampa, ID 83651
Telephone: (208) 908-6066
matt@williamslawoffice.net

Tyson C. Langhofer*
VA Bar No. 95204
Michael R. Ross*
TN Bar No. 35304
Mathew W. Hoffmann*
DC Bar No. 1617417
ALLIANCE DEFENDING FREEDOM
44180 Riverside Pkwy
Lansdowne, VA 20176
Telephone: (571) 707-4655
Facsimile: (571) 707-4790
tlanghofer@ADFlegal.org
mross@ADFlegal.org
mhoffmann@ADFlegal.org

Counsel for Plaintiffs

**Pro Hac Vice application forthcoming.*

DEMAND FOR TRIAL BY JURY

Plaintiffs demand a trial by jury for all issues so triable.

/s/ Matthew C. Williams

Matthew C. Williams
Counsel for Plaintiffs

DECLARATION UNDER PENALTY OF PERJURY

I, Mark J. Miller, a citizen of the United States and a resident of the State of Idaho, declare under penalty of perjury under 28 U.S.C. § 1746 that the above is true and correct to the best of my knowledge.

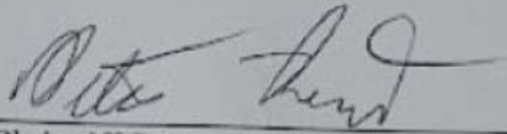
Executed this 21 day of April, 2022, at 7:02 AM (PT)
Moscow, Idaho

Mark J. Miller
Mark Miller

DECLARATION UNDER PENALTY OF PERJURY

I, Peter Perl, a citizen of the United States and a resident of the State of Idaho, declare under penalty of perjury under 28 U.S.C. § 1746 that the above is true and correct to the best of my knowledge.

Executed this 25th day of April, 2022, at Moscow, Idaho.



Plaintiff Peter Perl

DECLARATION UNDER PENALTY OF PERJURY

I, Ryan James Alexander, a citizen of the United States and a resident of the State of Idaho, declare under penalty of perjury under 28 U.S.C. § 1746 that the above is true and correct to the best of my knowledge.

Executed this 20th day of April, 2022, at Moscow, Idaho.



Ryan Alexander

EXHIBIT 1

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: I. GENERAL GOVERNING POLICIES AND PROCEDURES

SUBSECTION: E. Executive Officers

October 2021

1. Executive Director

- a. The Executive Director is appointed by and serves in this position at the pleasure of the Board. The Executive Director serves as the chief executive officer of the State Board of Education. Pursuant to Idaho Code 33-102A the Executive Director shall be under the direction of the Board and shall have such duties and powers as are prescribed by the Board. The Executive Director is charged with ensuring the effective articulation and coordination of institution, and agency concerns and is advisor to the Board and the Presidents/Agency Heads on all appropriate matters.

2. Presidents/Agency Heads

a. Responsibilities

The President/Agency Head is the chief program and administrative officer of the institution or agency. The President/Agency Head has full power and responsibility within the framework of the Board's Governing Policies and Procedures for the organization, management, direction, and supervision of the institution or agency and is held accountable by the Board for the successful functioning of the institution or agency in all of its units, divisions, and services.

For the higher education institutions, the Board expects the Presidents to obtain the necessary input from the faculty, classified and exempt employees, and students, but it holds the Presidents ultimately responsible for the well-being of the institutions, and final decisions at the institutional level rest with the Presidents. The Presidents shall keep the Board apprised, within 24 hours, through the Executive Director, of all developments concerning the institution, its employees, and its students, which are likely to be of interest to the public.

- b. The Chief Executive Officer is held accountable to the Board for performing the following duties within his or her designated areas of responsibility:

i. Relations with the Board

- 1) Conduct of the institution or agency in accordance with the Governing Policies and Procedures of the Board and applicable state and federal laws.
- 2) Effective communication among the Board, the Board office, and the institution or agency.
- 3) Preparation of such budgets as may be necessary for proper reporting and planning.
- 4) Transmittal to the Board of recommendations initiated within the institution or agency.

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: I. GENERAL GOVERNING POLICIES AND PROCEDURES

SUBSECTION: E. Executive Officers

October 2021

- 5) Participation and cooperation with the office of the Board in the development, coordination, and implementation of policies, programs, and all other matters of state-wide concern.
- 6) Notification to Board President or Executive Director of any absence exceeding one week during which time the chief executive officer will be unavailable or out-of-country.

ii. Leadership of the Institution or Agency

- 1) Recruitment and retention of employees
- 2) Development of programs, in accordance with an evolving plan for the institution or agency.
- 3) In cooperation with appropriate parties, the promotion of the effective and efficient functioning of the institution or agency.
- 4) Development of methods that will encourage responsible and effective contributions by various parties associated with the institution or agency in the achievement of the goals of the institution or agency.

iii. Relations with the Public

- 1) Development of rapport between the institution or agency and the public that each serves.
- 2) Official representation of the institution or agency and its Board-approved role and mission to the public.

c. Appointment Terms and Conditions

Each chief executive officer is employed and serves at the pleasure of the Board as an at-will employee. Appointments to the position of President of the higher education institutions and Executive Director of the Board are made by the Board. The Executive Director shall have authority to identify candidates and make recommendations for the appointment of Agency Heads, which must be approved and appointed by the Board. The Board and each chief executive officer may enter into an employment agreement for a term not to exceed five (5) years that documents the period of appointment, compensation, and any additional terms. The Board's Policies regarding Non-classified Employees, Section II, Subsection F, do not apply to the Board's chief executive officers.

d. Evaluations

The Agency Heads are evaluated by the Executive Director annually, who makes recommendations to the Board with respect to compensation and employment

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: I. GENERAL GOVERNING POLICIES AND PROCEDURES

SUBSECTION: E. Executive Officers

October 2021

actions. The Presidents and Executive Director are evaluated by the Board annually. The performance evaluation is based upon the terms of any employment agreement, the duties outlined in the policy and mutually agreed upon goals. Final decisions with respect to compensation and employment actions with regard to chief executive officers are made by the Board.

e. Compensation and Benefits

- i. Each chief executive officer's annual compensation shall be set and approved by the Board. A chief executive officer shall not receive supplemental salary compensation related to his or her service as chief executive officer from an affiliated institutional foundation, or from any other source. A chief executive officer must disclose to the Board, through its Executive Director or in executive session as appropriate (with updates as necessary), any activities and financial interests, including compensation from an outside source unrelated to his or her service as chief executive officer, that affects or could potentially affect the chief executive officer's judgment or commitment to the Board or the institution.
- ii. In addition to the compensation referred to above, each chief executive officer shall receive the usual and ordinary medical, retirement, leave, educational, and other benefits available to all institutional, and agency employees.
- iii. Each chief executive officer shall receive reasonable and adequate liability insurance coverage under the state's risk management program.
- iv. Relocation and moving expenses incurred by each chief executive officer will be paid in accordance with the policies and rates established by the State Board of Examiners.
- v. Each chief executive officer earns annual leave at a rate of two (2) days per month or major fraction thereof of credited state service.

f. Termination

In the event a chief executive officer's appointment is terminated by Board action (for or without cause), then such individual shall only be entitled to continued compensation or benefits, if any, for which he or she may be eligible under the terms of his or her employment agreement.

3. Institutional Presidents: Official Duties Related Spousal Expenses

The Board acknowledges that the spouse of an institutional president provides valuable service activities on behalf of the institution, the Board, and to the Idaho higher education system. The Board further recognizes that the spouse may be expected to attend certain functions related to the ongoing mission and purposes of the institution. Accordingly, a spouse shall be eligible for reimbursement of authorized official travel and business related expenses, in accordance with the State of Idaho's travel and expense policies, as long as such expenses have a bona fide business

Idaho State Board of Education**GOVERNING POLICIES AND PROCEDURES****SECTION: I. GENERAL GOVERNING POLICIES AND PROCEDURES****SUBSECTION: E. Executive Officers****October 2021**

purpose. To be a bona fide business purpose the presence and activities of the spouse at the function must be significant and essential (not just beneficial) to the institution. A president's spouse attending official functions as part of protocol or tradition and where the spouse makes an important contribution to the function can be considered serving a business purpose. For example, ceremonial functions, fundraising events, alumni gatherings, community, and recruiting events are examples of activities at which the presence of a spouse may contribute to the mission of the University. If a spouse has no significant role, or performs only incidental duties of a purely social or clerical nature, then such does not constitute a bona fide business purpose. Spousal expenses may not be charged to state funds; various non-state funds controlled by the institution may be used to fund spousal expenses.

4. President Emeritus/Emerita Designation

The Board may choose to grant President Emeritus/Emerita status to a retiring President. President Emeritus/Emerita status should be reserved to honor, in retirement, a president who has made distinguished professional contributions to the institution and who has also served a significant portion of his/her career at the institution. The intent of conferring President Emeritus/Emerita status is to bestow an honorary title in recognition of successful tenure in the Presidential role.

a. Appointment Procedure

An institution may forward a recommendation to the Board that this honorary title be conferred upon a President that is retiring or has retired from the institution. Each institution shall provide for input into the recommendation from the campus community.

b. Rights, Privileges and Responsibilities

Rights and privileges of such a distinction shall be, insofar as resources will allow, similar to those of active institutional staff, including such privileges as:

- i. staff privileges for activities, events and campus facilities;
- ii. receipt of institutional newspaper and other major institutional publications and receipt of employee/spouse fee privilege (see Section V. R.).

5. Procedures to Prevent the Spread of Infectious Disease.

Pursuant to section 33-3730, Idaho Code, the executive director is delegated authority to, upon request from an institution in situations requiring immediate action, close an institution or any of its buildings or campuses if needed to prevent the spread of contagious or infectious disease. Also pursuant to section 33-3730, Idaho Code, the president of each institution is delegated the authority to implement measures required to prevent the spread of contagious or infectious

Idaho State Board of Education

GOVERNING POLICIES AND PROCEDURES

SECTION: I. GENERAL GOVERNING POLICIES AND PROCEDURES

SUBSECTION: E. Executive Officers

October 2021

disease, including limiting programs or activities. Any such action taken shall be considered by the Board at its next meeting.

EXHIBIT 2

University Organization Chart

Board of Regents, State Board of Education
University of Idaho

President

Provost & Executive Vice President

College Deans +

Center Executive
Officers +

Vice Provost For Strategic Enrollment Management
Reporting Units +

Vice Provost For Academic Initiatives
Reporting Units +

Vice Provost For Faculty

Vice Provost for Student Affairs & Dean of Students
Reporting Units +

Vice Provost for Digital Learning Initiatives

Director of Institutional Effectiveness and Accreditation

WWAMI Medical Education Program

Vice President University Advancement
Reporting Units +

Vice President, Research & Economic Development
Reporting Units +

Vice President Finance & Administration
Reporting Units +

Vice President for Information Technology

Chief Diversity Officer & Executive Director of Tribal Relations

Reporting Units +

Athletics

Communications and Marketing

General Counsel

State Governmental Relations

Internal Audit

NCAA Faculty Athletic Representative

Ombuds

Special Assistant to the President for Principal Gifts

Tribal Relations

Civil Rights and Investigations

McClure Center for Public Policy Research

Shared governance is enabled as the following groups interact with offices through the fabric of the University

Associated Students University of Idaho

Faculty Senate

Graduate and Professional Students Association

Staff Council

Student Bar Association

University of Idaho Foundation

The UI Foundation operates in a liaison relationship through the office of Vice President for University Advancement

EXHIBIT 3

Office of the Dean of Students

The Office of the Dean of Students takes leadership in creating a compassionate, safe and vibrant residential campus community of choice. We promote educational and leadership experiences that prepare students to serve their communities and respect the dignity of all persons.

Our office oversees [Violence Prevention Programs](#) and other judicial and administrative needs on campus.

We're Here for You

The Office of the Dean of Students is located in the **Teaching and Learning Center Room 232**. Drop in, call 208-885-6757, [send an email](#) or [ask a question](#).

Blaine Eckles

Vice Provost for Student Affairs and Dean of Students



Dean of Students
208-885-6757

[Email](#)



Coronavirus Disease 2019 (COVID-19)

Stay Current on COVID-19

[LEARN MORE](#)

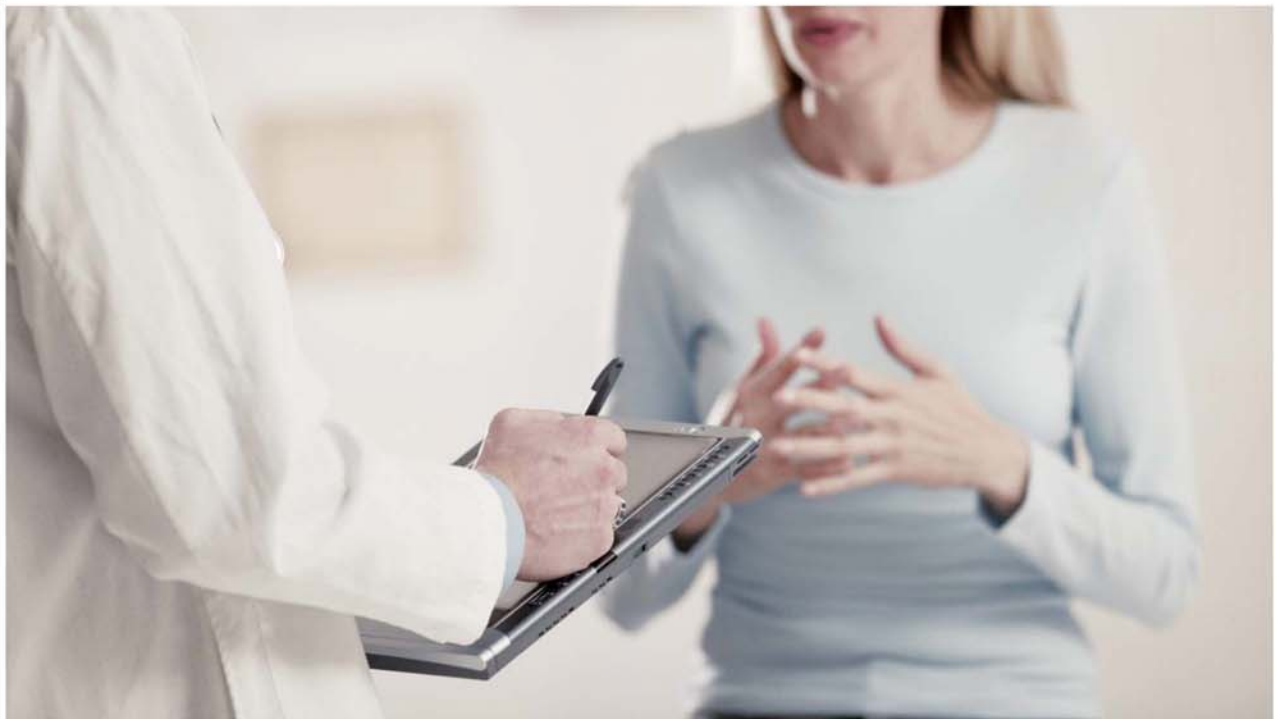


VandalCARE

Submit a concern

We CARE about student success and well-being. The mission of VandalCARE is to provide care and concern for students who may be in distress.

[SUBMIT A REPORT](#)



Medical Withdrawal

There are several ways a student may withdraw from the university. Our office can streamline the process by being a single point of communication to other resources.

[EXPLORE OPTIONS](#)

Student Conduct

Our Philosophy

The University of Idaho conduct process works to balance the safety and security of the members of the University of Idaho and the Moscow community through personal accountability, reflection and growth. Students will have an opportunity to reflect on their choices, understand how their actions have an impact on those around them and grow from the experience.

We aim to:

- Educate students to better understand how their decisions can affect themselves and their community through reflection, additional follow-up and accountability.
- Provide fair and consistent student conduct process based on university policy and best practices.
- Collaborate with university and Moscow community partners to provide resources and support to students and opportunities for students, faculty and staff to learn, reflect and grow.
- Provide a space for students, faculty and staff to ask questions, address allegations of misconduct and voice concerns.

We're Here for You

The Office of the Dean of Students is in the **Teaching and Learning Center Room 232**. Drop by or call 208-885-6757.



Student Code of Conduct

Developed in partnership with University of Idaho students and faculty and approved by the Idaho Board of Regents.



Alcohol & Other Drugs Policy

As a student, it is important to understand university policies regarding alcohol and the conduct process.

[LEARN MORE](#)



Academic Dishonesty Policy

Providing tools, information and support to promote a climate of honesty and integrity at the University of Idaho.

[LEARN MORE](#)

EXHIBIT 4

Meet Our People

Director, Office of Civil Rights and Investigations

The director of the Office of Civil Rights and Investigations undertakes necessary investigations and prepares recommendations and written reports. Erin is responsible for Title IX compliance in matters involving faculty, staff and students, including training, education and investigation of complaints. She also works with the Associate Dean of Students to coordinate investigations where the person accused of sexual misconduct is a student.

Erin Agidius

Title IX Coordinator, Director OCRI



Deputy Director, Civil Rights and Investigations

The deputy director for the Office of Civil Rights and Investigations reviews, investigates, and oversees all civil rights complaints and complaints of discrimination in the workplace and within the University community in accordance with University policy and procedures. Lindsay supervises and directs the work of the civil rights investigators in the course of investigations involving students and employees, ensuring efficient and timely response to complaints and ensures that support and notification protocols are implemented, including identifying and reporting Clery related concerns in compliance with Clery protocol. Lindsay also serves as the Title IX Coordinator in the absence of the Director.

Lindsay Ewan

Deputy Director



Civil Rights Investigators

The investigators provide administrative, educational, intellectual and compliance leadership to the Office of Civil Rights efforts around investigating alleged violations of the Student Code of Conduct and University policies. The investigators also conduct investigations as part of the Title IX investigation team. Additionally, they assist with educational outreach efforts for students, faculty, and staff across the University of Idaho

Trainings Completed by Staff



Amber Feldman

Civil Rights Investigator



Completed Trainings



Trent Taylor

Civil Rights Investigator



EXHIBIT 5

6100 - Title IX Sexual Harassment

Owner:

- **Position:** Director of the Office of Civil Rights & Investigations
- **Name:** Erin Agidius
- **Email:** erina@uidaho.edu

Last updated: January 01, 2022

A. STATEMENT OF PURPOSE

A-1. The core purpose of this policy is the prohibition of all forms of sexual harassment.

A-2. This policy is designed to treat all parties equally. All provisions of this policy must be interpreted as applying equally to both parties.

A-3. The University presumes that the respondent is not responsible for any conduct alleged in a report or formal complaint until a determination regarding responsibility is made at the conclusion of this grievance process.

B. APPLICABILITY. This policy applies to sexual harassment occurring in a University education program or activity and against a person while in the United States. Allegations of sexual harassment to which this policy applies can only be addressed through this policy, and may not be addressed by any other University policy. To the extent this policy conflicts with any other University policy, this policy shall control. Other sexual misconduct is addressed under other University policies.

C. VIOLATION. Sexual harassment, as defined in this policy, is prohibited.

D. DEFINITIONS

D-1. Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the University's Title IX Coordinator or any University official who has authority to institute corrective measures on behalf of the University. The University officials with authority to institute corrective measures on behalf of the University include the president, provost, vice presidents, vice provosts, associate vice presidents, associate vice provosts, Dean of Students, director of Housing and Residence Life, director of Fraternity and Sorority Life, executive director of Public Safety and Security, Title IX Coordinator, senior executive in Human Resources, deans, associate deans, department chairs, Athletic Director, Associate Athletic Director for NCAA compliance, Center executive officers, Chief Diversity Officer, and the Internal Auditor.

D-2. Advisor means a person chosen by a party or appointed by the University to accompany the party to meetings, hearings, or interviews related to the grievance process and to conduct cross-examination for the party at the hearing, if any.

D-3. Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. If the complainant is under 18 years of age, the complainant's parent or guardian may also be considered a complainant.

D-4. Consent is knowing, voluntary, and clear permission by word or action to engage in sexual activity. Consent can be withdrawn at any time.

D-5. Dating violence is violence on the basis of sex committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

D-6. Day(s) means a business day that the university is open for normal operation, not including Saturdays, Sundays, fall recess, winter recess, spring recess, or University holidays.

D-7. Domestic violence is violence committed by a current or former spouse or intimate partner of the complainant; by a person with whom the complainant shares a child in common; by a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Idaho; or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family laws of Idaho.

D-8. Education program or activity includes locations, events, or circumstances over which the University exercises substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University

D-9. Formal complaint means a document filed with the Title IX Coordinator in accordance with section (E-2) alleging sexual harassment against a respondent and requesting that the University investigate the allegation of sexual harassment.

D-10. Good cause, when referring to the extension of any deadline, may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

D-11. Hearing administrator. The hearing administrator shall be responsible for ensuring that the administrative duties relating to the live hearing process are carried out in accordance with this policy. The hearing administrator shall be the senior executive of Human Resources in cases in which the respondent is an employee, and the Dean of Students in all other cases.

D-12. Investigator means the person or persons charged by the University with investigating a formal complaint and drafting the final investigative report.

D-13. Party means either the complainant(s) or respondent(s). Parties includes the complainant(s) and respondent(s), collectively.

D-14. Relevant evidence means any evidence that tends to make a fact more or less probable than it would be without the evidence.

a. Questions and evidence about the complainant's sexual predisposition or prior sexual behaviors are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

b. Relevant evidence does not include a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional or paraprofessional capacity, or assisting in the capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the party gives voluntary written consent to use the records in the grievance process and hearing.

D-15. Remedies means any measures implemented after a finding of responsibility that is designed to restore or preserve the complainant's equal access to the University's education program or activity. Such remedies may include the same measures implemented as supportive measures, but may be disciplinary or punitive in nature, and may burden the respondent.

D-16. Report of sexual harassment means any situation in which the University has actual knowledge of an alleged incident of sexual harassment occurring in an education program or activity.

D-17. Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. If the respondent is under 18 years of age, the respondent's parent or guardian may also act on behalf of the respondent.

D-18. Sexual assault means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent, including the following:

a. Rape: The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental or physical incapacity.

b. Sodomy: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental or physical incapacity.

c. Sexual assault with an object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental or physical incapacity.

d. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental or physical incapacity.

e. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

f. Statutory rape: Sexual intercourse with a person who is under the statutory age of consent.

D-19. Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

a. A University employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;

b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or

c. Sexual assault, dating violence, domestic violence, or stalking.

D-20. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

D-21. Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed

to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter sexual harassment.

D-22. Title IX Coordinator means at least one official designated by the University to ensure compliance with Title IX and the University's Title IX program. References to the Title IX Coordinator may also encompass a designee of the Title IX Coordinator for specific tasks.

E. RESPONSE TO REPORT OF SEXUAL HARASSMENT

E-1. Receipt of Report. Upon receipt of a report of sexual harassment the Title IX Coordinator will:

a. Promptly contact the complainant to:

- 1.** Discuss the availability of supportive measures;
- 2.** Consider the complainant's wishes with respect to supportive measures by engaging in a meaningful dialogue with the complainant to determine which supportive measures may restore or preserve equal access to the University's education program or activity without unreasonably burdening the respondent;
- 3.** Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
- 4.** Explain to the complainant the process for filing a formal complaint.

b. Implement appropriate supportive measures for both the respondent and complainant. Supportive measures may be implemented with or without the filing of a formal complaint.

1. Supportive measures must be designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party. Supportive measures may be designed to protect the safety of all parties or the University's educational environment, or deter sexual harassment. Supportive measures may include:

- (a)** Referral to counseling, medical, or other healthcare services;
- (b)** Extensions of deadlines or other course-related adjustments;
- (c)** Modifications of work or class schedules;
- (d)** Provision of campus escort services;
- (e)** Mutual restrictions on contact between the parties;
- (f)** Changes in work or housing arrangements;
- (g)** Leaves of absence;
- (h)** Referral to community-based providers;
- (i)** Student financial aid counseling;
- (j)** Education of the institutional community or community subgroup(s);
- (k)** Safety planning;
- (l)** Increased security and monitoring of certain areas of the campus; and

(m) Other similar measures deemed appropriate by the Title IX Coordinator.

2. The Title IX Coordinator has sole authority to determine what supportive measures are to be implemented. The Title IX Coordinator must document the reasons for approving or denying supportive measures.

3. The University must keep confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining confidentiality would not impair the ability of the University to provide the supportive measures.

c. If the complainant decides not to file a formal complaint, the Title IX Coordinator will determine whether or not to file a formal complaint. In determining whether to file a formal complaint, the Title IX Coordinator may consider, among other things, whether there is a pattern of alleged misconduct involving the same respondent; whether a complainant's allegations involved violence, use of weapons, or similar factors; or whether the safety of the University community requires the filing of a formal complaint.

E-2. Filing of Formal Complaint

a. Only the complainant or the Title IX Coordinator may file a formal complaint.

b. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the University's education program or activity.

c. A formal complaint may be filed by any of the following methods:

1. Completing and submitting the online complaint form available at www.uidaho.edu/report;

2. Downloading and completing the complaint form available at www.uidaho.edu/report, or by requesting it from the Title IX Coordinator, and returning the form to the Title IX Coordinator in person, by mail, or through email to TitleIX@uidaho.edu; or

3. By sending a document to the Title IX Coordinator in person, by mail, or through email to TitleIX@uidaho.edu. The document must:

(a) Indicate the complainant's desire to file a formal complaint;

(b) Contain the basic allegations of the respondent's conduct that allegedly constitutes sexual harassment; and

(c) Contain the complainant's physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint.

E-3. Confidentiality

a. The University must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness.

b. This confidentiality requirement does not apply when disclosure is:

1. Permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99; or

2. Required by law; or

3. Required to carry out the purposes of this policy or 34 CFR Part 106, including the conduct of any investigation, hearing, or judicial proceeding.

F. FORMAL COMPLAINT

F-1. Notice of Allegations

- a. Upon receipt of a formal complaint the Title IX Coordinator must provide a notice of allegations to the known parties.
- b. The Title IX Coordinator may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
- c. This notice must be written and sent simultaneously to all known parties, with the following information:
 1. The University of Idaho's grievance process, including any informal resolution process;
 2. The allegations of potential sexual harassment, which shall include the following details:
 - (a) Identities of the parties involved in the incident, if known;
 - (b) The conduct allegedly constituting sexual harassment; and
 - (c) The date and location of the alleged incident, if known;
 3. The right to an advisor of their choosing, who may be a friend, colleague, attorney, family member, advocate or other person;
 4. The right to inspect and review evidence;
 5. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will not be made until the conclusion of the grievance process; and
 6. A statement that knowingly providing false statements or knowingly submitting false information during the grievance process violates University policy and may subject the person to disciplinary action outside of this grievance process.
- d. If, during the course of an investigation, the University decides to investigate additional allegations that are not in the initial notice of allegations, an amended notice of allegations must be provided to the parties whose identities are known.

F-2. Dismissal of Formal Complaint

- a. A formal complaint must be dismissed without investigation if:
 1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined in section D-19 even if proven; or
 2. The conduct did not occur in a University of Idaho education program or activity; or
 3. The conduct did not occur against a person in the United States.
- b. A formal complaint may be dismissed at any point in time during the investigation if:

1. The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations in the formal complaint; or
 2. The respondent is no longer enrolled or employed by the University of Idaho; or
 3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations in the formal complaint.
- c. If a formal complaint is dismissed, the Title IX Coordinator shall send the parties written simultaneous notice of the dismissal, which will include the reason(s) for the dismissal.
- d. A dismissal of a complaint under this policy does not preclude action under another University policy.

F-3. Meeting with Parties. Each party will be given an opportunity to meet with the investigator(s) within a reasonable period of time after the notice of allegations is provided to the parties. The investigator should contact each party no later than five days after the notice of allegation is provided to the parties in order to schedule the meeting. A party is not required to meet with an investigator. Prior to the meeting, the investigator shall provide the party with written notice of the date, time, location, names of participants, and the purpose of the meeting. The written notice must give the party sufficient time to prepare to participate in the meeting. A separate written notice must be provided prior to each meeting with the parties.

F.4. Investigation

- a. Parties may, but are not required to, provide information for investigators to consider at any point in time during the investigation, prior to the dissemination of the final investigative report. The information may include, but is not limited to:
1. The names of potential witnesses to interview;
 2. Suggested questions to ask the other party or other witnesses;
 3. Written information relevant to the allegations, including, but not limited to text messages, police reports, witness statements, medical records, and social media posts or messages;
 4. Video or audio recordings;
 5. A written response to the notice of allegations;
 6. Expert witnesses and/or expert witness reports; and
 7. Any other inculpatory or exculpatory information the party would like the University to consider.
- b. Investigators will conduct their own inquiry to gather relevant information, including, but not limited to:
1. Documentary information;
 2. Inculpatory evidence;
 3. Exculpatory evidence;
 4. Names of witnesses, including fact and expert witnesses;
 5. Witness interviews;
 6. Suggested questions to ask the other party or witnesses.

c. Without the voluntary written consent of the person to whom the records pertain, the University cannot access, consider, disclose, or otherwise use a person's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional or paraprofessional capacity, or assisting in that capacity, and which are made and maintained in connection with the person's treatment.

d. The University shall not prohibit the parties from discussing the allegations under investigation, nor shall the University prohibit parties from conducting their own investigation.

e. All parties and witnesses will be provided a written summary of their respective meeting(s). A party or witness may submit comments on the summary within two days of receipt of the summary.

F.5. Preliminary Investigative Report

a. Once investigators conclude the investigation, investigators will draft a preliminary investigative report. This preliminary investigative report will be provided to all parties (either in hardcopy or electronically) to inspect and review. The preliminary investigative report must include a summary of all relevant information gathered during the Investigation including, but not limited to:

1. A summary of the complainant's interview(s);
2. A summary of the respondent's interview(s);
3. A list of witnesses contacted;
4. A summary of witness interviews; and
5. All other evidence obtained as part of the investigation that is relevant to the allegations, including evidence upon which investigators do not intend to rely.

b. The investigator shall provide a preliminary investigative report and all evidence gathered by the investigator that is directly related to the allegations to both parties and their advisors for review and inspection.

c. Parties will have ten days to submit a written response to the preliminary investigative report. This response may include requests for additional investigation, additional witnesses to be interviewed, or additional questions to ask of witnesses. Requests for extensions will be granted at the discretion of the Title IX Coordinator for good cause. Written notice of the extension of the deadline will be provided to all parties and will apply equally to all parties.

d. Investigators will consider any timely written response submitted by a party prior to completing the final investigative report. If investigators determine additional investigation is appropriate, investigators will conduct the additional investigation and then draft a revised preliminary investigative report and provide the parties an additional ten days to review and provide a written response.

F.6. Final Investigative Report

a. Upon conclusion of the investigation, taking into consideration the timely written response of the parties, if any, investigators will create a Final Investigative report that includes all information provided in the preliminary investigative report as well as:

1. The timely responses from the parties to the preliminary investigative report;
2. A list of necessary witnesses who should be requested to appear at the live hearing; and,

3. As necessary, an assessment of the credibility of the parties and relevant witnesses, provided however that the investigator shall not make a determination as to whether a party or witness is credible or not credible.

b. The final investigative report shall not include any recommended findings or conclusions.

G. LIVE HEARING PROCESS

G-1. Final Investigative Report Submission

a. Once a final investigative report is complete, the Title IX Coordinator will forward the final investigative report to the hearing administrator.

b. Upon receipt of the final report, the hearing administrator shall forward the report to each party simultaneously using the party's official University of Idaho email address or through any other electronic means reasonably calculated to provide immediate access to the report. The hearing administrator shall also provide a notice of hearing to the parties at the same time as the final investigative report. The notice of hearing shall include the following information:

- 1.** A statement that a live hearing will be convened for the purpose of determining whether the respondent is responsible for violating this policy;
- 2.** The date, time, and location for a live hearing. If the hearing will be held electronically, the notice shall include instructions on how to participate in the live hearing;
- 3.** A copy of or a link to the hearing procedures contained in this section;
- 4.** A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made after the conclusion of the hearing;
- 5.** A statement that the parties may have an advisor of their choice who may be, but is not required to be, an attorney, and that if they do not have an advisor, the University will provide an advisor to the party for the sole purpose of assisting with cross-examination;
- 6.** A statement that if a party needs an accommodation on account of a disability to participate in the hearing, the party should contact Human Resources if the party is an employee and the Center for Disability Access and Resources if the party is a student or anyone other than an employee;
- 7.** A list of the witnesses that were identified in the final investigative report as necessary witnesses and a statement that the hearing administrator will attempt to contact these witnesses and arrange for their presence at the hearing;
- 8.** The deadlines referenced in section G-1 c; and
- 9.** The name of the hearing officer and the names of those appointed to serve on the hearing panel.

c. No later than five days after the notice of hearing and final investigative report are provided to the parties, each party must, if desired, submit the following information to the hearing administrator:

- 1.** Any written statements or arguments for the hearing panel to consider in making the decision of responsibility;
- 2.** The identity of the advisor the party will bring to the live hearing or, if the party will not provide an advisor, a request for the University to provide an advisor for the party at the live hearing;

3. The identity of any additional witness the party requests to have present at the hearing, provided, however, that if the witness was not interviewed during the investigation, the witness may not appear at the hearing. The parties shall be reminded that the University cannot force anyone to be present at the hearing or to give any statements at the hearing. The parties are encouraged, but are not required, to have the hearing administrator contact the witnesses to request their presence. Each party may contact witnesses directly to request their presence at the hearing as long as there is not a no-contact order prohibiting the party from contacting a specific witness; and

4. If desired, a request to participate in the live hearing in a separate room through virtual technology.

G-2. Hearing Administrator Duties

a. Prior to the live hearing, the hearing administrator shall:

1. Appoint a hearing officer to preside over the live hearing from the list of approved hearing officers;

2. Notify the chair of the Title IX hearing board of the need to convene a hearing panel for a live hearing and request the chair to appoint a hearing panel;

3. Schedule a date and time for the live hearing. The live hearing shall be held no earlier than ten days after the delivery of the final investigative report, and no later than twenty days after delivery of the final investigative report. The hearing administrator may extend the date of the hearing at the request of a party or otherwise for good cause, provided that written notice is provided to the parties of the delay and the reasons for the delay;

4. Attempt to contact the witnesses identified in the final investigative report as necessary witnesses and any witness identified by the parties, in order to request the witnesses' presence at the hearing; provided, however, that the University cannot force anyone to be present at the hearing or to give any statements at the hearing;

5. Schedule and arrange for a room or rooms in which to hold the hearing;

6. Make arrangements for any technology, such as recording equipment and video conference technology and equipment, necessary to hold the hearing;

7. Prepare a hearing packet and provide the hearing packet to the hearing officer, the members of the hearing panel, and the parties at least three days prior to the hearing. The hearing packet shall consist of the final investigative report; copies of the notice of allegation(s); copies of any written statements the parties provided in response to the final investigative report which were submitted prior to the submission deadline; and copies of the notice of hearing.

b. The hearing administrator shall be responsible for ensuring that an audio or audio/video recording is made of the hearing.

c. The hearing administrator shall be present during the hearing panel's deliberations, but shall not vote on the decision regarding responsibility.

G-3. Hearing Officer

a. Qualifications

1. The senior executive of Human Resources, Dean of Students, provost, and General Counsel shall determine the appropriate qualifications for a person to serve as a hearing officer and shall make a list of approved hearing officers available to the hearing administrator.
2. Each person approved to serve as a hearing officer must, prior to being appointed to serve as a hearing officer in any case, shall complete the training specified in section L.
3. The hearing officer must not have a conflict of interest or bias for or against either party specifically; or, generally for or against complainants or respondents.

b. Duties

1. The hearing officer shall preside over the live hearing in accordance with the procedures set forth in this section and shall serve as chair of the hearing panel, but shall only vote in determining whether the respondent is responsible for violating the sexual harassment policy and on determining the appropriate sanctions, if any, in the event of a tie vote among the other members of the hearing panel.
2. The hearing officer may be physically present at the location of the parties or may conduct the hearing virtually through technology that enables all participants to see and hear each other simultaneously. If the hearing officer is not physically present at the same location as the parties, the parties and their advisors shall be in separate rooms and shall participate in the hearing virtually.
3. The hearing officer shall ensure that a written decision is drafted and finalized no later than ten days after the conclusion of the live hearing.

G-4. Title IX Hearing Board

- a. The Student Conduct Board, as set forth in FSH 1640.83 will make up the Title IX Hearing board.
- b. When the hearing administrator notifies the chair of the Title IX Hearing Board of the need to convene a hearing panel, the chair shall appoint either three or five members of the Title IX Hearing Board to serve as a hearing panel in each case. The chair shall notify the hearing administrator of the names of those appointed as soon as possible in order to allow the hearing administrator to provide the names of the hearing panel members to the parties in the notice of hearing.
- c. A member of the Title IX Hearing Board shall not serve on any hearing panel or appeal panel in any case where the member has a conflict of interest or bias for or against either party specifically, or generally for or against complainants or respondents.
- d. Prior to being appointed to serve on any hearing panel, each member of the Title IX Hearing Board shall complete training on the definition of sexual harassment; the scope of the University's education program or activity; the University's investigation and grievance process; how to conduct hearings; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; any technology to be used at a live hearing; and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
- e. The chair of the Title IX Hearing Board may only appoint a student to serve on hearing panels in cases in which all parties are students.
- f. Proceedings before the Title IX Hearing Board, whether before a hearing panel or appeal panel, are confidential and protected by state and federal law. In specific disciplinary cases, members of the Title IX Hearing Board must protect the confidentiality of the information they receive in fulfilling their duties as

members of the Title IX Hearing Board. Panel members must not discuss specific cases or share any information regarding specific disciplinary cases or their deliberations with anyone other than the Title IX Hearing Board chair, the Office of General Counsel, the hearing administrator, or fellow panel members appointed to the same panel in that specific case, and in all such instances, the discussion or sharing of information must be reasonably necessary for the panel's consideration of the specific case.

G-5. Live Hearing Process

- a.** All parties, witnesses, advisors and other participants should be present in the same physical location for the hearing. However, either party, at the request of the party, or any other participant at the discretion of the hearing administrator or hearing officer, may appear at the live hearing virtually, with technology enabling participants to simultaneously see and hear each other. Participation by audio only shall be prohibited.
- b.** All hearings are closed to the public. The only people allowed to be present during the hearing are the parties; each individual party's advisor; the investigator(s); the hearing administrator; the Title IX Coordinator (or designee); one or more attorneys or support staff from the Office of General Counsel; the hearing officer; members of the hearing panel appointed to hear the case; and the witnesses, provided that each witness shall only be present while the witness is answering questions. In rare cases, the hearing officer may allow someone not on this list to attend the hearing, after consulting with the Title IX Coordinator and the Office of General Counsel to ensure compliance with all applicable confidentiality requirements.
- c.** The live hearing shall be recorded either by audio or by audio/video.
- d.** Order of proceedings. The live hearing shall proceed in the following manner to the extent possible, provided that the hearing officer may allow deviations from this order in the hearing officer's discretion:

1. Opening Statements. Each party may, but is not required to, make an opening statement. The party's advisor is not allowed to make the opening statement on behalf of the party.

2. Witnesses

- (a)** The hearing officer shall call each witness and party to answer questions in the following order: 1) complainant, 2) respondent, 3) non-party witnesses in any order determined by the hearing officer.
- (b)** Only witnesses who were previously interviewed as part of the investigation may appear at the hearing.
- (c)** Prior to asking any questions of a witness or party, the hearing officer shall read the following statement to each party and witness. The statement need not be read verbatim, but shall consist substantially of the following: "You are hereby advised that you are not required to answer any questions posed to you during this hearing. However, if you refuse to answer any relevant question, none of your statements made at any time to any person may be considered by the hearing panel in deciding whether the respondent is responsible for violating the University of Idaho's Title IX sexual harassment policy. If you choose to answer the questions, you must answer the question truthfully. If you knowingly provide false information you may be disciplined by the University of Idaho. This hearing is being recorded. Do you have any questions?"
- (d)** The hearing officer shall ask the following questions of each party and witness prior to cross-examination. The hearing officer may, but is not required to, ask additional questions of any party or witness at any time during the hearing. The following questions need not be asked verbatim, but shall be substantially as follows:

i. "Have you had a chance to review the summary of your statements contained in the final investigation report?"

ii. "Does the summary accurately reflect your knowledge of the facts at issue in this case?" If the answer is no, the hearing officer shall ask the witness or party to identify the parts of the summary are not accurate.

iii. "Is there anything contained in that summary that you would like to expand upon or clarify?"

iv. To be asked only of the complainant and the respondent: "Is there anything else you would like to tell me regarding the facts of the situation? If so, please do so now."

(e) Neither a party nor a party's advisor is allowed to conduct direct examination of any party or witness.

3. Cross-Examination. After the hearing officer asks the initial questions, each party shall thereafter be given the opportunity to conduct cross-examination of the witnesses and other party, but cross-examination is not required. Under no circumstances shall a party be allowed to directly cross-examine a party or witness; rather, all cross-examination must be conducted by the party's advisor. A party's advisor is not allowed to cross-examine the party they are advising. If an advisor is also a witness, neither the party nor the advisor/witness may cross-examine the party's own advisor/witness. However, a party is allowed to provide additional information after cross-examination is complete in order to address questions asked during cross-examination.

4. Prior to any cross-examination, each witness, including each party, shall be instructed not to answer the question asked until the hearing officer makes a determination regarding the relevance of the question asked. Before the witness or party answers the question, the hearing officer must first determine whether the question is relevant. The hearing officer may, but is not required to, allow each party's advisor to make a brief argument regarding the relevance of the question. If the hearing officer determines that the question is not relevant, the hearing officer must exclude the question and direct the witness or party to not answer the question. The hearing officer must also provide a brief explanation for the decision to exclude the question. The hearing officer may provide a more detailed explanation in the written decision if necessary or desired. If the question is relevant, the hearing officer shall allow the witness to answer the question.

5. Closing Statement. At the conclusion of the presentation of evidence, each party may, but is not required to, make a closing statement to the hearing officer. The party's advisor is not allowed to make the closing statement on behalf of the party.

e. Written evidence may not be provided at the live hearing, except written evidence which is already included in the final investigative report.

G-6. Decision

a. The hearing officer shall provide to the hearing administrator a written decision regarding responsibility and sanctions within ten days after the conclusion of the live hearing. The hearing administrator shall simultaneously provide the written decision to the parties and their advisors.

b. In making the decision, the hearing panel shall consider and objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, contained in the hearing packet and the oral evidence presented at the live hearing. The hearing panel may not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

c. The hearing panel shall determine whether the respondent violated the Title IX sexual harassment policy using a preponderance of the evidence standard.

d. The written decision must include the following:

- 1.** Identification of the allegations alleged to be in violation of the University's sexual harassment policy;
- 2.** A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- 3.** Findings of fact supporting the determination;
- 4.** Where necessary to the decision, a credibility determination of the parties and witnesses, provided however that a credibility determination may not be based on a person's status as a complainant, respondent, or witness;
- 5.** Conclusions regarding the application of the University's Title IX sexual harassment policy;
- 6.** A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- 7.** If the respondent is found responsible, the sanctions imposed on the respondent, including a statement of the sanctions and rationale for the sanctions.
- 8.** Whether remedies designed to restore or preserve equal access to the University's programs will be provided to the complainant; and
- 9.** The procedures and permissible bases for either party to appeal the decision.

f. Should the hearing panel find that the respondent is responsible for violating this policy, prior to determining the appropriate sanction to be imposed, the hearing administrator shall disclose to the panel any appropriate previous disciplinary history regarding the respondent. The hearing administrator shall also serve as a resource to the hearing panel to help the panel determine appropriate sanctions that are reasonably consistent among similar cases.

g. All hearing panel decisions shall be by majority vote.

- 1.** The hearing panel may return the matter for additional investigation if the hearing panel determines that: The investigator(s) failed to properly investigate the allegation and the failure was both substantial and to the party's detriment; or
- 2.** There is new information that could substantially affect the outcome and the new information could not have been discovered before the issuance of the final investigative report.

h. Sanctions imposed by the hearing panel shall not go into effect until either the time period for an appeal has expired and no appeal has been filed or until the decision is upheld on appeal. If the sanctions for an employee respondent includes termination of employment, the sanction shall not go into effect until reviewed and approved by the President.

H. ROLE OF ADVISORS

H-1. Parties may have an advisor of their choice present with them for all meetings and interviews, if they so choose. The parties may select whomever they wish to serve as their advisor. While it is not recommended to choose an advisor who is also a witness in the process, should a party decide to do so, any bias or conflict of

interest of the witness may negatively affect the credibility of the witness and/or party.

H-2. All advisors are subject to the same limitations, whether they are attorneys or not. The advisor may not make a presentation and may not speak on behalf of the party to the investigators or other decision-makers except to conduct cross-examination during the live hearing, as described below.

H-3. The parties are expected to ask and respond to questions on their own behalf throughout the investigation. While the advisor generally may not speak on behalf of a party, a party may request a break in order to speak privately with the party's advisor, may consult quietly with the party's advisor, and/or may quietly pass notes during any meeting or interview, as long as they do not unreasonably disrupt the process. For longer or more involved discussions, the party and the party's advisor should ask for breaks to step out of meetings to allow for private consultation. If breaks become disruptive to the process, such requests may be denied or the meeting rescheduled.

H-4. Advisors may be given an opportunity to meet with the administrative officials conducting interviews/meetings in advance of the interviews or meetings. This pre-meeting allows advisors to clarify any questions they may have and allows the University an opportunity to clarify the role the advisor is expected to take. This pre-meeting is intended only to allow the advisor to inquire about the advisor's role and the process, in order to minimize procedural discussion during the interview, and is not an opportunity for the advisor to discuss the case specifics.

H-5. Advisors are expected to refrain from interference with the University's investigation and resolution. Advisors who step out of their role will be warned only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting or hearing. If the advisor's continued interference occurs at the live hearing, the University will provide the party with an advisor to conduct cross-examination. If the advisor's continued interference occurs at any other meeting, the meeting may then be rescheduled to allow the party to obtain a different advisor.

H-6. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by University. The University may exclude any advisor who fails to abide by these expectations. Each party is responsible for ensuring that the party's advisor abides by these restrictions and may be subject to discipline for the advisor's failure to comply with these restrictions.

H-7. A party may elect to change advisor during the investigation, and is not obligated to use the same advisor throughout. The parties are expected to inform the investigators of the identity of their advisors at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties are expected to provide timely notice to investigators if they change advisors at any time. Changing advisors does not delay the investigation, interview, meeting, or hearing process.

H-8. University-provided advisors

- a.** In the event any party appears at a live hearing without an advisor, the University will provide an advisor to the party without charge for the sole purpose of conducting cross-examination during the live hearing. The University-provided advisor may not assist the party in anything other than conducting cross-examination.
- b.** The Title IX Coordinator shall be responsible for recruiting and training university employees to serve as advisors, and shall ensure that advisors assigned to a party do not have an impermissible bias or conflict of interest.

I. APPEALS

I-1. Any party may appeal a decision to dismiss the formal complaint and the hearing panel's decision. Appeals must be submitted in writing to the hearing administrator and must set forth the grounds for the appeal. The appeal must be filed no later than five days after the decision is delivered to the parties. The hearing administrator shall ensure that all parties and their advisors receive a copy of the appeal and any response to the appeal submitted by the non-appealing party(ies).

I-2. Appeals are limited to the following grounds:

- a.** Procedural irregularity that affected the outcome of the matter;
- b.** New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter;
- c.** The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent that affected the outcome of the matter;
- d.** The sanctions imposed are substantially disproportionate to the severity of the violation (the imposition of an administrative fee is not a sanction, and therefore cannot be appealed); or
- e.** The decision is not based on substantial information. A decision is based on substantial information if there are facts in the case that, if believed by the decision-maker, are sufficient to establish that the decision is correct.

I-3. An appeal shall be limited to a review of the decision, the hearing packet (if any), any written material considered in the decision, the recording of the live hearing (if one was held), any written materials submitted with the appeal, and any response to the appeal submitted by the non-appealing party(ies). Where an appeal is based on new evidence, the new evidence may be considered only to determine whether the information was reasonably available at the time of the decision and whether the new evidence could affect the outcome of the matter.

I-4. Appeal Panel Procedures

- a.** The chair of the Title IX Hearing Board shall appoint three or five members of the Board to serve on the appeal panel, and shall designate one member to serve as chair of the appeal panel. Any member who served on a hearing panel shall not serve on the appeal panel on the same case. A student may not serve as chair of an appeal panel, and may not serve on an appeal panel unless all parties are students.
- b.** Any non-appealing party may file a response to the appeal in support of, or challenging, the outcome. The written response must be provided to the hearing administrator within five days after notice of the appeal is provided to the party.
- c.** The appeal panel shall issue a written decision. The decision should be issued within ten days of receiving all appeal materials. The written decision shall describe the result of the appeal and the rationale for the result. The chair of the appeal panel shall provide the written decision to the hearing administrator, who will then simultaneously provide the decision to the parties.

I-5. Results of the Appeal Panel. The appeal panel may:

- a.** Uphold the decision;
- b.** Uphold the finding that the respondent violated this policy, but revise the sanction(s);
- c.** Return the matter for reconsideration; or
- d.** Return the matter for additional investigation.

I-6. Unless the case is returned for reconsideration or to the investigator for additional investigation, the decision of the appeal panel is the final institutional decision. If the decision upholds the findings that the respondent is responsible for violating this policy, the sanctions imposed shall go into effect immediately. Provided, however, that if the sanction for an employee respondent includes termination of employment, the sanction shall not go into effect until reviewed and approved by the President.

J. POSSIBLE SANCTIONS AND REMEDIES

J-1. The sanctions which may be imposed upon any employee determined to have violated this policy range from a written warning to termination, and may include one or more of the following:

- a.** Written warning;
- b.** Letter of reprimand;
- c.** No-contact directive;
- d.** Reassignment of position and/or location;
- e.** Modification of duties;
- f.** Withholding of pay increase;
- g.** Pay decrease;
- h.** Demotion;
- i.** Suspension without pay;
- j.** Termination.

J-2. The sanctions which may be imposed upon any student determined to have violated this policy range from a warning to expulsion, revocation of degree, or withholding of degree, and may include any of the following:

- a.** Warning;
- b.** Probation;
- c.** No-contact directive;
- d.** Community service;
- e.** Loss of privileges;
- f.** Restitution;
- g.** Educational sanctions;
- h.** On-campus housing suspension;
- i.** On-campus housing expulsion;
- k.** Suspension, which may include the imposition of conditions that must be fulfilled before the student may re-enroll;
- l.** Expulsion;

m. Revocation of admission;

n. Revocation of degree;

o. Withholding of degree;

p. Trespass from some or all University property.

J-3. The sanctions which may be imposed upon any other person over whom the University exercises substantial control determined to have violated this policy may include any of the following:

a. Warning;

b. Loss of privileges;

c. Trespass from some or all University property;

d. Termination or suspension of affiliation with the University;

e. Exclusion from participating in any University program or activity.

J-4. The range of remedies which may be provided to any complainant, after the respondent is found responsible for violating this policy, includes, but is not limited to, the following:

a. Relocation of the respondent's or complainant's work location, residence hall or apartment assignment;

b. Issuance or continuation of a no-contact order;

c. Changing the respondent's and/or complainant's supervisor, or supervisory chain;

d. Approval of flex-time or flex-place work arrangements;

e. Course modification;

f. Changing the complainant's or respondent's class schedule;

g. Modifying academic guidelines or requirements;

h. Prohibiting respondent from entering some or all University buildings or property;

i. Any supportive measures provided to the parties;

K. EMERGENCY MEASURES

K-1. Emergency removal.

a. The University may remove a respondent from any education program or activity on an emergency basis if, after undertaking an individualized safety and risk analysis, the University determines that the respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment, and that threat justifies removal.

b. The following persons shall be responsible for making the determination of whether the respondent poses an immediate threat: For student respondents, the Dean of Students; for faculty respondents, the Provost; for non-faculty employees, the Vice-President for Finance and Administration; for all other respondents, the Executive Director for Public Safety and Security.

c. The Threat Assessment and Management Team should be consulted in making the determination of whether a respondent poses an immediate threat if it can be convened in a timely manner.

d. Immediately following the decision to remove the respondent from an education program or activity, the person making the determination shall deliver notice of the decision to the respondent. The respondent may appeal the decision within five days of being notified of the decision by submitting a written statement to the person making the determination. The respondent may, however, request a modification based on changed circumstances at any time prior to the final institutional decision regarding whether the respondent violated this policy.

K-2. Administrative leave. Administrative leave may be used at any time for non-student employees, in accordance with University policy, and is not considered to be an emergency removal. Before a student employee may be placed on administrative leave arising out of an allegation of sexual harassment, the University must use the above procedures for an emergency removal.

L. TRAINING REQUIREMENTS

L-1. The University will train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process on the following matters:

- a.** The definition of sexual harassment;
- b.** The scope of the University's education program or activity;
- c.** How to conduct an investigation;
- d.** How to conduct the University's grievance process including hearings, appeals, and informal resolution processes; and
- e.** How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

L-2. In addition to training on the matters in section L-1, the University will train decision-makers and hearing officers on:

- a.** The technology to be used at a live hearing; and
- b.** Issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

L-3. In addition to training on the matters in section L-1, the University will train investigators on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

L-4. All training materials used must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

L-5. The University must make the training materials publicly available on its website and available upon request for inspection by members of the public.

M. RECORD KEEPING. The University must maintain the following records for a period of seven years:

M-1. Each sexual harassment investigation, including any determination regarding responsibility and the recording or transcript of the hearings, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant;

M-2. Any appeal and the result therefrom;

M-3. Any informal resolution and the result therefrom; and

M-4. All training materials.

N. INFORMAL RESOLUTION PROCESS

N-1. At any time prior to a determination regarding responsibility, the University and the parties may participate in an informal resolution process whereby the parties agree to an appropriate resolution without further investigation, hearing, or appeal. The agreed-upon resolution may include the use of alternative dispute resolution methods.

N-2. The informal resolution process can only be offered when:

- a.** A formal complaint is filed,
- b.** The Title IX Coordinator determines that an informal resolution process is appropriate,
- c.** Both parties agree in writing to the informal resolution process and procedures, and
- d.** The formal complaint does not include allegations that an employee sexually harassed a student.

N-3. Prior to engaging in an informal resolution process, the parties will receive written notice with the following information:

- a.** A copy of the Notice of Allegations provided in accordance with section F-1;
- b.** The procedures to be used to reach the agreement; and
- c.** The information contained in section N-4 currently.

N-4. Informal resolution process requirements

- a.** All parties must agree to a resolution under the informal resolution process. If all parties are unable to reach a mutually agreeable outcome, the formal investigation process will resume.
- b.** A party may submit a written request to withdraw from the informal resolution process and resume the formal grievance process at any time prior to a signed informal resolution agreement.
- c.** After all parties sign a written agreement, the parties are precluded from resuming the formal complaint process arising from the same allegations.
- d.** All records of the informal resolution process will be maintained with the records of the complaint, but will not be included in the final investigative report should the informal resolution process fail to result in a written agreement.
- e.** All disciplinary sanctions, remedies, supportive measures or alternative outcomes are available to use in the informal resolution process.

N-5. All informal resolution agreements must be approved by the University. For student respondents, the Dean of Students has the authority to approve the agreement. For faculty respondents, the Provost has the authority to approve the agreement. For all other respondents, the Vice-President for Finance and Administration has the authority to approve the agreement.

N-6. Any executed informal resolution agreement is the final institutional decision and cannot be appealed.

O. RETALIATION

O-1. Retaliation is prohibited.

a. No person may intimidate, threaten, coerce, or discriminate against any individual:

1. for the purpose of interfering with any right or privilege secured by Title IX or this policy, or

2. because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

b. Intimidation, threats, coercion, or discrimination, including charges against an individual for policy violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation.

O-2. The exercise of rights protected under the First Amendment does not constitute retaliation.

O-3. Charging an individual with a policy violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation. However, -a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

O-4. Complaints alleging retaliation under this policy may be filed as set forth in section E.

P. OTHER

P-1. Amnesty. The provisions of FSH 2310 shall apply to reports and formal complaints of sexual harassment under this policy and shall be extended to all parties regardless of their status or affiliation with the University.

P-2. All documents required under this policy shall be delivered either in person or by email to the person's official University email account, if possible; otherwise the document shall be delivered by any means reasonably likely to reach the person. If the document is sent by email to the person's official University of Idaho email address, the document is deemed received upon delivery to the person's email inbox.

P-3. Any reference to a University official by title shall include any equivalent University official should that title no longer exist and includes that official's designee

Version History

Temporary emergency amendment September 29, 2021. A temporary emergency policy amendment pursuant to FSH 1460 C-3 deleted a provision in G-6 prohibiting reliance on statements not subject to cross-examination. The temporary emergency amendment will expire on March 28, 2022 if not adopted, amended, or suspended prior to that date. See FSH 1460 for further information.

Adopted 2021. In order to comply with U.S. Department of Education regulations amending 34 C.F.R. 106, FSH 6100 was adopted as a temporary emergency policy in August 2020, and as a permanent policy effective January 1, 2021.

Version History

Amended January 2022. The September 29, 2021 temporary emergency amendment was adopted into policy.

Temporary emergency amendment September 29, 2021. A temporary emergency policy amendment pursuant to FSH 1460 C-3 deleted a provision in G-6 prohibiting reliance on statements not subject to cross-examination. The temporary emergency amendment will expire on March 28, 2022 if not adopted, amended, or suspended prior to that date. See FSH 1460 for further information.

Adopted 2021. In order to comply with U.S. Department of Education regulations amending 34 C.F.R. 106, FSH 6100 was adopted as a temporary emergency policy in August 2020, and as a permanent policy effective January 1, 2021.

EXHIBIT 6

2300 - Student Code of Conduct

Owner:

- **Position:** Dean of Students
- **Name:** Blaine Eckles
- **Email:** beckles@uidaho.edu

Last updated: July 01, 2021

2300

STUDENT CODE OF CONDUCT

ARTICLE I - Introduction.

The University of Idaho is committed to creating and maintaining a productive living-and-learning community that fosters the intellectual, personal, cultural and ethical development of its students. Self-discipline and respect for the rights and privileges of others are essential to the educational process and to good citizenship.

A. Definitions.

A-1. Consent. As used in this code, is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. If coercion, intimidation, threats and/or physical force are used, there is no consent. If a person is mentally or physically incapacitated or impaired so that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption or being asleep or unconscious. Whether one has taken advantage of a position of influence over another may be a factor in determining consent. Consent to any one form of sexual activity does not imply consent to any other form of sexual activity.

A-2. DOS. The Office of the Dean of Students, which is responsible for the administration of the Student Code of Conduct, and includes the Dean of Students and his/her designees.

A-3. Disciplinary action. Any sanction imposed for misconduct pursuant to FSH [2400](#).

A-4. Educational Setting. Refers to all the academic, educational, extracurricular, athletic and other programs of the University of Idaho, whether those programs take place in a University facility, at a University class or training program, or elsewhere.

A-5. Policy. The written regulations of the University as found in, but not limited to, the Student Code of Conduct, Residence Hall Handbook, the Apartment Handbook, the University web pages and computer use policy, and Graduate/Undergraduate Catalogs.

A-6. Student: Includes all persons admitted to the University, either full-time or part-time, to pursue undergraduate, graduate, or professional studies, and includes non-degree seeking students. The following persons are also considered "students":

1. Persons who withdraw after allegedly violating the Student Code of Conduct;

2. Persons who are not officially enrolled for a particular term but who have a continuing relationship with the University;
3. Individuals participating in the American Language and Culture Program; and
4. Individuals participating in Independent Study of Idaho sponsored by the University of Idaho or taught by a University of Idaho instructor.

A-7. Student Code of Conduct. Herein referred to as “Code”.

A-8. University Official. Includes any person employed or contracted by the University performing assigned duties.

B. Standards of Behavior. Attendance at the University of Idaho is optional and voluntary. When students enroll at the University, they voluntarily accept obligations of performance and behavior that are consistent with the University’s lawful mission, processes, and functions. In general, these obligations are considered much higher than the obligations imposed by civil and criminal law for all citizens.

By enrolling at the University of Idaho, students voluntarily accept responsibility for compliance with all University policies, including but not limited to this Code. Disciplinary action may also be taken for any violation of local ordinances, state or federal law, or on or off campus conduct that adversely affects the University community or the pursuit of the University’s lawful educational mission, process, or function. The University reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community.

C. Purpose of the Code. The purpose of the Code is to educate students about their civic and social responsibilities as members of the University community. The primary focus of the disciplinary process is on educational and corrective outcomes; however, sanctions such as suspension or expulsion from the University may be necessary to uphold community standards and to protect the campus community. Extensive, organized, serious, or repeated violations of this Code are taken into account when determining sanctions.

D. Interpretation and Revision. Any question of interpretation regarding the Code shall be determined at the discretion of DOS in consultation with General Counsel. The Code shall be reviewed periodically under the direction of DOS.

E. Affirmative Action and Equal Opportunity. Please refer to FSH 3060 and 3065 for other relevant policies and procedures.

F. Nondiscrimination. Please refer to FSH 3200, 3210, 3215 for other relevant policies and procedures.

G. Applicability of the University Student Code of Conduct. The Code applies to students pursuant to FSH 2100.

ARTICLE II- PROSCRIBED CONDUCT.

A. Rules and Regulations. The following list describes actions that detract from the effectiveness of a University community and for which students are subject to disciplinary action. Any student found to have committed or to have attempted to commit the following misconduct is subject to the disciplinary process outlined in FSH 2400:

A-1. Academic Dishonesty. Academic honesty and integrity are core values at a university and the faculty finds that even one incident of academic dishonesty may merit expulsion. Instructors and students are jointly responsible for maintaining academic standards and integrity in university courses. In addition to any disciplinary sanctions imposed under the Code, additional consequences for academic dishonesty may be imposed by the course instructor, including issuing a grade of “F” in the course. Any grade issued by the course instructor, whether as a result of academic dishonesty or not, constitutes an academic evaluation and

is not disciplinary action. All instructors must report incidents of academic dishonesty to DOS by email or using the reporting form on DOS website. Acts of academic dishonesty include but are not limited to the following:

a. Cheating includes, but is not limited to, the following:

- (1) using any unauthorized assistance in, or having unauthorized materials while, taking quizzes, tests, examinations or other assignments, including copying from another's quiz, test, examination, or other assignment or allowing another to copy from one's own quiz, test, examination, or other assignment;
- (2) using sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments;
- (3) acquiring, without permission, tests or other academic material belonging to the instructor or another member of the University faculty or staff;
- (4) engaging in any behavior prohibited by the instructor in the course syllabus or in class discussion; or
- (5) engaging in other behavior that a reasonable person would consider to be cheating.

b. Plagiarism includes, but is not limited to, the following:

- (1) using, by paraphrase or direct quotation, the published or unpublished work of another person without full and clear acknowledgment;
- (2) using materials prepared by another person or agency engaged in the selling of term papers or other academic materials without prior authorization by the instructor; or
- (3) engaging in other behavior that a reasonable person would consider plagiarism.

c. Furnishing false information or false representations to any University official, instructor, or office.
Submission of false information or withholding information at the time of admission or readmission may make an individual ineligible for admission to, or continuation at, the University.

d. Forging, altering, reproducing, removing, destroying, or misusing any University document, record, or instrument of identification.

e. Violating any provision of university policy regarding intellectual property and research. All data acquired through participation in University research programs is the property of the University and must be provided to the principal investigator. In addition, collaboration with the Office of Research and Economic Development for the assignment of rights, title, and interest in patentable inventions resulting from the research is also required {see Faculty-Staff Handbook [5400](#).}

A-2. Misuse of University Resources or Property, or Personal Property of others.

a. Theft or other abuse of University computer facilities or resources. This includes, but is not limited to, any of the following:

- (1) Unauthorized entry into, or transfer of, a file;
- (2) Using another individual's identification and/or password;
- (3) Using computer facilities or resources:
 - (i) to interfere with the work of another student, faculty member or University official,

- (ii) to send obscene or abusive messages,
- (iii) to interfere with the normal operation of the University computing system or resources, or
- (iv) in violation of copyright laws.

(4) Any violation of the University Computer Use Policy.

- b.** Attempted or actual theft of or damage to property of the University or of another person.
- c.** Unauthorized possession, duplication or use of University keys, computers, lock combinations or other access codes or passwords that can be used to access University property or facilities.
- d.** Unauthorized entry into or use of any University building, facility, vehicle, equipment room or area, including, but not limited to, unauthorized entry into any private office or space of a member of the faculty, staff, or student body, heating tunnels, elevator shafts, shops, mechanical rooms, trunk rooms, storerooms, roofs, fire escapes, and other restricted areas identified in APM 35.35.E.
- e.** Building or setting fire(s) without proper authorization as required by APM 35.25.
- f.** Removing or otherwise tampering with fire equipment or fire-alarm systems, or failure to promptly vacate building(s) when a fire alarm sounds.
- g.** Possessing or using firearms, explosives, other weapons, projectile or explosive devices, explosive substances, or dangerous chemicals in violation of APM 95.12.

A-3. Threat of Harm or Actual Harm to a Person's Physical or Mental Health or Safety. Living together in a University community requires respect for the rights of fellow members of that community to pursue their academic goals and to participate in lawful campus or University activities. As in any community, certain forms of responsible conduct must be adhered to in order to ensure the physical functioning and safety or security of that community.

- a.** Physical violence of any nature against any person, on or off campus. Physical violence includes, but is not limited to, (i) fighting; (ii) assault; (iii) battery; (iv) the use of a knife, gun, or other weapon except in reasonable self-defense; (v) physical abuse; (vi) restraining or transporting someone against his/her will; or (vii) any action that threatens or endangers the physical health or safety of any person or causes reasonable apprehension of such harm.
- b.** Persistent or severe, verbal abuse, threats, intimidation, harassment, coercion, bullying, derogatory comments, vandalism, or other conduct that threatens or endangers the mental or physical health or safety of any person or causes reasonable apprehension of such harm. A single instance may be considered severe enough to merit sanctions.
- c.** Hazing, which includes, but is not limited to, any action or participation in any activity that (i) causes or intends to cause physical or mental discomfort or distress, (ii) may demean any person, regardless of location, intent or consent of participants, or (iii) destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are also violations of this rule.
- d.** Sexual misconduct, which is a broad term encompassing any non-consensual contact of a sexual nature (see Article I, Section A-1, for the definition of consent). Sexual misconduct may vary in severity, and consists of a range of behavior or attempted behavior including, but not limited to, the following examples of prohibited conduct (see APM 95.20 for more information about resources available and procedures for responding to sexual misconduct):

(1) Unwelcome sexual conduct. This includes, but is not limited to,

- (i) touching an unwilling or non-consensual person's intimate parts (such as genitalia, groin, breast, buttocks, mouth, or clothing covering the same);
- (ii) touching an unwilling or non-consensual person with one's own intimate parts;
- (iii) forcing an unwilling or non-consensual person to touch another's intimate parts;
- (iv) indecent exposure, which includes, but is not limited to, exposing one's own intimate parts to an unwilling or non-consensual person; and
- (v) voyeurism, which includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio, video, or photographic record of another person without his/her prior knowledge and without his/her prior consent when such a recording is likely to cause injury or distress to the other person, or involves the other person's intimate parts or sexual conduct.

(2) Sexual violence, which refers to physical sexual acts perpetrated against another person's will or where another person is incapable of giving consent or is incapacitated. This includes, but is not limited to,

- (i) rape, which includes, but is not limited to, the unwilling or non-consensual penetration of another person's bodily opening with any object or body part that is committed either by force, threat, intimidation, or through exploitation of another person's mental or physical condition (such as intoxication, age, or disability) of which the assailant was aware or should have been aware;
- (ii) sexual assault, which is the unwilling or non-consensual penetration of any bodily opening of another person with any object or body part;
- (iii) sexual battery; and
- (iv) sexual coercion.

All acts of sexual violence are also forms of sexual harassment.

e. Sexual harassment, which is defined as unwelcome conduct of a sexual nature (see [FSH 3205](#) for the requirements of the consensual relationship policy). It includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct or communication of a sexual nature when:

- (1) Submission to or rejection of such conduct or communication is a term or condition of educational benefits, employment, academic evaluations, or other opportunities;
- (2) Submission to such conduct or communication has the purpose or effect of substantially interfering with a student's education;
- (3) Such conduct is sufficiently severe or pervasive as to have the effect of creating an intimidating, hostile or offensive educational environment or negatively affecting a student's educational opportunities. A single instance may be considered severe enough to merit sanctions.

f. Gender-based and sexual orientation harassment (see [FSH 3215](#)), which is defined as any act of verbal, non-verbal, or physical aggression, intimidation, or hostility based on sex, sex-stereotyping, gender, or gender-stereotyping, even if those acts do not involve conduct of a sexual nature.

g. Stalking, which includes, but is not limited to, the persistent, severe, or pervasive harassment of another person in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, harassed, or molested. This may include, but is not limited to, repeatedly contacting another person through any means (such as in person or by phone, electronic means, text messaging, etc.), following another person, or having others contact or follow another person on your behalf. A single instance may be considered severe enough to merit sanctions.

A-4. Discrimination and Retaliation.

a. Discrimination, which includes conduct that violates the Board of Regent's or the University's nondiscrimination and antidiscrimination policies contained in FSH 3200, 3210, 3215 and RGP III.P.1.

b. Retaliation, which includes conduct that intimidates, interferes with, threatens, coerces, or otherwise discriminates against any individual because that individual opposes or reports a perceived wrongdoing, inequity, or violation of law or University policy, files a complaint alleging illegal or prohibited discrimination, participates in a grievance or appeals procedure, or participates in dispute resolution.

A-5. Disruption, Obstruction, or Interference with Normal University Activities. Members of the University community have the right to a campus that is free from unreasonable disruption, obstruction, or interference.

a. Disrupting or obstructing normal University activities, including, but not limited to, all academic activities, University facilities or resources, disciplinary proceedings, University administration, and fire, police, or emergency services

b. Classroom disruption, which is behavior that a reasonable person would view as significantly or repeatedly interfering with the instructor's ability to teach the class or the ability of other students to benefit from the instructional program.

c. Failure to comply with directions of University, law enforcement, fire department, or other government officials acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.

d. Obstruction of the free flow of pedestrian or vehicular traffic on campus.

e. Disorderly conduct, which is behavior that is disorderly, lewd, indecent, or a breach of peace.

f. Abuse of the student conduct system, which includes, but is not limited to, any of the following:

(1) Failure to cooperate with DOS's investigation, except when doing so would require the student to speak against him/herself, where the student failed to notify DOS that the student will not cooperate for this reason;

(2) Falsifying, distorting, or misrepresenting information provided to DOS;

(3) Disrupting or interfering with DOS's investigation;

(4) Making false allegations;

(5) Attempting to discourage an individual's proper participation in, or use of, the student conduct system;

(6) Harassment (verbal or physical) or intimidation of any person participating in DOS's investigation prior to, during, or after the investigation concludes;

(7) Failure to comply with the sanction(s) imposed pursuant to FSH 2400.

g. Influencing or attempting to influence another person to commit any violation of the Code.

h. Failure to appear or refusal to speak as a witness, which occurs when a student fails to appear or refuses to speak as a witness at a disciplinary proceeding or review, unless such act would require the student to speak against him/herself, and fails to promptly notify the chair of SDRB that the student will not appear or speak for this reason.

A-6. Housing and Living Groups. Violations of any rules imposed by University Housing or living groups are also violations of the Code.

A-7. Use and Misuse of Substances.

a. Smoking in violation of APM 35.28.

b. Using, possessing, manufacturing, cultivating, selling, or distributing any state or federally controlled drug, substance, or paraphernalia, including, but not limited to, marijuana, heroin, narcotics, or other controlled substances, in violation of any applicable law or University policy. Inhaling or ingesting any substance (e.g., nitrous oxide, glue, paint, etc.) that is intended to alter a student's mental state without a prescription is also prohibited. See the University's Drug and Alcohol Abuse Prevention and Education publication (available through the Office of the Dean of Students) for more information.

c. Consuming, possessing, manufacturing, or distributing alcoholic beverages in violation of any applicable law or University policy (see APM 80.01 for alcohol permit requirements). Alcoholic beverages may not, in any circumstance, be consumed or possessed by, or distributed to, any person under twenty-one (21) years of age. Except at permitted events pursuant to APM 80.01, alcoholic beverages may not be possessed or consumed by any student under any circumstances on campus in areas open to the general public, which areas include, but are not limited to, lounges, student union buildings, recreation rooms, conference rooms, athletic facilities, and other public areas of University-owned buildings or grounds.

d. Public intoxication.

A-8. Violation of Laws or University Policy.

a. Any violation of federal law, state law, or local ordinance occurring on campus or on any University property is a violation of the Code.

b. Any violation of University policy is a violation of the Code.

B. Violation of Law and University Discipline.

B-1. University disciplinary action may be instituted against a student accused of conduct that potentially violates both the criminal law and this Code independent of the status of any civil or criminal litigation in court or criminal arrest and prosecution. When allegations include sexual harassment, sexual violence, sexual orientation, or gender-based harassment, University disciplinary action will be carried out promptly. Determinations made or sanctions imposed under this Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

B-2. When a student is charged by federal, state, or local authorities with a violation of law, the University will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense also gives rise to University disciplinary action, the University may advise off-campus authorities of the existence of the Code and of how such matters are typically handled within the University community. The University will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law and in the conditions imposed by criminal courts for the rehabilitation of student

violators provided that the conditions do not conflict with University policies or sanctions. Individual students and other members of the University community, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

Version History

Amended July 2021. Editorial changes.

Amended July 2014. All disciplinary language from FSH 2300 Student Code of Conduct was consolidated into FSH 2400 and updated removing redundancies in policy.

Amended July 2009. Editorial changes.

Amended January 2007. Reformatted the Student Code of Conduct into subsections for easier management of judicial cases

Amended July 2005. Revised Article II, Section 2.

Amended July 1998. Revised Article II.

Amended July 1993.

Amended July 1992.

Adopted July 1970.

EXHIBIT 7

3200 - Policy of Nondiscrimination

Owner:

- **Position:** Director of the Office of Civil Rights & Investigations
- **Name:** Erin Agidius
- **Email:** erina@uidaho.edu

Last updated: July 01, 2009

The University of Idaho has a policy of nondiscrimination on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity/expression, age, disability or status as a Vietnam era veteran. This policy applies to all programs, services, and facilities, and includes, but is not limited to, applications, admissions, access to programs and services, and employment.

Such discrimination is prohibited by titles VI and VII of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, sections 503 and 504 of the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, the Pregnancy Discrimination Act of 1978, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act Amendments of 1978, the Americans With Disabilities Act of 1990, the Civil Rights Act of 1991, the Rehabilitation Act Reauthorization of 1992, other state and federal laws and regulations and university commitments.

Sexual harassment violates state and federal law and policies of the Board of Regents, and is expressly prohibited, see [3220](#). The University of Idaho also prohibits discrimination on the basis of sexual orientation and gender identity/expression, see [3215](#).

Questions or concerns about the content and application of these laws, regulations or University policy may be directed to the Office of Civil Rights and Investigations (855-4285 or ocri@uidaho.edu); Coordinator of Disabled Student Services (885-7200); Regional Office for Civil Rights, U.S. Department of Education in Seattle (206-220-7900); Equal Employment Opportunity Commission, Seattle District Office (206-220-6883); or Pacific Regional Office of Federal Contract Compliance Programs, U.S. Department of Labor in San Francisco (415-848-6969). Complaints about discrimination or harassment should be brought to the attention of the Office of Civil Rights and Investigations (855-4285 or ocri@uidaho.edu). Retaliation for bringing forward a complaint is prohibited by [FSH 3810](#).

Version History

Amended July 2009. Revised to demonstrate a more inclusive definition of diversity.

Adopted January 2003.

EXHIBIT 8

3215 - Non-Discrimination on the Basis of Sexual Orientation and Gender Identity/Expression

Owner:

- **Position:** Director of the Office of Civil Rights & Investigations
- **Name:** Erin Agidius
- **Email:** erina@uidaho.edu

Last updated: July 01, 2009

A. The University of Idaho regards discrimination on the basis of sexual orientation and gender identity/expression to be inconsistent with its goal of providing a discrimination-free atmosphere in which students, faculty, and staff may learn, work, and live. The University of Idaho values the benefits of cultural diversity and pledges to students, prospective students, employees and the public that it will defend pluralism in the academic community, and warmly welcomes all men and women of good will without regard to sexual orientation and gender identity/expression.

B. Practices or regulations that discriminate on the basis of sexual orientation or gender identity/expression are neither condoned nor permitted. This policy applies to the following University of Idaho operations:

B-1. personnel decisions;

B-2. student admissions and evaluation;

B-3. student disciplinary regulations;

B-4. student housing, however this policy shall not affect the discretion of the university housing office to reallocate rooms and room assignments based on the needs of individual students nor UI housing policies which offer housing on the basis of parenthood or the existence of a legally recognized marriage;

B-5. use of dining halls, classrooms, or other facilities; or

B-6. in the provision of educational services.

C. The University of Idaho will apply this policy consistently with its obligation to continue to provide Reserve Officer Training Corps (ROTC) programs under federal law. To the extent this policy conflicts with federal regulations of the ROTC program, the requirements of the federal program will prevail.

D. To the extent this policy conflicts with contractual obligations or state or federal laws or regulations, those obligations and laws or regulations will prevail.

E. In determining whether a breach of this policy has occurred, a person claiming discrimination must show that the challenged action would not have occurred but for the person's sexual orientation or gender identity/expression. The university's anti-retaliation policy, [FSH 381Q](#), applies.

F. Nothing in this policy affects UI policies implemented on the basis of legally recognized marriage.

Version History

Amended July 2009. Revised to use a more inclusive definition of diversity.

Adopted January 1995.

EXHIBIT 9

2400 - University Disciplinary Process for Alleged Violations of Student Code of Conduct

Owner:

- **Position:** Dean of Students
- **Name:** Blaine Eckles
- **Email:** beckles@uidaho.edu

Last updated: October 01, 2017

2400

UNIVERSITY DISCIPLINARY PROCESS FOR ALLEGED VIOLATIONS OF STUDENT CODE OF CONDUCT

A. INTRODUCTION. The purpose of the Student Code of Conduct (Code) is to help protect the safety of the University community and educate students about appropriate and responsible behavior and their civic and social responsibilities as members of the University community, while complying with applicable state and federal laws and institutional policy. The primary focus of the disciplinary process is on educational and corrective outcomes; however, sanctions including suspension or expulsion from the University may be necessary to uphold community standards and to protect the campus community. University discipline is not in the nature of punishment for a crime, and the University's discipline process is not equivalent to state or federal criminal prosecutions. University disciplinary proceedings for any and all matters encompassed within the Code (FSH 2300) and the Statement of Student Rights (FSH 2200) are addressed under the following rules and regulations.

B. DEFINITIONS:

B-1. Advisor: The person of the student's choosing who has agreed to advise the student during the University disciplinary process and attend scheduled meetings with the student. The Advisor's role is simply to advise the student, and the Advisor is not permitted to speak during hearings, conferences, or interviews unless allowed by the University official conducting the interview.

B-2. Chief Student Affairs Officer (CSA Officer): The Dean of Students, unless the President appoints a different official to serve as the CSA Officer.

B-3. Code: The Student Code of Conduct, which is currently found in FSH 2300 and FSH 2400.

B-4. Complainant: The person(s) reportedly harmed by the Respondent's alleged violation of the Code.

B-5. Days: Days that the university is open for business, not including Saturdays, Sundays, Fall Recess, Winter Recess, Spring Recess, or University holidays.

B-6. Investigator: The person assigned by the University to conduct an investigation into a report of a violation of the Code. In all Title IX cases, the Title IX Coordinator shall assign the investigator. In all other cases, the investigator may be any qualified person assigned by DOS.

B-7. Student Conduct Administrator (Administrator): The official at the University of Idaho who has been designated by the CSA Officer to serve in this role. It shall also include the Administrator's designee.

B-8. DOS: The Office of the Dean of Students at the University of Idaho.

B-9. Hearing Officer: A person appointed by the Administrator to serve as the person presiding over a hearing in accordance with Section G.

B-10. Parties: The Respondent and, in Title IX cases only, the Complainant.

B-11. Respondent: The student who is alleged to have violated the Code.

B-12. Student: Includes, but is not limited to, all persons admitted to the University, either full-time or part-time, to pursue undergraduate, graduate, or professional studies, and includes non-degree seeking students. The following persons are also considered “students”:

- a. Persons who withdraw after allegedly violating the Code;
- b. Persons who are eligible to enroll for classes without submitting an application for re-admission;
- c. Individuals participating in the American Language and Culture Program, Independent Study of Idaho sponsored by the University of Idaho, the University of Idaho International Student Success Program (UI-ISSP), or any other similar educational program of the University.

B-13. Student Conduct Board (SCB): The body which reviews student disciplinary matters, as set forth in sections D., E., and F., and FSH [1640.83](#).

B-14. Title IX case: Any disciplinary case, investigation, charge, or allegation involving alleged dating violence, domestic violence, sexual assault, sexual harassment, or stalking. The Title IX Coordinator may also designate any other case as a Title IX case.

B-15. University: The University of Idaho, in all of its campus locations, education, outreach and research programs, including extension programs and distance education programs, and at all locations where any of these programs are offered or administered.

C. INVESTIGATION:

C-1. Reporting Alleged Violations. Any member of the University community having knowledge of a potential violation of the Code may report the violation to either DOS or, in Title IX cases, to the Title IX Coordinator. A report should be in writing, but may be reported orally to the appropriate University official. A report should be submitted as soon as possible after the event takes place.

C-2. Initial Investigation. The University may conduct an investigation into any report of a violation of the Code. The purpose of the investigation is to determine whether a violation may have occurred and to gather relevant information concerning each allegation of a Code violation.

C-3. Notice of Alleged Violation. The investigator may conduct a preliminary review to determine whether there is sufficient information to engage in a formal investigation. The preliminary review may include interviewing the Complainant, Respondent, and other witnesses. If, after the conclusion of the preliminary review, the investigator decides to engage in a formal investigation, the investigator must notify the Respondent of the allegation.

- a. The notice must be in writing and may be delivered either in person to the Respondent, or by email to the student’s official University email account. If the notice cannot be delivered either in person or to the student’s official University email account, the notice shall be delivered by any means reasonably likely

to reach the student.

b. The notice shall inform the Respondent of the specific provision(s) of the Code the Respondent is alleged to have violated and include a short description of the basis of the alleged violation.

c. The notice will include a copy of the University Disciplinary Process for Alleged Violations of the Student Code of Conduct.

C-4. Meeting with Investigator. The investigator must give the Respondent an opportunity to meet with the investigator in person within a reasonable time after the notice of allegation is delivered to the Respondent in order to give the Respondent an opportunity to respond to the notice, present information in his or her defense, present any information the Respondent would like the investigator to consider, and provide the names of any witnesses the Respondent would like the investigator to contact.

C-5. Investigation. At any time during the investigation, either the Complainant or the Respondent may, but is not required to, provide information to the investigator for the investigator to consider. Such information may include documentary information, the names of witnesses, witness statements, suggested questions to ask the other Party or other witnesses, etc. Only information that is presented to the investigator may be used in a hearing under section D.

C-6. Preliminary Report of Investigation.

a. At the conclusion of the investigation, the investigator shall draft a Preliminary Report of Investigation (Preliminary Report) setting forth the steps taken during the investigation; a list of witnesses contacted; a detailed summary of any witness interviews; a detailed summary of any interviews of the Respondent and/or Complainant; a detailed summary of any other information considered as part of the investigation; and complete copies of any relevant documentary evidence gathered during the investigation, including copies of documentary information provided by the Respondent and/or the Complainant.

b. The Preliminary Report shall not include any conclusions, findings, or credibility analysis.

c. The parties shall be provided an opportunity to review the Preliminary Report and may provide a written response to the Preliminary Report within five days of the review of the report. A party shall be deemed to have waived the right to review the report if the party does not make arrangements with the investigator to review the report within five days of being notified that the report is available to be reviewed. The written response may include requests for additional investigation, additional witnesses to interview, or additional questions to ask any witness.

d. After the time for submitting a written response to the Preliminary Report has passed, the investigator shall review any responses received and determine whether additional investigation is needed. If additional investigation is deemed appropriate, the investigator shall draft a revised Preliminary Report and shall give the parties an opportunity to review the report, as set forth in section C-6. c., above.

e. After reviewing any written responses received within the time-period allowed for submitting written responses, the investigator shall either continue the investigation or draft a Final Report of Investigation. The investigator has sole discretion of determining whether sufficient information has been obtained in order to end the investigation process.

C-7. Final Report of Investigation. The Final Report of Investigation (Final Report) shall contain everything included in the Preliminary Report plus complete copies of any written responses received within the time period allowed for submitting written responses, a credibility analysis, recommended findings, and recommended conclusion (see below) as to whether the Respondent violated the Code. If the Final Report

includes a recommended finding that the Respondent violated the Code, the Final Report shall not include recommended sanctions. The Final Report shall be provided to the Administrator. The Administrator shall provide the Final Report simultaneously to the parties.

a. Credibility Analysis. The Final Report should include an analysis of the statements provided by each party and interviewee, as necessary, to determine whether the statements provided by that person are credible. The analysis may include a description of the person's demeanor during the interview(s), a comparison of statements made to known facts or statements from other witnesses, the person's ability to observe the event described, the person's bias, whether the person was under the influence of a controlled substance or alcohol, and any other information that a reasonable person would use in his or her everyday affairs to determine a person's credibility. Not every case will require a detailed credibility analysis of each interviewee, and the credibility analysis may be part of the particular finding. However, in cases where the credibility of the interviewee is material to the conclusion, there should generally be a separate credibility analysis.

b. Recommended Findings. The investigator's recommended findings regarding factual issues shall include a description of the basis for each finding. Each finding shall be based on a more likely than not standard and should include information from the interviews, documentary information obtained during the investigation, and, if relevant to that finding, information regarding the credibility of the Respondent, Complainant and/or witnesses.

c. Recommended Conclusion. In making a recommended conclusion, the investigator must apply the Code to the findings to reach a determination of whether the findings as found by a more likely than not standard constitute a violation of the Code.

D. HEARING PROCESS.

D-1. Student Conduct Administrator's Review:

a. After the Final Report is submitted to the Administrator, the parties may each submit a written response to the Final Report. This response must be provided to the Administrator no later than five days after the Final Report is provided to the parties. The Administrator may meet with the parties, separately, to discuss the Final Report.

b. A party may request that the matter be referred to the SCB for a hearing. The request must be in writing and must be submitted to the Administrator no later than five days after the Final Report is provided to the parties. If a party timely submits a request for the matter to be referred to the SCB:

i. In non-Title IX cases, the Administrator shall refer matters to the SCB for a hearing if:

1. The Administrator determines that there is sufficient information in the Final Report such that a finding could be made that the Respondent violated the Code; and
2. The Administrator determines that the appropriate sanction could include suspension, expulsion, or the withholding or revoking of a degree.

ii. In Title IX cases, the Administrator shall refer matters to the SCB for a hearing in matters in which the Administrator determines that there is sufficient information in the Final Report such that a finding could be made that the Respondent violated the Code.

iii. In all other cases, the Administrator shall decide whether the Respondent violated the Code.

c. If a matter is not referred to the SCB for a hearing:

- i. The Administrator shall decide whether the Respondent violated the Code. The Administrator shall make the decision based on the information contained in the Final Report, the written responses to the report, if any, submitted to the Administrator by the parties, and, if the Administrator chooses to meet with the parties, the information provided at the meeting to the Administrator by the parties.
 - ii. The Administrator should adopt the findings and credibility analysis contained in the Final Report, unless the Administrator finds that the findings or credibility analysis are not more likely than not to be true. Any additional or different findings issued by the Administrator must be based on a more likely than not standard.
 - iii. The Administrator is not required to defer to the recommendation contained in the Final Report as to whether the Respondent violated the Code, but is entitled to freely apply the Code to the findings in order to determine whether the Respondent violated the Code.
 - iv. If the Administrator determines that the Respondent violated the Code, the Administrator shall determine the appropriate sanction.
 - v. The Administrator's decision shall be in writing and include the basis for the decision. The written decision shall be simultaneously provided to the parties.
 - vi. The Administrator's decision may be appealed in accordance with section E.
- d. At any time before the matter is submitted to the SCB, DOS may refer a charge of a violation of the Code to mediation or other forms of appropriate conflict resolution. All parties must agree to participate with DOS in the conflict resolution process. Complaints of physical sexual misconduct or violence shall not be referred for alternative resolution under this paragraph, except in unique circumstances approved by the Title IX Coordinator after consultation with the Office of General Counsel and the CSA Officer.

D-2. Student Conduct Board Hearing:

- a. In matters referred to the SCB, the Administrator (or designee) must send written notice to the SCB and the parties.
 - i. The notice shall be in writing and may be delivered either in person to the parties, or by email to the student's official University email account. If the notice cannot be delivered either in person or to the student's official University account, the notice may be delivered by any means reasonably likely to reach the student.
 - ii. The notice must inform the Respondent of the specific provision(s) of the Code the Respondent is accused of violating, and include a short description of the basis of the alleged violation, the date and time for the hearing, and the deadline for submitting written materials to the Administrator.
 - iii. The written notice shall also include the Final Report and any responses to the Final Report which were timely submitted to the Administrator.
- b. Except in cases referred to a Hearing Officer under Section G, the chair of the SCB shall appoint three to five members of the SCB to serve as a Hearing Panel to review each matter.
 - i. The chair of the SCB shall appoint one of the Hearing Panel members to serve as chair of the panel. A student may not serve as chair of a Hearing Panel.
 - ii. The Administrator (or designee) shall serve as a non-voting, ex-officio member of every Hearing Panel and may be present and available as a resource during all deliberations. The Administrator is responsible for informing the panel of any previous conduct violations or other relevant disciplinary actions involving the Respondent.
- c. In every case submitted to a Hearing Panel, the parties may submit written materials for the panel to review as part of its decision. To be considered by the Hearing Panel, all written materials must be submitted to the Administrator prior to the deadline set forth in the notice. The Administrator shall ensure that any materials timely submitted are distributed to the parties and the Hearing Panel prior to the hearing. The written materials may only consist of the following:

- i. Suggested questions for the panel to ask the Respondent or the Complainant;
- ii. Written discussion or argument addressing the information contained in the Final Report;
- iii. Information (as opposed to a discussion of the information contained in the report) that was not considered by the investigators in the Final Report only if the information was not available prior to the completion of the Final Report or if the information was provided to the investigator prior to the completion of the investigation but the information was not included in the Final Report.

D-3. Hearing Procedures:

a. The hearing shall be held at the time and place listed in the notice. The hearing shall be held no less than five days after the notice is provided to the parties.

b. All hearings are closed to the public. The only people allowed to be present during the hearing are the parties, each individual party's Advisor, the investigator(s), the Administrator, the Title IX Coordinator (or designee) in Title IX cases, one or more attorneys from the Office of General Counsel, and the members of the Hearing Panel. The panel chair may give permission for others to attend the hearing in the panel chair's discretion, after consultation with the Administrator.

c. The only witnesses at the hearing shall be the investigator(s), the Complainant, and the Respondent. In non-Title IX cases, the Complainant may only be present during the portion of the hearing where the Hearing Panel questions the Complainant, unless the chair determines in appropriate cases that the Complainant may remain for the entire hearing. In extraordinary circumstances, if the investigator is unable to be present at the hearing, the DOS may designate a representative to be there in the place of the investigator. Neither the Complainant nor the Respondent is required to say anything at the hearing.

The panel chair, in consultation with the Administrator, may call additional witnesses if the panel chair determines that the additional witnesses are necessary for the Hearing Panel to properly resolve the case. This discretion should be used sparingly. The intention of the Code is that the Final Report, in the vast majority of cases, should provide a sufficient basis for the Hearing Panel's decision, recognizing that the parties may speak in person to the Hearing Panel and to respond to the Final Report.

d. It is each party's responsibility to inform the panel chair and the Administrator of scheduling conflicts no less than three days prior to the scheduled hearing. The Administrator shall have the sole discretion as to whether to reschedule the hearing. Except in cases of grave or unforeseen circumstances, if either party fails to appear, the hearing will proceed as scheduled.

e. If a report of a violation of the Code involves more than one Respondent, the Hearing Panel shall conduct a joint hearing with all Respondents. However, the panel chair may permit the hearing pertinent to each Respondent to be conducted separately. In joint hearings, separate determinations of responsibility shall be made for each Respondent.

f. Only the chair of the Hearing Panel may ask questions during the hearing, and doing so is at the sole discretion of the chair. However, the chair may seek input from panel members on areas for questioning. The parties may submit suggested questions in writing as long as the questions are received prior to the deadline for submitting written materials contained in the notice. Questions based on information that arises during the hearing may be submitted in writing during the hearing at the discretion of the panel chair.

g. For complaints involving sexual misconduct, discrimination, or other complaints of a sensitive nature, the panel chair, in consultation with the Title IX Coordinator and the Administrator, may allow the Complainant to attend the hearing, answer questions, and make a statement from behind a partition or from another room or location through audio/video technology.

h. The panel chair has discretion as to how to conduct the hearing. Generally, however, the hearing should be conducted as follows:

- i.** Opening statement by the Respondent addressing the Final Report and the allegations that the Respondent violated the Code;
- ii.** In Title IX cases, opening statement by the Complainant addressing the Final Report and the allegations that the Respondent violated the Code;
- iii.** Questions, if any, by the panel chair of the investigator(s), Respondent, and/or Complainant;
- iv.** Final statements by the Respondent and, in Title IX cases, the Complainant.

i. In making its decision, the Hearing Panel shall consider all relevant information from the following sources:

- i.** The Final Report, including the findings and conclusions contained in the report;
- ii.** Any written information provided by the parties as provided above; and
- iii.** The information received at the hearing.

j. In Title IX cases involving allegations of sexual misconduct, the past sexual history or sexual character of either party shall not be considered by the Hearing Panel except in extremely unusual cases where the panel chair determines that the information is critical to a proper understanding of the specific facts of the case at hand. Demonstration of pattern, repeated, and/or predatory behavior, in the form of previous findings in any legal or campus proceeding, or in the form of good faith allegations, may be considered in making the findings and, if a violation of the Code is found, the sanction.

k. There shall be a single record, such as an audio recording, for all hearings. Deliberations shall not be recorded. Failure to record the hearing for any reason is not to be considered a procedural error that substantially impacts the decision and will not be grounds for appeal or reversal of the Hearing Panel's decision.

D-4. Hearing Panel Decision.

a. The Hearing Panel shall issue a written decision, which should be issued within ten days after completing deliberations. The panel chair shall provide the written decision to the Administrator, who shall then simultaneously provide the decision to the parties

b. The Hearing Panel should adopt the findings and credibility analysis contained in the Final Report, unless the Hearing Panel finds that the information presented at the hearing warrants a different finding or the Hearing Panel finds that the findings or credibility analysis are not more likely than not to be true. Any findings issued by the Hearing Panel must be based on a more likely than not standard.

c. The Hearing Panel is not required to defer to the recommendation contained in the Final Report as to whether the Respondent violated the Code, but is entitled to freely apply the Code to the findings in order to determine whether the Respondent violated the Code.

d. Unless the panel chair is a Hearing Officer appointed to serve as chair without a vote, the panel chair shall participate in all votes, and all Hearing Panel decisions shall be made by a majority vote.

e. If the Hearing Panel determines that the Respondent violated the Code, the Hearing Panel shall determine the appropriate sanction(s). The Administrator shall serve as a resource to the Hearing Panel to help ensure that sanctions are reasonably consistent among similar cases.

f. The Hearing Panel may return the matter for additional investigation if the Hearing Panel determines that:

- i.** The investigator failed to properly investigate the allegation and the failure was both substantial and to the student's detriment; or
- ii.** There is new information that could substantially affect the outcome and the new information could not have been discovered before the issuance of the Final Report.

D-5. Either party may appeal a Hearing Panel's decision.

D-6. Sanctions imposed by the Hearing Panel shall generally not go into effect until either the time period for an appeal has expired and no appeal has been filed or until the decision is upheld on appeal. However, the CSA Officer may impose any sanction imposed by the Hearing Panel as an interim action pending the appeal.

E. APPEALS.

E-1. Any party may appeal the Administrator's or Hearing Panel's final decision. Appeals must be submitted in writing to the Administrator and must set forth the grounds for the appeal. The appeal must be filed no later than five days after the decision is delivered to the parties. The Administrator shall ensure that the parties receive a copy of the appeal.

E-2. Appeals are limited to the following grounds:

- a.** A procedural error occurred in the investigation process that significantly impacted the outcome of the hearing;
- b.** New information, unavailable during the investigation or hearing, that could substantially impact the original finding or sanction has been presented in the appeal documents;
- c.** The sanctions imposed are substantially disproportionate to the severity of the violation (the imposition of an administrative fee is not a sanction, and therefore cannot be appealed); or
- d.** The decision is not based on substantial information. A decision is based on substantial information if there are facts in the case that, if believed by the fact finder, are sufficient to establish that a violation of the Code occurred.

E-3. An appeal shall be limited to a review of the decision, the Final Report, any written material considered in the decision, the recording of the hearing held before the Hearing Panel, and any written materials submitted with the appeal. Where an appeal is based on the discovery of new information, the new information may be considered only to determine whether the information was unavailable at the time of the decision and whether the new information could substantially impact the original finding or sanction.

E-4. Appeal Panel Procedures:

- a.** The chair of the SCB shall appoint three to five members of the SCB to serve on the Appeal Panel, and shall designate one member to serve as chair of the Appeal Panel. Any member who served on a Hearing Panel shall not serve on the Appeal Panel on the same case. A student may not serve as chair of an Appeal Panel.
- b.** In Title IX cases, the non-appealing party may file a response to the appeal within five days of the filing of the appeal.

c. The Appeal Panel shall issue a written decision. The decision should be issued within fifteen days of receiving the appeal. The chair of the Appeal Panel shall provide the written decision to the Administrator, who will then simultaneously provide the decision to the parties.

E-5. Results of the Appeal Panel. The Appeal Panel may:

- a. Uphold the Administrator's or Hearing Panel's decision;
- b. Uphold the finding that the Respondent violated the code, but revise the sanction(s);
- c. Return the matter for reconsideration; or
- d. Return the matter for additional investigation.

E-6. Unless the case is returned for reconsideration or to the investigator for additional investigation, the decision of the Appeal Panel is the final institutional decision. If the decision upholds the findings that the Respondent violated the Code, the sanctions imposed shall go into effect immediately.

F. Student Conduct Board.

F-1. The description and make-up of the SCB can be found in FSH [1640.83](#).

F-2. A member of the SCB shall not serve on any Hearing Panel or Appeal Panel in any case where the member has a conflict of interest or bias for or against either party.

F-3. If procedures call for the appointment of three or more members to serve on a Hearing Panel or Appeal Panel, the chair of the SCB should endeavor to appoint at least one student to the Hearing Panel or Appeal Panel. A student may not serve as chair of the Hearing Panel or Appeal Panel. In disciplinary cases involving allegations of academic misconduct, a majority of the Hearing Panel or Appeal Panel should ordinarily be faculty members.

F-4. All members of the SCB must receive annual training as determined by DOS, the Title IX Coordinator, and/or the Office of General Counsel. A member cannot serve on either a Hearing Panel or Appeal Panel until the member has completed this training.

F-5. Proceedings before the SCB, whether before a Hearing Panel or Appeal Panel, are confidential and protected by the Family Educational Rights and Privacy Act (FERPA). In specific disciplinary cases, members of the SCB must protect the confidentiality of the information they receive in fulfilling their duties as members of the SCB. Panel members must not discuss specific cases or share any information regarding specific disciplinary cases or their deliberations with anyone other than the SCB Chair, the Office of General Counsel, the Administrator, or fellow panel members appointed to the same panel in that specific case, and in all such instances, the discussion or sharing of information must be reasonably necessary for the panel's consideration of the specific case.

G. USE OF A HEARING OFFICER.

G-1. In any case requiring a hearing before a panel of the SCB, the University may use a Hearing Officer to conduct that hearing.

G-2. The decision as to whether to appoint a Hearing Officer shall be made by the Administrator. The decision as to whether to appoint a Hearing Officer may not be appealed and may not be challenged on appeal as a procedural error.

G-3. The Hearing Officer may be appointed to serve as follows:

a. As a non-voting chair of the Hearing Panel whose duties are to run the hearing and ensure all proper procedures are followed;

b. As a voting chair of the Hearing Panel whose duties are to run the hearing, ensure that all proper procedures are followed, and to have a vote on the decision; or

c. As the chair and only member of the Hearing Panel whose duties are to run the hearing, ensure that all proper procedures are followed, and to issue the decision. When the Hearing Officer serves as the sole decision-maker, the Hearing Officer's decision shall be treated for all purposes the same as the decision of a Hearing Panel under the Code.

d. In cases involving allegations of academic dishonesty, a Hearing Officer may only be appointed as a non-voting chair of the Hearing Panel, but may not be appointed as a voting member of the Hearing Panel or as the chair and only member of the Hearing Panel.

G-4. The Administrator shall appoint the Hearing Officer from a list of Hearing Officers approved by the Office of General Counsel. The Hearing Officer must not have a conflict of interest or bias for or against either party.

G-5. The Office of General Counsel shall determine the appropriate qualifications for a person to serve as a Hearing Officer and shall make a list of approved Hearing Officers available to the Administrator.

H. INTERIM ACTION.

H-1. At any time before a final institutional decision, the CSA Officer, or designee, may impose restrictions on a student and/or separate the student from the University community pending the final institutional decision. If circumstances allow, the CSA Officer (or designee) should meet with the student prior to imposing the interim action.

H-2. Other than issuance of no contact orders, an interim action issued prior to a hearing before the Hearing Panel may only be imposed when the CSA Officer determines that the student represents a threat of serious harm to any person; the student is facing allegations of serious criminal activity; the action is necessary to preserve the integrity of the investigation; the action is necessary to preserve University property; and/or the action is necessary to prevent disruption of, or interference with, the normal operations of the University. After the Hearing Panel's decision, pending an appeal of the decision, the CSA Officer may impose a sanction issued by a Hearing Panel as an interim action at the discretion of the CSA Officer.

H-3. In any Title IX case, the investigator, in consultation with DOS, may issue a no contact order prohibiting the Respondent and/or the Complainant from contacting the other. A no contact order should be routinely issued in Title IX cases and there need not be a specific determination made as provided above.

H-4. Interim actions may include, but are not limited to, the following:

a. Suspension from the University pending a final institutional decision;

b. Issuance of a no contact order;

c. Exclusion from University property;

d. Removal from the residence halls;

f. Removal from extracurricular activities, including participation on athletics teams;

g. Withholding the award of a degree pending the conclusion of the investigation and hearing process; or

h. Any other action deemed necessary and appropriate by the CSA Officer to maintain orderly and appropriate University operations.

H-5. Where a student is suspended from the University, or directed to not attend certain classes, alternative coursework options may be pursued, with the approval of the CSA Officer and the appropriate college dean, to ensure as minimal an impact as possible on the responding student.

H-6. An interim action must be made in writing and is effective when the CSA Officer delivers the Notice of Interim Action to the responding student either in person or by email sent to the student's official University of Idaho email account.

H-7. The Respondent may appeal the imposition of any interim action by filing an appeal with the CSA Officer. There are no formal procedures for this appeal, and the interim sanctions remain in effect unless overturned by the CSA Officer.

H-8. A violation of the provisions of an interim action shall be considered a violation of the Code.

I. SANCTIONS.

I-1. The following sanctions may be imposed upon any student determined to have violated the Code:

a. Warning: a written notice to the student.

b. Probation: a written reprimand accompanied by a probationary period during which the student must not violate the Code in order to avoid more severe disciplinary sanctions.

c. Loss of Privileges: denial of specified privileges for a designated period of time.

d. Restitution: compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

e. Educational Sanctions: completion of work assignments, essays, service to the University, community service, workshops, or other related educational assignments.

f. Housing Suspension: separation of the student from University Housing for a definite period of time, after which the student is eligible to return. Conditions for return may be specified.

g. Housing Expulsion: permanent separation of the student from University Housing.

h. University Suspension: separation of the student from the University for a definite period of time, after which the student is eligible to return. Conditions for return may be specified.

i. University Expulsion: permanent separation of the student from the University.

j. Revocation of Admission and/or Degree: admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.

k. Withholding Degree: the University may withhold awarding a degree otherwise earned until the completion of all sanctions imposed.

I-2. More than one of the sanctions listed above may be imposed for any single violation.

I-3. A student who fails to comply with the sanction(s) imposed shall have a disciplinary hold placed on his/her record until the student complies with all sanctions imposed.

I-4. Disciplinary sanctions other than suspension, expulsion or revocation or withholding of a degree shall not be made part of the student's permanent academic record, but shall become part of the student's disciplinary record. Such sanctions shall be expunged from the student's disciplinary record seven (7) years after final disposition of the case.

I-5. The student shall be responsible for administrative and educational costs of any and all sanctions imposed for alcohol related violations.

J. MISCELLANEOUS.

J-1. Agreement: At any point during the disciplinary process prior to a final institutional decision, the Administrator and the parties may agree to an appropriate resolution without further investigation, hearing, or appeal. The agreed upon resolution may include the use of appropriate alternative dispute resolution methods.

J-2. Role of an Advisor: In accordance with the educational purpose of the Code, all students, including Respondents and Complainants, are expected to speak for themselves at all stages of proceedings under the Code, including, but not limited to, during the investigation, hearing, and any appeal. Any student may have an Advisor present at any time during any interview, meeting, or proceeding under the Code, but the Advisor's role is to advise the student, not to speak for the student or make any presentation on behalf of the student. The student may, at any time and for a reasonable period of time, confer with the Advisor. If the University official conducting the proceeding determines at any time that the Advisor is acting outside of these parameters, the Advisor may be required to leave the proceeding at the official's discretion. In appropriate circumstances, at the sole discretion of the University official conducting the proceeding, the University official may allow the Advisor to speak on behalf of the student and/or make a presentation on behalf of the student.

J-3. Fee: Any time a student is found to have violated the Code, DOS may charge the student an administrative fee of \$150. This is not considered a sanction and may not be appealed.

J-4. Parent Notification: The University may notify parents of students under the age of 21 when a student has been found to have committed a drug or alcohol-related violation. This is not considered a sanction, and the decision as to whether to notify the parents or not rests entirely within the discretion of DOS.

J-5. Training: All members of the SCB, the Administrator, the Title IX Coordinator, and the investigators shall receive annual training in accordance with the requirements of the policies of the Board of Regents of the University of Idaho and the Idaho State Board of Education, the Clery Act and implementing regulations, and Title IX.

J-6. Timeframe: With the exception of the deadlines for filing an appeal (see section E) or for requesting a hearing before the SCB (see section D-1.b.), all other timeframes contained in the Code are suggested timeframes. While the timeframes should be followed absent exceptional circumstances, the failure to conduct any action within a designated timeframe is not grounds for appeal or reversal of any decision.

J-7. Interpretation: Any question of interpretation regarding the Code or these procedures will be referred to the CSA Officer or his/her designee for final determination.

J-8. Disclosure: The University will, upon written request, disclose to the alleged victim of any crime of

violence (as that term is defined in section 16 of title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the University against a student who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

J-9. Review by President: Any decision or action taken under the Code may be reviewed by the President at the President's discretion.

J-10. Review by Board of Regent's: Appeals of a final institutional decision to the Board of Regents must be made in accordance with Idaho State Board of Education Governing Policies and Procedures Section III.P.18.

Version History

Amended January 2017. A rewrite was completed that found middle ground between the early 1970's court trial format and the strong investigative model which had unintentionally created many delays to this less confrontational investigative model. The objective is to provide a process that allows for fact-finding and decision-making that balances the rights of the individual with the legitimate interests of the University.

Amended July 2016. Addressed some cumbersome processes that arose which were affecting the ability to resolve cases quickly.

Amended July 2014. All disciplinary language from FSH 2200 Statement of Student Rights and FSH 2300 Student Code of Conduct was consolidated into this policy and updated removing redundancies in policy.

Amended July 2008. The committee composition was moved into FSH 1640 Committee Directory.

Amended July 1993. Membership and quorum were changed on the University Judicial Council.

Adopted 1979. While the disciplinary process contained in FSH 2400 is uniquely crafted to meet the University of Idaho's individual needs, portions of the process and Code are adapted from the NCHERM Group Model Developmental Code of Student Conduct and is used here with permission. Other portions are adapted from Edward N. Stoner II and John Wesley Lowery, Navigating Past the "Spirit of Insubordination": A Twenty-First Century Model Student Conduct Code With a Model Hearing Script, 31 Journal of College and University Law 1 (2004).

EXHIBIT 10

CONSTITUTION FOR
CHRISTIAN LEGAL SOCIETY STUDENT CHAPTER
AT UNIVERSITY OF IDAHO COLLEGE OF LAW

PREAMBLE

Mission. The Christian Legal Society (“CLS”) is an Illinois non-profit corporation with its principal offices in Springfield, Virginia, that exists to inspire, encourage, and equip lawyers and law students, both individually and in community, to proclaim, love, and serve Jesus Christ through the study and practice of law, the defense of religious freedom, and the provision of legal assistance to the poor.

Vision. CLS is dedicated to seeking justice with the love of God by following His principles: Helping members faithfully serve Jesus in their professions, relationships, communities, and churches; influencing the legal profession and the law in accordance with His teachings; and serving others as He would serve them.

Article I. Name.

1.1. *Name.* The name of this organization is the Christian Legal Society Chapter at the University of Idaho College of Law ("CLSUI" or “Chapter”). This Chapter is chartered and established at the University of Idaho College of Law and shall remain chartered at this law school unless lawful action to the contrary is taken by the Executive Director of the Christian Legal Society.

1.2. *Definitions.* When used herein, the terms “CLS” or the “Christian Legal Society” refers to the national membership organization based in Springfield, Virginia, and the term “Chapter” or “CLSUI” refers to the specific Student Chapter of the Christian Legal Society identified in article 1.1 by name.

Article II. Mission and Purposes.

2.1. Mission.

2.1.A. The mission of CLSUI is to maintain a vibrant Christian Law Fellowship on the UICL campus, which encourages its members, individually and as a group, to love the Lord with their whole beings – hearts, souls, and minds-- and to love their neighbor as themselves. (Matthew 22:37-40).

2.1.B. CLSUI is also a member of the Christian Legal Society's Law Student Ministries ("LSM") division. LSM has resourced and ministered to thousands of students at over 150 law school campuses and at a handful of strategic colleges. In carrying out its mission, LSM affirms that the Lord, "a God of justice" (Isa. 30:18), is the supreme lawgiver and that His "higher" law serves as an immutable standard by which to assess human law.

2.1.C. CLSUI recognizes that, given the twilight of transcendence in the legal profession, law students desiring to submit every aspect of their calling to the Lord are confronted with serious challenges.

2.1.D. CLSUI therefore regards the next generation of lawyers as a strategic people group and counts it a privilege to reach out to pre-law and law students who have the potential to be redeeming influences in the profession and the world in years to come. By virtue of their calling, every student will have the opportunity, if adequately equipped, to glorify God and work for His kingdom in this world.

2.1.E. CLSUI is convinced that we must continue together in this task to "Learn to do Justice with the Love of God."

2.2. Purposes. In striving to accomplish this mission, CLSUI shall be guided by the purposes set forth in the Preamble of the CLSUI constitution, which entails four interrelated activities to be carried out by this organization:

2.2.A. Cultivating spiritual growth among its members through communal prayer, fellowship, and worship; learning to share one's faith; and devotional study of the Bible and classic Christian works.

2.2.B. Showing the love of Christ to the campus community and the community at large by proclaiming the gospel in word and in deed.

2.2.C. Addressing the question, "What does it mean to be a Christian in law?" That is, learning to submit every aspect of one's calling in the legal profession to the Lordship of Jesus Christ.

2.2.D. Teaching members to advocate based on faith and integrity.

Article III. Statement of Faith.

3.1. Statement of Faith. All officers of CLSUI must subscribe to the Christian Legal Society Statement of Faith:

Trusting in Jesus Christ as my Savior, I believe in:

- One God, eternally existent in three persons, Father, Son and Holy Spirit.
- God the Father Almighty, Maker of heaven and earth.
- The Deity of our Lord, Jesus Christ, God's only Son conceived of the Holy Spirit, born of the virgin Mary; His vicarious death for our sins through which we receive eternal life; His bodily resurrection and personal return.
- The presence and power of the Holy Spirit in the work of regeneration.
- The Bible as the inspired Word of God.

All officers must also affirm the CLS Community Life Statement and agree to operate the Chapter under its principles.

Article IV. Membership.

4.1. *Chapter Activities.* All meetings and activities are open to anyone who is part of the law school community, including faculty, staff, and students. Any CLSUI member who, for any reason, ceases to be a student at the law school shall immediately cease to be a member of CLSUI.

4.2. *Obtaining Membership.* Any full- or part-time student at UICL may be a member of the Chapter if he or she attends at least 50% of the Chapter's regular meetings or activities. Membership in the Chapter does not confer or imply membership in CLS.

4.3. *Eligibility to Vote.* CLSUI members are the only persons eligible to vote for CLSUI officers and for amendments to this Constitution and its bylaws.

4.4. Attendance is open to all who would like to attend, including but not limited to spouses of members, children of members, and non-students. However, their attendance will not make them eligible for membership in CLSUI or CLS. Nor will they be considered members of or affiliated with CLS.

Article V. Officers.

5.1. *General.* A Chapter must consist of at least three officers who are members of CLS and enrolled as students at UICL. All Chapter officers(executive board) shall be members of CLS in good standing. Any CLSUI officer who, for any reason, ceases to be a student at UICL shall immediately cease to be an officer of CLSUI.

5.2. *Officer Duties.* Each officer is expected to perform religious duties as their primary function by leading Bible studies, prayer, and worship at Chapter meetings as tasked by the President. Although the President is the primary spokesperson for the Chapter, each officer also serves as a spokesperson for the Chapter. CLSUI officers shall encourage students to join CLSUI. Officers are expected to exemplify the highest standards of morality as set forth in Scripture, including to “love the Lord your God with all your heart, mind, and soul, and to love your neighbor as yourself,” while striving to manifest “the fruit of the Spirit which is love, joy, peace, patience, kindness, goodness, faithfulness, gentleness and self-control,” in all their interactions and dealings with others (Galatians 5:22-23).

The following offices and duties are stated for the use of those holding office. The offices of Secretary and Treasurer may be held by the same person.

5.2.A. *President.* The President shall preside over Chapter business meetings and meetings of the Officers. The President shall operate as the Chapter’s representative and primary spokesperson to the law school community, university community, and public-at-large in all matters for which a formal representative is required or appropriate. The President shall also serve as the Chapter’s primary contact person with CLS and shall immediately advise the CLS national office of any significant operational or policy conflicts or other problems within the Chapter or between the Chapter and another entity.

The President shall be responsible to select and notify the officer(s) who are to lead the Bible study, prayer, and worship at each meeting. The President shall also be responsible for inviting any guest speakers. With the consent of the other officers, the President may delegate either or both of these two responsibilities to another officer.

5.2.B. *Vice President.* The Vice President shall assist the President in the discharge of his or her duties, as the President may direct, and shall perform such other duties as from time to time may be assigned to him or her by the President. In the absence of the President, or in the event of the President’s inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all of the powers of, and be subject to all of the restrictions upon, the President.

5.2.C. *Secretary.* The Secretary shall maintain all non-financial records of the Chapter. The Secretary shall be responsible for (a) preparing minutes of all meetings and (b) assisting the President in filing the annual reporting form with CLS.

5.2.D. *Treasurer.* The Treasurer shall be responsible for maintaining all financial records of the Chapter, including, but not limited to, all records of the payment of funds, deposits and disbursements from the Chapter’s bank accounts pursuant to the procedures described in Article VIII.

5.2.E. *Other Officers.* Any other Chapter Officers appointed pursuant to this Article shall have such duties as are assigned to them by the President.

5.3. *Bearing Witness of Christ.* The Chapter is expected to bear witness of Christ.

5.4. *Transition of Authority.* To ensure the continual well-being of CLSUI, outgoing officers shall facilitate the orderly transition of authority by taking adequate time in the spring to train new officers. The Chapter

shall implement a procedure for the naming of at least three new officers by April 30 of each year. No later than May 1, the outgoing President or Secretary shall inform CLS and LSM of the names and contact information of the incoming officers.

5.5 Election of Officers. Current officers on the officer board of directors will serve one-year terms. The officers will serve from the last day of the spring semesters until the last day of the following Spring semester with the exception of the 1L Representative if decided by the Executive Board. The 1L Representative shall be elected at the 6th regular meeting of the CLSUI in the fall semester, or the closest meeting thereafter in which a willing 1L student has been identified or nominated. The 1L Representative will serve until the last day of the spring semester. At a minimum, the election for an officer requires a simple majority vote of the CLSUI members who are present during voting at a Chapter meeting called for that purpose in the spring semester each year. Any vacancies shall be filled by a majority vote of the remaining officers.

5.6. CLS Membership of Newly-Elected Officers. In order for a Chapter to retain its affiliation with CLS, each officer, upon election, must join CLS if he or she is not already a member of CLS.

5.7. Forcible Removal of an Officer. The removal of a current officer prior to the end of his or her term requires a 75% majority vote of CLSUI members or officers or action by CLS. Such action may be initiated by Chapter members or officers or CLS.

Article VI. CLSUI Advisor.

6.1. CLSUI officers shall assist CLSUI faculty member, staff, or a local attorney to serve as an advisor to the CLSUI. The officers shall meet with the advisor on a regular basis and shall keep him or her informed of CLSUI meetings, special events, financial matters, problems within CLSUI or the School, and other relevant matters.

Article VII. Meetings.

7.1. CLSUI meetings shall be held with enough frequency to accomplish the mission and purposes enumerated in Art. II; at a minimum, at least four (4) meetings shall be held during each school year. One of the principal goals of meetings shall be to carry out and to plan events and activities designed to carry out CLSUI's Ministry Model (see Art. II). The officers, in consultation with the CLSUI members and advisor, shall ensure that adequate notice is given of each meeting.

7.2. All students, staff, and faculty are welcome to attend CLS meetings and events, regardless of race, age, disability, color, national origin, religion, sex, veteran status or sexual attraction/sexual practices.

Article VIII. Finances.

CLSUI may raise revenues through contributions or fundraising activities or by applying for school funds available to student groups. CLSUI shall never charge local dues. If CLSUI chooses to raise revenues, it shall insure that the highest standards of Christian morality and financial integrity are met. At a minimum, the organization shall: maintain its funds through the Idaho Student Bar Association managed according to School standards; require the signatures of two officers to write a check or withdraw funds; incur financial obligations only when there is sufficient funding to honor the obligations; pay all debts in a prompt manner; and maintain accurate financial records showing all receipts and expenditures and all assets and liabilities of CLSUI. Upon request, the Chapter's financial records shall be made available to CLS.

Article IX. Restrictions on Activities.

9.1. CLSUI shall not carry on any activities prohibited by CLSUI under its constitution or bylaws, including any activities that violate the Statement of Faith in Article III.

9.2 The Chapter shall not carry on any activities prohibited by CLS under its bylaws or by Sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code. Without the prior written consent of the CLS Executive Director, the Chapter shall not: be a voluntary party in any litigation; seek legal counsel from an attorney not on CLS staff; lobby (including the publishing or distribution of statements) or otherwise attempt to influence legislation; or participate or intervene in any political or judicial campaign on behalf of any candidate for office. No part of the net income of the Chapter shall inure to the benefit of its officers or other private persons, except that the Chapter shall be authorized to pay reasonable compensation for services actually rendered and to make payments and distributions in furtherance of its purposes.

Article X. Amendments and Interpretation.

10.1. CLSUI may amend the Articles of this Constitution by a 75% majority of member vote except under the listed exceptions.

10.1.A Exceptions.

10.1.A.1 Article III cannot be amended except by alteration by CLS.

10.1.A.2 A majority of the executive board is not present at the meeting.

10.1.A.3 The proposed amendment was not announced and distributed to known members 7 calendar days prior to the vote.

10.1.A.4 The Amendment is not approved in writing by CLS through its Executive Director or designee. Request for approval of any amendment must be submitted in writing to CLS Law Student Ministries, 8001 Braddock Road, Suite 302, Springfield, VA 22151, lsm@clsnet.org.

10.2. CLSUI may amend the bylaws by a 51% majority member vote except under the listed exceptions.

10.2.A. Exceptions.

10.2.A.1. A majority of the executive board is not present at the meeting.

10.2.A.2. The proposed amendment was not announced and distributed to known members 7 calendar days prior to the vote.

10.2.A.3. The proposed amendment conflicts with any provision of the CLSUI constitution.

10.3 *Interpretation.* Any conflict or disagreement among Chapter officers or members as to the meaning or interpretation of this Constitution shall be submitted in writing to the Christian Legal Society, through the Executive Director or Director of Law Student Ministries. The decision of the CLS Executive Director resolving the conflict or disagreement shall be final. In the event of any conflict or inconsistency between this Constitution and the CLS bylaws, the terms and provisions of the CLS Bylaws shall control. The Chapter, on behalf of its officers and members, agrees to submit any conflict with CLS to mediation or arbitration using the services of Peacemaker Ministries.

Article XI. Force and Effect of Constitution.

This Constitution shall take effect when the CLS Executive Director executes an affiliation agreement, accepting this Constitution, and shall remain in effect until terminated in writing by either party or until the Executor Director of CLS determines that the Chapter ceases to meet the qualifications of a CLS student chapter as enumerated in this Constitution and Art. XIII of the CLS Bylaws. If the Chapter Constitution is terminated, the Chapter ceases to exist.

Article XII

The below signed individuals shall be the founding members of the CLS Student Chapter at the UICL on 10-07-2021.

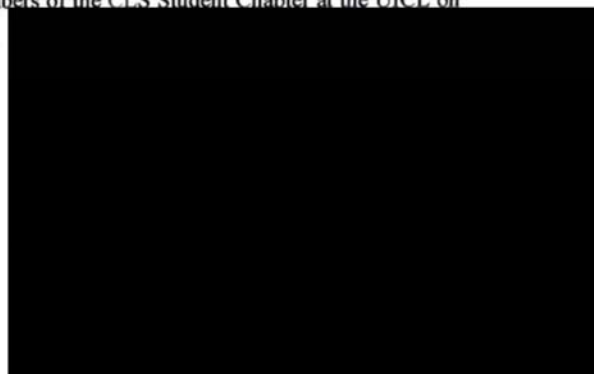
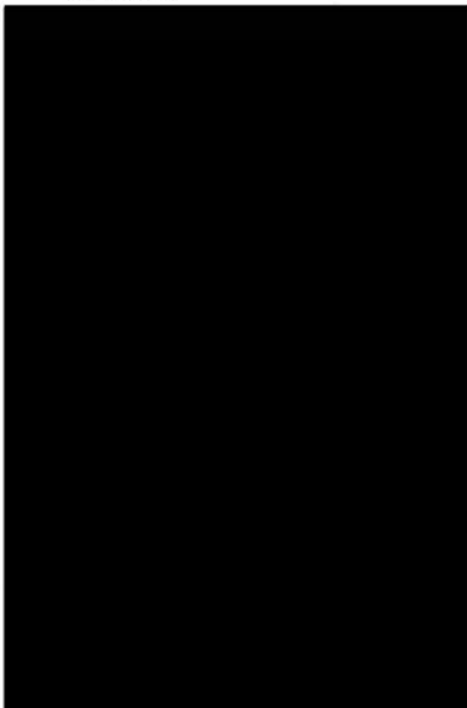


EXHIBIT 11



 [Search \(/Search\)](/Search)  [Get Updates \(https://www.clsnet.org/admin/subscribe\)](https://www.clsnet.org/admin/subscribe)

[Donate Now \(https://www.clsnet.org/donate\)](https://www.clsnet.org/donate)



(as adopted at the CLS February 2011 Board Meeting)

RESOLVED that:

Christian Legal Society ("CLS") has adopted the attached Community Life Statement as a further articulation of the longstanding CLS message that certain values, attitudes, and behaviors are central to the life and walk of Christian lawyers and law students associated with CLS;

The Community Life Statement is intended to further inform all ministries of CLS by advancing CLS's Purpose "to clarify and promote the concept of the Christian lawyer and to help Christian lawyers integrate their faith with their professional lives" as set forth in Article 1 of the CLS Bylaws;

All CLS officers, directors, and staff, as well as officers of the local chapters (Attorney Ministries and Student Ministries) are to subscribe to the CLS Statements of Faith and Community Life; and

Any CLS member may be suspended or expelled from membership, in accordance with the provisions and procedures of Article 4, Section 6 of the CLS Bylaws, for unrepentant conduct or active support of a position that undermines the CLS Statement of Faith or Community Life Statement:

COMMUNITY LIFE STATEMENT

- We believe that the Bible, God's written word, is the ultimate guide for our values, attitudes, and behaviors.

- We seek spiritual maturity by maintaining a personal devotional life, participating in worship and prayer with others, and being involved in the life and ministry of a local church.
- We seek to be involved in ministering to social and spiritual needs both within and beyond our communities.
- We seek to respect the uniqueness of all people, including our differences in race, sex, ethnicity, and talents, for each bears God's image.
- We encourage cultivation of the attitudes and behaviors of love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, and self-control.
- We renounce unbiblical attitudes, including greed; jealousy; false pride; lust; covetousness; an unforgiving spirit; and unjust prejudice such as that based on race, sex, ethnicity, appearance, disability, or socio-economic status.
- We renounce unbiblical behaviors, including deception, malicious speech, drunkenness, drug abuse, stealing, cheating, and other immoral conduct such as using pornography and engaging in sexual relations other than within a marriage between one man and one woman.
- We acknowledge that every person has engaged in attitudes and behaviors that fall short of God's standards, and we rejoice in God's forgiveness to all repentant believers.
- We acknowledge the Biblical mandate to treat all persons with love and respect, even if we disagree over these values, attitudes, and behaviors.
- We intend to follow, when conflict arises or shortfalls in attitudes or behaviors occur, a biblical process for correction, forgiveness, reconciliation, and restoration.

About (/about)	Events (/events)	Resources (/resources)	Membership (/join)
About Us (/about)	2022 CLS	CLS Store	Join CLS
Statement of Faith (/about/statement-faith)	National Conference (/2022NC)	(/resources/cls-store)	(/membership/how-join-cls)
Ways to Give to CLS (/partner)	2022 Texas Regional Retreat (/events/2022texas)	Christian Legal Studies (https://christianlegalsociety.org/legal-studies)	Member Benefits (/membership/member-benefits)
Contact Us (/about/contact-us-0)	CLS Online Gathering (/clsonlinegathering)	Cross & Gavel Podcast (/podcast)	Renew Your Membership (/membership/renew-your-membership)
Staff (/about/staff)	Past Events (/events/past-events)	Publications (/resources/cls-publications)	
Governance (/about/governance)		Christian Conciliation (/resources/christian-conciliation)	
Annual Report (/about/finances/annual-report)		Find a Lawyer (/resources/find-christian-lawyer)	
Privacy Policy (/about/privacy-policy)		Find a Christian Legal Aid Clinic (/about/clinic-directory)	
		Job Board (/resources/job-board)	
		Webinars (/resources/webinars)	
		Media Library (/resources/media-library)	
		CLS Blog (https://christianlegalsociety.org/blog)	

EXHIBIT 12

From: Miller, Mark [REDACTED]
Sent: Tuesday, November 9, 2021 3:49 PM
To: [REDACTED]
Subject: Fwd: Concerning Actions By the Christian Legal Society

Hello all,

I hope this email finds you well. I know some may not read this email until Monday, however, I felt there was high urgency to send this email over the weekend. I have cc'd all of those who I know may care about this issue and are stakeholders as well.

This email is specifically to address the Christian Legal Society (CLS) and them becoming a recognized club under SBA. It was brought to my attention last week by other students that CLS is trying to become a club while using documents that are facially anti-LGBTQ and this is concerning to me. I am specifically citing to the "Community Life Statement" that was read according to the minutes of the last SBA meeting. I went and found the community life statement and read it and this is unacceptable at a law school and university that is supposed to be accepting and inclusive of LGBTQ people and I speak from this point of view as an ally. It is concerning to me because even though CLS has not formally become a club yet, it seems that it is becoming uncomfortably close to coming to fruition. This standard under the community life statement applying to members at large or the leadership is asinine and should not be allowed to move forward. It is an invalidation of someone's very existence who is a LGBTQ person and goes against everything that the community has fought for to exist and be present without fear in our modern society. I also believe this is absolutely appalling given some of the events that have occurred in the last few months here at the law school and university at large and given the larger social issues over the last four to five years concerning the LGBTQ community. How is anyone who is an LGBTQ person supposed to feel comfortable not only joining this club but being at the law school when this club is supporting these views. I also think that there is an inherent problem with the structure and relationship that the local chapter of CLS may have to the national leadership. Because of this I have been spreading the word about this issue to other students because I believe many do not know about it and would find it concerning as I have. I will continue to do this as necessary and track what happens with CLS because again this is extremely

concerning to me, and I have not found any other clubs in the law school with this type of language in their documents or structure between their local chapter and national leadership if one does exist. I have also decided to go about sending an email out like this because as a former student at my past schools who has worked in student government this will be important to keep for the record and with multiple eyes on it because I believe that if there is any push back from the administration about students opposing CLS in any capacity, it would be extremely inappropriate. I know several students who would not feel comfortable sending out an email like this, so I have taken the liberty because of the urgency of this issue. If you are going to be an inclusive campus live up to that ceiling through your actions not just your words.

I hope you all take these words and this issue seriously and think about the implications of what is attempting to be done here. Thank you.

Best Regards

[REDACTED]

EXHIBIT 13

From: Moscow-law3l <moscow-law3l-bounces@uidaho.edu> on behalf of Law, ADSA
(lawadsa@uidaho.edu) <lawadsa@uidaho.edu>
Sent: Thursday, March 31, 2022 5:26 PM
Subject: [Moscow-law3l] [Law-3L] Moment of Community
Attachments: ATT00001.txt

Good afternoon,

As Dean Kalb mentioned below, tomorrow we invite you to join us for a moment of community at 9:20 a.m. MT/8:20 a.m. PT. Many members of our community have felt marginalized or excluded at one time or another. If you have ever felt this way, or just want to show support for those who have, please join us tomorrow on the front steps of the law school buildings on each campus (Front Street side for Boise) for a few moments of solidarity and community. We have no agenda but to be together in this moment for support and encouragement. We hope when this community and others see us out there that it is a visible reminder to all who have felt excluded, and all who are allies, that they are seen and are not alone.

There is more that unites us than divides us,

Associate Deans Brenda Bauges and Kristi Running



From: Kalb, Johanna (jkalb@uidaho.edu)
Sent: Thursday, March 31, 2022 11:43 AM
To: Kalb, Johanna (jkalb@uidaho.edu) <jkalb@uidaho.edu>
Subject: seeking your help to improve our law school

Dear students –

Last Monday, a member of our Boise community arrived to find a derogatory slur directed against the LGBTQIA+ community on a classroom whiteboard. This is not the only incident of this kind that has occurred on our campuses this year. It breaks my heart that we struggle to be a place that respects the dignity and humanity of every person in our community. Law school is tough enough, as you know, without having to face down insults and slurs.

In our national and local discourse, this request for respect may be confused with some kind of limit on discourse. I want to be very clear that I expect and hope that our classrooms and hallways will be a place of robust discussion and debate. In every place I've worked, including here, I have had the great fortune to discuss and learn from faculty, staff, and students whose views differ from my own. I have made mistakes and learned from them, and I've grown and changed as a result, as a person and as a lawyer. The foundation for all of these discussions is mutual respect and grace. Bullying is not a conservative or a liberal value, and I will do everything in my power to stop it.

Poignantly, today is the national Transgender Day of Visibility. Transgender people in this country are subjected to rising levels of violence, with murders last year reaching their highest number since tracking began. Dehumanizing each other through our language has terrible consequences. And so I ask you again to help me make this law school the kind of place you want to be, where we can disagree and debate, while also caring for and respecting each other.

Some of your faculty will be hosting a moment of community this Friday (tomorrow) at 9:20 a.m. MT/8:20 PT. You will receive a separate communication with more details from Associate Deans Bauges and Running.

As always, I welcome hearing from you, and I do read and (try my very best to) respond to your emails.

Yours,

JOHANNA KALB
Dean and Professor of Law

College of Law

jkalb@uidaho.edu

208-364-4620

875 Perimeter Drive MS 2321 | Moscow ID 83844 2321

501 Front St. | Boise ID 83702



EXHIBIT 14

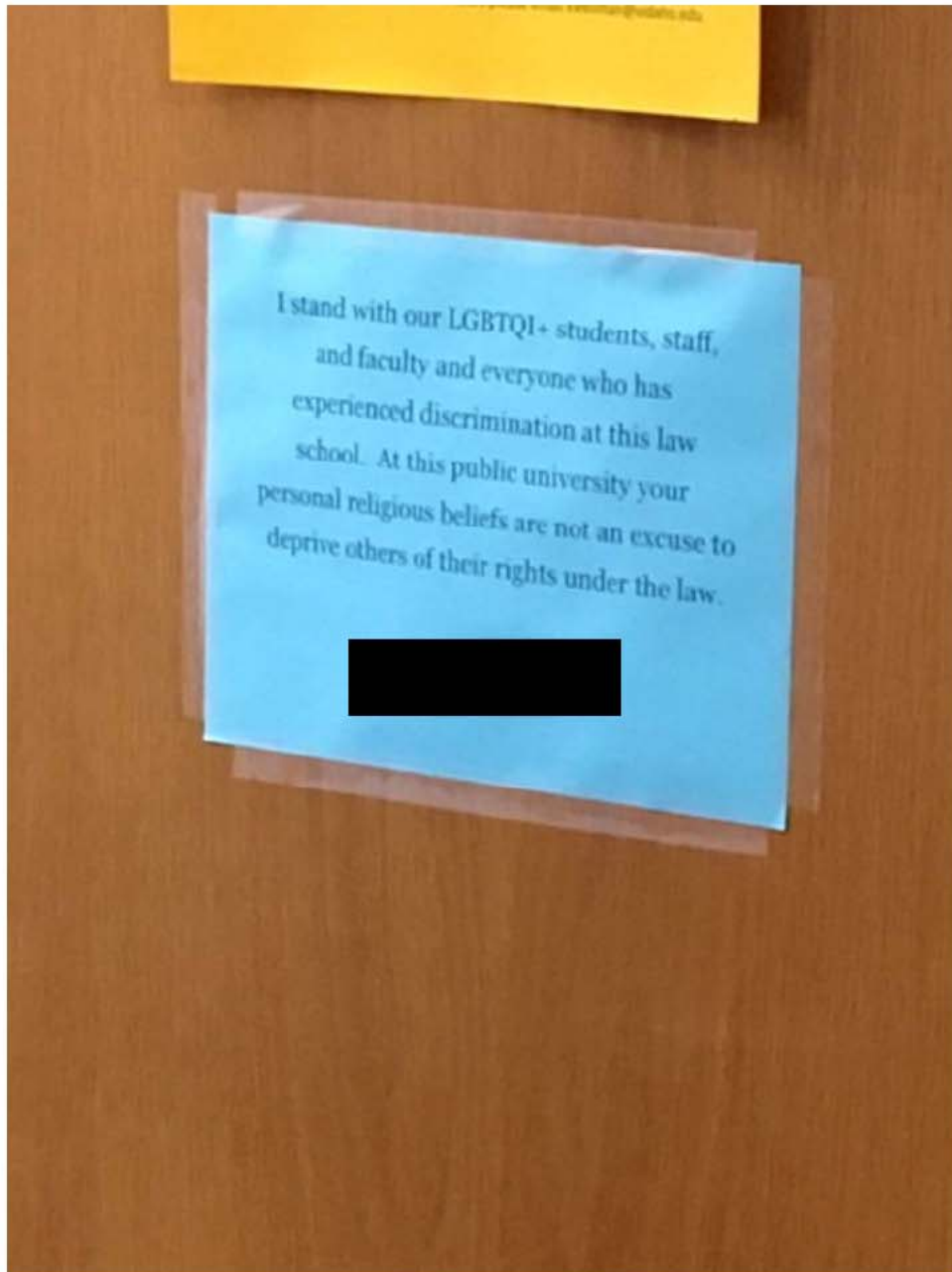


EXHIBIT 15

Admin · April 1 at 5:18 PM · 🌐

My statement on the Moment of Community today:

Colleagues,

I am the epitome of an "Idaho boy." I grew up in the woods, outside of Kooskia, ID. My nearest neighbor was a half-mile walk. I love my state. I love its rivers and mountains; I love the person it has enabled me to be.

I am also a soon-to-be double Vandal and will be staying in the area after graduation. Idaho is my home. This is my place.

For this reason, it pains me to see Idaho once again show itself as a place that gives safe harbor to discrimination. I am sickened and saddened to learn of the actions of my colleagues at an event intended to be a show of solidarity for our LGBTQ+ students this morning. What was meant to be a showing of love and support devolved into proselytizing. Though likely unintentional, opening the moment of community with prayer was in bad taste. Most discrimination LGBTQ+ folks experience is veiled in the guise of religious beliefs. Preaching that marriage is between a man and a woman is beyond the pale.

For those who decided to make today's gathering about them, you may feel that because your beliefs are true to you, you are just being honest and showing love in your own way. The love you purport to give is not about love at all. Religious truth, and disagreements about it, have caused more wars and death in our world than one can count. You are entitled to your own religious truth, but you are *not* entitled to mine. You certainly are not entitled to the truth and experiences of so many of our colleagues who deal with discrimination on a daily basis.

As attorneys, we are held to a higher standard of conduct than ordinary civilians. There is a lot of talk about what you “can” do. I ask you to consider instead what you *should* do. I will help you get started: do not show up to a moment of community, scheduled in the wake of an act of discrimination, and tell the affected students—**your future colleagues**—that their lifestyle is immoral. Certainly, it is within your constitutional rights to do so. But better judgment would have told you that this was not the time, place, or audience for your message. Do better.

To my friends who were negatively impacted by this today, and who are affected by this type of behavior on a regular basis here in Idaho, I am sorry. My goal in leadership has always been to support those who need it, and today I speak to all of you: I love you. I see you. I will always fight for you.

For anyone else who does not condone this type of behavior, the best you can do now is show your love and support for friends. They may need it today.


I am also here for any of you who would like to grab coffee, walk through the blooming arboretum, or just talk. I am here for you.


Very Truly Yours,




  18

3 Comments Seen by 109

 Like

 Comment

 Send

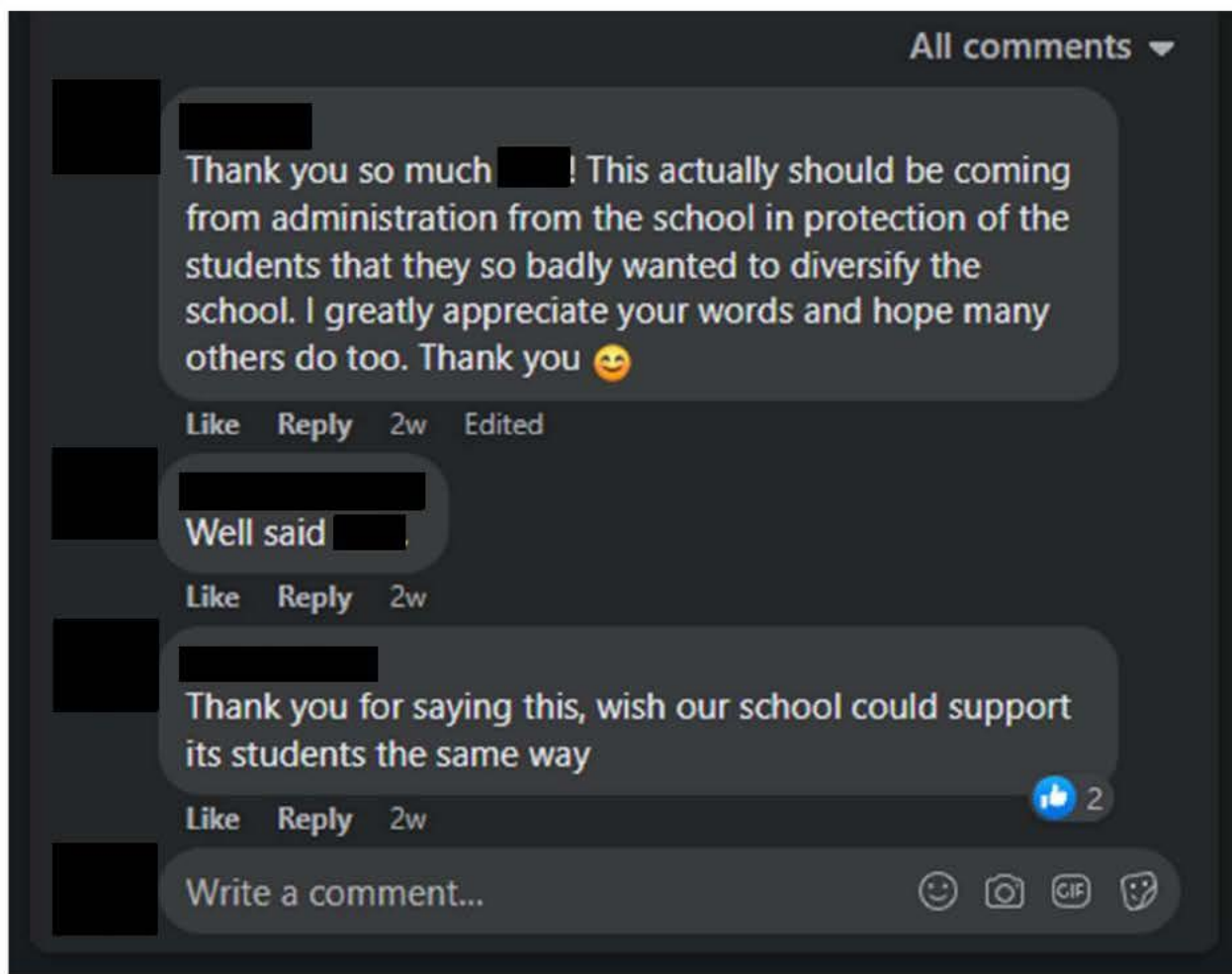


EXHIBIT 16

April 07, 2022

Peter Perlot

[REDACTED]

[REDACTED]

RE: OFFICIAL NOTICE OF NO CONTACT

Dear Peter,

This letter is concerning a report of behavior between yourself and [REDACTED]. Based on the information shared and gathered, at this time, I have determined that a No Contact Order is appropriate. This is an administrative action through the Office of Civil Rights and Investigations. Please be aware that [REDACTED] has also been sent a similar letter detailing our expectations of no contact between all parties so that all parties are aware of the requirement(s) of this action and are expected to abide by these terms. If you are to be contacted by [REDACTED] please inform our office immediately.

As of April 7, 2022, this letter serves as official notice that you are to refrain from contacting [REDACTED] in any way, from this point forward, and until otherwise notified. You are not to attempt to contact them under any circumstances. You are not to approach them, attempt to speak with them, or make any attempt to communicate with them in any form. Contact can be defined as, but is not limited to, any or all of the following carried out by yourself or an intermediary/third party (with the exception of an attorney):

- Written: Via mail, letter, text message, etc.
- Verbal: Via telephone, voicemail, in person etc.
- Electronic: Via email, social media, skype, etc.
- Non-Verbal: Via other means including pictures, videos, music, etc.

During any courses you may have together, you are instructed to sit on opposite sides of the room. If you believe that you have a legitimate reason to contact [REDACTED] please contact our office to speak with us regarding this. Any approved interaction shall pertain only to relevant academic work being discussed. Furthermore, our office may be in contact with you regarding other measures that may need to be taken as a result of this no contact order. These actions may include class schedule adjustments, residence hall restrictions/assignment adjustments, on campus work schedule adjustments, etc.

If you have any questions or need clarification, please contact me as soon as possible. Any action deemed to be in violation of this no contact order will be taken seriously and considered retaliation. Further action may be taken by this administration as a result, which could include suspension or expulsion.

Sincerely,



Lindsay Ewan

Deputy Director, Office of Civil Rights and Investigations

EXHIBIT 17



April 07, 2022

Mark Miller

[REDACTED]

[REDACTED]

RE: OFFICIAL NOTICE OF NO CONTACT

Dear Mark,

This letter is concerning a report of behavior between yourself and [REDACTED]. Based on the information shared and gathered, at this time, I have determined that a No Contact Order is appropriate. This is an administrative action through the Office of Civil Rights and Investigations. Please be aware that [REDACTED] has also been sent a similar letter detailing our expectations of no contact between all parties so that all parties are aware of the requirement(s) of this action and are expected to abide by these terms. If you are to be contacted by [REDACTED] please inform our office immediately.

As of April 7, 2022, this letter serves as official notice that you are to refrain from contacting [REDACTED] in any way, from this point forward, and until otherwise notified. You are not to attempt to contact them under any circumstances. You are not to approach them, attempt to speak with them, or make any attempt to communicate with them in any form. Contact can be defined as, but is not limited to, any or all of the following carried out by yourself or an intermediary/third party (with the exception of an attorney):

- Written: Via mail, letter, text message, etc.
- Verbal: Via telephone, voicemail, in person etc.
- Electronic: Via email, social media, skype, etc.
- Non-Verbal: Via other means including pictures, videos, music, etc.

During any courses you may have together, you are instructed to sit on opposite sides of the room. If you believe that you have a legitimate reason to contact [REDACTED] please contact our office to speak with us regarding this. Any approved interaction shall pertain only to relevant academic work being discussed. Furthermore, our office may be in contact with you regarding other measures that may need to be taken as a result of this no contact order. These actions may include class schedule adjustments, residence hall restrictions/assignment adjustments, on campus work schedule adjustments, etc.

If you have any questions or need clarification, please contact me as soon as possible. Any action deemed to be in violation of this no contact order will be taken seriously and considered retaliation. Further action may be taken by this administration as a result, which could include suspension or expulsion.

Sincerely,

A handwritten signature in black ink, appearing to read "L Ewan".

Lindsay Ewan

Deputy Director, Office of Civil Rights and Invest

Screenshot

EXHIBIT 18



OFFICE OF CIVIL RIGHTS
AND INVESTIGATIONS
830 E. Asbury St., Suite 8
Moscow, ID 83843
208-885-4265
ocr@uidaho.edu
uidaho.edu/oci

April 07, 2022

Ryan Alexander

[REDACTED]

[REDACTED]

RE: OFFICIAL NOTICE OF NO CONTACT

Dear Ryan,

This letter is concerning a report of behavior between yourself and [REDACTED]. Based on the information shared and gathered, at this time, I have determined that a No Contact Order is appropriate. This is an administrative action through the Office of Civil Rights and Investigations. Please be aware that [REDACTED] has also been sent a similar letter detailing our expectations of no contact between all parties so that all parties are aware of the requirement(s) of this action and are expected to abide by these terms. If you are to be contacted by [REDACTED], please inform our office immediately.

As of April 7, 2022, this letter serves as official notice that you are to refrain from contacting [REDACTED] in any way, from this point forward, and until otherwise notified. You are not to attempt to contact them under any circumstances. You are not to approach them, attempt to speak with them, or make any attempt to communicate with them in any form. Contact can be defined as, but is not limited to, any or all of the following carried out by yourself or an intermediary/third party (with the exception of an attorney):

- Written: Via mail, letter, text message, etc.
- Verbal: Via telephone, voicemail, in person etc.
- Electronic: Via email, social media, skype, etc.
- Non-Verbal: Via other means including pictures, videos, music, etc.

During any courses you may have together, you are instructed to sit on opposite sides of the room. If you believe that you have a legitimate reason to contact [REDACTED], please contact our office to speak with us regarding this. Any approved interaction shall pertain only to relevant academic work being discussed. Furthermore, our office may be in contact with you regarding other measures that may need to be taken as a result of this no contact order. These actions may include class schedule adjustments, residence hall restrictions/assignment adjustments, on campus work schedule adjustments, etc.

If you have any questions or need clarification, please contact me as soon as possible. Any action deemed to be in violation of this no contact order will be taken seriously and considered retaliation. Further action may be taken by this administration as a result, which could include suspension or expulsion.

Sincerely,

Lindsay Ewan

Deputy Director, Office of Civil Rights and Investigations

T00040-2022

MOSCOW

BOISE

COEUR D'ALENE

IDAHO FALLS

STATEWIDE RESEARCH AND EXTENSION

To enrich education through diversity, the University of Idaho is an equal opportunity/affirmative action employer.

EXHIBIT 19

[REDACTED]

From: Ewan, Lindsay (lewan@uidaho.edu) <lewan@uidaho.edu>

Sent: Friday, April 8, 2022 10:27 AM

To: Perlot, Peter [REDACTED]

Cc: ocri <ocri@uidaho.edu>

Subject: RE: PRIVATE: No Contact Order-Perlot-[REDACTED]

Hi Peter,

This no contact order was requested by the other party and deemed reasonable based on the information presented. You are welcome to appeal this administrative action in accordance with [FSH 2400 H-7](#) by contacting Dean of Students, Blaine Eckles, at deanofstudents@uidaho.edu. Please let me know if you have any additional questions.

Sincerely,
Lindsay Ewan

Lindsay Ewan
Deputy Director



University of Idaho

Office of Civil Rights
and Investigations

530 S Asbury St, Suite 5 | Moscow, ID 83844-2431

☎: 208.885.4285 | 📠: 208.885.9494

www.uidaho.edu/ocri

This transmission is from the University of Idaho Office of Civil Rights and Investigations and is intended only for those persons and/or entities to whom it is addressed. Please do not forward. The information transmitted may be confidential. If this message is not intended for you, do not disseminate, distribute or copy this e-mail. If you have received this e-mail in error, please notify the sender immediately and destroy the message completely. Any unauthorized use of this transmission is strictly prohibited.

From: Perlot, Peter [REDACTED]

Sent: Thursday, April 7, 2022 4:41 PM

To: Ewan, Lindsay (lewan@uidaho.edu) <lewan@uidaho.edu>

Subject: Re: PRIVATE: No Contact Order-Perlot-[REDACTED]

Hello again,

If no investigation occurred or facts determined, how can there be any basis for sending a letter to either of us? And, as far as I know, administrative actions are still subject to the same Constitutional limitations as other government actions, even if the form of the administrative actions is different (hearing as opposed to trial, or an agency review of initial determination as opposed to a court appeal, for example). My admin law skills are a bit rusty, but I remember enough for this to seem off to me.

-Peter.

From: Ewan, Lindsay (lewan@uidaho.edu) <lewan@uidaho.edu>
Sent: Thursday, April 7, 2022 4:13 PM
To: Perlot, Peter [REDACTED]; ocri <ocri@uidaho.edu>
Subject: RE: PRIVATE: No Contact Order-Perlot-[REDACTED]

Hi Peter,

Thank you for reaching out and expressing your concerns. As was stated in the No Contact Letter, this is an administrative action through the Office of Civil Rights and Investigations and is not disciplinary in nature. It is also a mutual no contact order meaning that [REDACTED] was given the exact same expectations. No investigation has occurred, no facts have been determined, and no sanctions have been issued. Should an investigation be initiated and you are designated as a Respondent, you will be given notice and an opportunity to respond. As of now, this administrative action will not be retracted. Please feel free to reach out with any questions.

Sincerely,
Lindsay Ewan

Lindsay Ewan
Deputy Director



530 S Asbury St, Suite 5 | Moscow, ID 83844-2431

☎: 208.885.4285 | 📠: 208.885.9494

www.uidaho.edu/ocri

This transmission is from the University of Idaho Office of Civil Rights and Investigations and is intended only for those persons and/or entities to whom it is addressed. Please do not forward. The information transmitted may be confidential. If this message is not intended for you, do not disseminate, distribute or copy this e-mail. If you have received this e-mail in error, please notify the sender immediately and destroy the message completely. Any unauthorized use of this transmission is strictly prohibited.

From: Perlot, Peter [REDACTED]
Sent: Thursday, April 7, 2022 4:05 PM
To: ocri <ocri@uidaho.edu>
Subject: Re: PRIVATE: No Contact Order-Perlot-[REDACTED]

Hello OCRI,

I just read this letter and I believe that the determinations made are incorrect for two basic reasons. First, I was never contacted about any of this and have no reason to believe that any determinations made are

actually accurate. I was not given any opportunity to at least represent myself in some way during any investigation that may have occurred. I have no idea what went on. Second, this is being sent to me without notice or opportunity to be heard and therefore violates due process, which public institutions have to follow.

I have no issues not contacting someone who apparently dislikes me enough to go through whatever process it is to get one of these sent, but I would at least like to be given the courtesy of having my Constitutional rights respected. So, unless you can show me that the results of your investigation are true and that you respected by due process rights, I would like the letter to be retracted.

Sincerely,
Peter Perlot.

From: ocri@uidaho.edu <ocri@uidaho.edu>

Sent: Thursday, April 7, 2022 12:58 PM

To: Perlot, Peter [REDACTED]

Subject: PRIVATE: No Contact Order-Perlot-[REDACTED]



THIS LETTER CONTAINS IMPORTANT INFORMATION REGARDING A MEETING. PLEASE READ THOROUGHLY.

April 7, 2022

Peter Perlot
[REDACTED]

Dear Peter,

The Office of Civil Rights and Investigations looks into reports of discrimination and harassment and has sent a communication to you. To view the communication and learn more about the nature of the meeting, please follow the instructions below:

1. Click [here](#) to access the portal.
2. Below Student ID, enter your Vandal Number: [REDACTED]
3. Below Email, enter your student email address: [REDACTED]



Thank you in advance,



Lindsay Ewan
208-885-4285
ocri@uidaho.edu

