

Introduction

The Investigation, Resolution, and Consequences Policy [“Investigation Policy”] is a necessary companion to the: **American Society of Biomechanics (“Society”) Code of Conduct Policy** (<https://asbweb.org/wp-content/uploads/ASB-Code-Of-Conduct-Policy.pdf>), giving effect to that Policy’s “Community Standards” (defined in Part A.2) and other requirements. This Investigation Policy addresses the Society’s response actions to resolve conduct concerns arising from possible violations of the Code of Conduct Policy. Given the direct connection between this policy and the Code of Conduct, this Policy begins (after this Introduction and Definitions) with Part G (“Processes for Responding to and Resolving Conduct Concerns”) so that those processes immediately follow the processes in the Code of Conduct Part F (“How to Raise Conduct Concerns”), creating a seamless transition.

1. Application:

a. People and Entities Who Are Covered by the Investigation Policy. The Investigation Policy applies to all “Society Affiliates” meaning all categories of members of the Society and all other individuals, groups and entities that participate or are involved in any capacity in the activities in 1.b below. For example, Society Affiliates include, but are not limited to, Society volunteer fiduciary leaders; other volunteers; officers; employees in all roles; all categories of members; event, meeting and other activity organizers, attendees, speakers, and exhibitors; contractors and service providers; guests; peer reviewers; and honors and awards nominators, candidates, and recipients and officers and other employees in all roles.

b. Activities of Society Affiliates That are Covered by the Investigation Policy. The Investigation Policy applies to all Society Affiliates in connection with their “Society-associated activities.” A “Society-associated activity” means:

- all activities and events sponsored, funded, or conducted in whole or in part by, or otherwise involving, the Society, wherever located;
 - any use of Society property, funding or other resources, whether otherwise involving the Society or not (e.g., use/rental of Society staff for an activity unrelated to the Society);
- and
- performance of, or holding, any Society role, responsibility, privilege, function, contract or other affiliation.

2. Disclosure requirements:

This Investigation Policy applies to disclosures that are required of Society Affiliates under Part E.1 of the Code of Conduct and their use under Part E.2. An authorized Society official may consider these disclosures (a) to identify and then, if warranted, initiate a review or investigation of a conduct concern, or (b) when reviewing or investigating a conduct concern raised by others. In any event, the Society also may consider these disclosures for the purpose

of initiating restorative or community-building practices¹ that elevate understanding and broaden ownership of the Community Standards and can prevent recurrence of concerns.

When the Society receives a disclosure that potentially raises a conduct concern, an authorized Society official may engage with the Society Affiliate that makes the disclosure, as well as, possibly, with any available identified target and any accused who is a Society Affiliate, to understand the substance, context and status of the matter disclosed. Engaging the person making the disclosure is required before reaching any conclusion about the need for a fuller investigation, resolution or imposition of any consequence. It also enables such actions if warranted.

Definitions

The following definitions, also used in the Code of Conduct, apply in this Investigation Policy. Other defined terms are underlined in this Policy.

1. **“Community Standards”** are those established in Part A.2 of the Society’s Code of Conduct.
2. An **“individual most directly involved”** means each of the following: any person who raises or reports a conduct concern; witnesses; identified target(s); and the accused.
3. The **“Society Authority”** is the Society’s Executive Board, which appoints Fact-finders for response to complaints in Part G, below.

G. Process: Review, Investigation, and Consequences:

1. General process to address all conduct concerns:

- a. Reviewing all conduct concerns. The Society will review all conduct concerns within the reach of its Code of Conduct, raised through any of the means provided in Part F of the Code of Conduct, regardless of the relative power positions of the individuals involved. When the Society Authority (see Definitions #3, above) or “Fact-finder” (see Part G.3.1) acts under any provision of this Investigation Policy, it is exercising the Society’s “discretion.”²
- b. Responding when feasible. The Society will respond in some way when conduct concerns within the reach of the Code of Conduct Policy are raised. However, the exception is when the Society’s initial review determines there is a lack of any credible evidence regarding

¹ As used in this Policy, “restorative or community building practice” has the meaning given “Restorative Practices and Community Building Practices” in the Glossary of Key Terms available at <https://asbweb.org/wp-content/uploads/ASB-Glossary-Terms.pdf>. It is not limited to “restorative remedies,” but includes mediation, conciliation, and other means of elevating an understanding of harm, repairing relationships, preventing recurrence of the conduct causing harm, and enhancing ownership of Community Standards and other requirements of the Society’s Code of Conduct.

² See Glossary of Key Terms: **“Discretion (the Society’s):** means the Society’s decision, determination, judgment or application of criteria, is made in the Society’s sole and absolute discretion in pursuit of its mission. Such discretion is still not arbitrary or exercised for an illegal purpose (e.g. to discriminate on the basis of sex or race).”

concerning conduct or available information is inadequate to make that assessment or to pursue a resolution.

- c. Non-coercion of targets. Identified targets will not be required or coerced to participate in a formal or informal resolution process; and will be able to choose whether to participate.
- d. Unavoidable limitations of authority. The Society’s authority or practical ability to address concerns may be limited to Society-associated activities and/or Society Affiliates.
- e. Engaging to address concerns when feasible. Even where a credible question is lacking or can’t be determined, or the available information is limited, the Society Authority may still engage in problem solving with those willing individuals most directly involved (whether all are willing or not). For example, the Society Authority may explore the possibility of engaging in, and pursue, a restorative or community-building practice if it determines that some or all of the individuals most directly involved are willing, and that practice would be worthwhile to address harm or potential harm to Society Affiliates or Society-associated activities. Even without a determination of a violation of the Code of Conduct, restorative or community building practices may elevate understanding of why the concern was raised, repair relationships, enhance ownership of Community Standards, prevent recurrence of the concern and, where implicated, advance safety and belonging.
- f. Regarding who investigates. Notwithstanding the other provisions of Part G, in order to provide the factual basis for resolving a conduct concern, the Society may, in its discretion exercised by the Society Authority:
 - conduct its own investigation of a conduct concern, meaning an investigation conducted by employees or volunteers of (or contractors retained for that purpose by) the Society as “Fact-finders” under Part G.3.I of this Policy;
 - rely on facts determined in an investigation of the conduct concern by a third party (e.g., the home employing or educating institution of a Society Affiliate) in lieu of a Fact-finder, if a summary of facts found with supporting evidence is provided to the Society, and the Society determines in its discretion that the fact-finding is sufficient; or
 - rely on its own *and* a third party’s investigations to determine the facts.

If the Society relies in whole or in part on facts determined in a third party’s investigation, the Society nevertheless will reach its independent conclusion as to whether a violation of the Code of Conduct has occurred and whether/what consequences are warranted. Also, in such an event, the Society will provide an opportunity to the accused and any identified target—for 14-days after giving notice to them—to present to the Society Authority pertinent facts and their respective perspectives in writing (or via other means determined by the Society Authority) before the Society Authority reaches a final conclusion.

- g. Regarding Special Requirements:** The Society’s response may differ depending on whether only the provisions of its own policies apply to a conduct concern—or whether contractual or legal/regulatory requirements of a sponsor or a federal or other authority also apply and impose additional or different requirements (“Special Requirements”). (For example, If the Society receives federal (broadly defined) education funding or research funding, specified notices and reviews, investigations and/or formal resolution processes may apply under Title IX, its regulations, or federal agency policy if there is an allegation of sexual harassment, or under federal research policies if there is an allegation of research misconduct. Contact the ASB Diversity Chair (asbdiversity@asbweb.org) for assistance with any questions, or if more information is desired before deciding how to pursue a specific conduct concern. The Society will satisfy Special Requirements (substantive and procedural) which will take precedence and govern to the extent there is a conflict between Special Requirements and the Society’s Code of Conduct and/or this Investigation Policy.
- 2. How to initiate the resolution process:** Submission of a conduct concern by formal complaint as provided in Part F.2 of the Code of Conduct **or** informal means, as provided in F.1 of the Code of Conduct, is generally required to initiate a resolution process. However, the Society Authority (see Part G.3.I) will initiate a review or investigation on its own initiative when it has reason to believe there is a conduct concern under the Code of Conduct. That may occur, for example, when a Society Affiliate files a disclosure under Part E of the Code of Conduct. It also may occur if sufficient factual information is available to the Fact-finder or Society Authority regarding a widely known or credibly rumored concern, but no one has come forward to raise the concern through channels provided by the Society under Part F of the Code of Conduct.
- 3. Investigation and Resolution of Conduct Concerns:**

INTRODUCTION TO PART G.3

These provisions apply when Special Requirements (federal, etc.) do not apply (see Part G.1, “Special Requirements”), The Society will satisfy any applicable Special Requirements, which will govern when (and to the extent) there is a conflict or potential conflict with the following provisions. Also, Part G.1 “Regarding Who Investigates” provides the Society with an option to rely on facts determined in an investigation by a third party, in lieu of or in addition to relying on a Society “Fact-finder” (see Part G.3.I)) to determine the factual basis for resolving a conduct concern.

This Part G.3 addresses the following subjects:

- I. Resolution Roles and Responsibilities
- II. Informal Resolution
- III. Formal Resolution
- IV. Additional Responsibilities

I. Resolution Roles and Responsibilities

The Society Authority will appoint “Fact-finders” to address conduct concerns raised within the reach of the Code of Conduct. These Society officials will engage with persons reporting conduct concerns, any identified targets and the accused about options for resolution. They will conduct the review and/or any investigation and processes that may be needed for resolution.

Fact-finders and Society Authority members assigned to address a particular conduct concern are required to be free of conflicts that would interfere with their performance of their responsibilities.

- a. **“Fact-finders”** are authorized by the Society Authority to initially review and take any other necessary short-term action to respond to a report of a conduct concern made by formal or informal means, or as otherwise directed by the Society Authority. They are also authorized to and shall conduct a full investigation of facts relating to a reported conduct concern, when the Society Authority determines that an informal resolution does not suffice. Fact-finders will make recommendations to the Society Authority regarding the suitability (or not) of an informal resolution and, if asked by the Society Authority, may make other recommendations. Fact-finders may be employees or volunteers of the Society or outside contractors retained by the Society to perform this role. The Fact-finders are chosen by the ASB Diversity Chair with approval of the Society Authority. Current Fact-finders are listed at <http://asbweb.org/Code-of-Conduct>. One or more Fact-finders may perform this role for a particular conduct concern/complaint or multiple conduct concerns/complaints relating to the same incident(s) or person(s).

- b. **“Society Authority”** is authorized by the Society to:
 - determine whether to rely on a third-party investigation for fact-finding;
 - require additional fact-finding by the Fact-finder to supplement the initial Fact-finder’s investigation and/or a third-party investigation;
 - engage with any identified target and the accused (at least providing an opportunity for input) and possibly engage other individuals most directly involved, to determine a resolution;
 - applying the criteria specified in G.3.II(a) (below) to determine the sufficiency or insufficiency of an informal resolution; and modify the terms of an informal resolution or determine that a formal resolution is needed (in either case, even if an informal resolution was previously approved by a Society Authority and is already being implemented);

- make a determination in a formal resolution process of whether a violation of the Society’s Code of Conduct has occurred;
- make a determination of what consequences to impose in a formal resolution if a violation is determined;
- offer restorative or community-building practices, whether or not a formal complaint is filed, or a formal process and determination of violation are made, and whether or not punitive or other consequences are also imposed; and
- request and accept, modify or reject recommendations from the Fact-finder.

Any one member of the Society Authority alone may take all authorized actions, **or** multiple members of the Society Authority may take such actions as a committee by consensus **or** by majority vote of those serving respecting a particular conduct concern or multiple conduct concerns relating to the same incident(s) or person(s).

- c. Successors in Resolution Roles.** Fact-finders and Society Authority membership are “Resolution Roles” assigned to individuals only while they serve in particular employee or volunteer positions at the Society (or in particular employee roles at a contractor retained by the Society). If an individual no longer holds the employee or volunteer position that accompanied a Resolution Role when that Role was assigned, the successor holding the relevant employee or volunteer position is authorized and responsible to temporarily also fulfill the Resolution Role. That authorization and responsibility will continue until the Society posts notice of what employee or volunteer position and individual will fulfill the Resolution Role going forward. (The contract between the Society and a retained contractor will govern how the contractor’s employees serving in a Resolution Role may change. The Society will also post notice of any such change.)

II. Informal Resolution

An “informal resolution” is one that focuses on community building, not punishment—elevating understanding of why a conduct concern arose, enhancing understanding of Community Standards established by the Code of Conduct repairing relationships, and seeking to satisfy the individuals most directly involved and the Society Authority that recurrence of the concern is unlikely. It is likely that many conduct concerns can be addressed informally.

- a. Criteria.** An informal resolution is sufficient to resolve conduct concerns where the Society Authority determines, and any identified target and the accused agree, that it is unnecessary to determine that the Society’s Code of Conduct has been violated (although there may be an indication of that likelihood). In addition,
- the dominant need is to elevate understanding that harm was experienced and what conduct caused it, and to avoid recurrence, build community and ownership of the Community Standards, repair relationships, and, where implicated, restore safety and inclusion;

- the concern arises largely from misunderstandings that have been corrected or lessons that needed to be learned and have been learned;
 - there is not already a recurring issue;
 - there has been an authentic commitment to avoid a repetition of the cause of the concern and there is no reason to believe recurrence is likely;
- and**
- considering all of this and the nature/severity of the conduct concern, safety and inclusion can be restored without the need for further action.

Alternatively, an informal resolution is sufficient when any identified target and the accused agree that a restorative or community-building practice is desirable as the sole means of resolution and the Society Authority determines that an informal resolution is likely to stem continuing harm to the individuals most directly involved and other Society Affiliates and:

- there is an acknowledgement by the accused that harm that the Code of Conduct seeks to prevent was experienced;
 - the informal resolution is likely to elevate understanding of why conduct caused harm and enhance ownership of Community Standards;
 - there has been an authentic commitment to avoid a repetition of the cause of the concern—and based on specified facts, there is reason to believe that the informal resolution (as opposed to a formal resolution) is most likely to prevent recurrence **without** increasing harm to any identified target (and others in a similar position)—whether or not the current conduct is a repetition of prior conduct;
- and**
- considering all of this and the nature/severity of the conduct concern, safety and inclusion can be restored without the need for further action.

b. No fixed stages. With flexibility in steps that are not explicitly required, the informal resolution process:

- (i) *typically involves the Fact-finder conducting a review—i.e., limited fact-finding to understand the basics of the situation—and informally documenting the facts;*
- (ii) *requires the Fact-finder to engage with any target and the accused informally in some manner to inform them of the nature of the conduct concern, gain their respective perspectives, and gather any relevant facts about the situation (with flexibility of means and sensitivity to any desire of a target not to engage directly with the accused);*
- (iii) *may (but need not) involve the Fact-finder engaging with other individuals most directly involved and/or the Society Authority engaging with any individuals;*
- (iv) *also typically involves the Fact-finder recommending an informal resolution to the Society Authority, applying the **criteria** in Part G.3.II(a), above;*
- (v) *requires the Society Authority to—*

- *determine whether the fact-finding and its informal documentation are adequate* (directing the Fact-finder to supplement fact-finding and/or the documentation, if needed—with the Fact-finder following up);
 - *determine whether an informal resolution will suffice*, and decide whether to adopt such a resolution under the **criteria** in Part G.3.II(a), above; and
 - *notify* (or direct the Fact-finder to notify) the accused, any identified target, and any other individual who reported the concern, of the Society Authority’s decision;
- (vi) *may involve the Society Authority also notifying (or directing the Fact-finder to notify) other individuals most directly involved*; and
- (vii) *requires agreement (without coercion) among the Society Authority (or the Fact-finder for the Society Authority), any identified target, the accused, and any other individual most directly involved whom the Society Authority identifies as needed for a resolution to*
- participate in a restorative or community-building practice;³ and
 - that an informal resolution is preferred to a formal resolution.

c. Timing. Informal resolutions should be pursued diligently by the Fact-finder, Society Authority and individuals most directly involved with a goal of completing the process in 90-120 days from the date of submission of a concern (see Part G.2) to a completion of the informal resolution. However, the timing for an informal resolution must be flexible, e.g., to provide an opportunity for any identified target or the accused to decide whether they want an informal resolution, without being pressured.

III. Formal Resolution

If the Society Authority determines that an informal resolution is not sufficient to resolve the conduct concern, even after it has begun, a “formal resolution” process is pursued. However, a formal resolution is not initiated or continued, if the Society Authority determines that there is an inadequate basis to pursue any resolution (e.g., no credible question of a violation or unavailability of needed individuals or information). (See Part G.3.II(a) (above) for **criteria** for determining the sufficiency of an informal resolution.)

a. Stages: Formal resolution involves 10 required stages:

- (i) *The Fact-finder finds the relevant facts and documents them*, gathering any documents and notes of any communications supporting the facts.
- (ii) *Before finalizing the documentation of facts, the Fact-finder engages with any target and the accused* in some manner (with flexibility of means) to inform them of the nature of the conduct concern, to confirm that it is within the reach of the Code of Conduct Policy, and to understand the facts from their perspectives.

³ This may be a conversation among individuals most directly involved to raise awareness of the cause of harm, learn lessons, enhance ownership of Community Standards, determine how to prevent recurrence, repair relationships and restore a sense of safety and welcome for everyone.

- The Fact-finder may confer separately with any target and the accused, or may confer with these parties together. In cases of concerns about sexual and intersecting bases of harassment, the Fact-finder will confer in writing or separately with these parties when that will help to avoid the risk of retraumatizing a target.
 - However, if the Fact-finder confers in writing or separately with these parties, the Fact-finder [a] will provide an opportunity to each of the parties to access the factual record separately (including submissions by them to, and answers to questions asked of them by, the Fact-finder); and [b] then will provide an opportunity for each of these parties to raise questions for the Fact-finder to ask of the other party; and [c] the Fact-finder will ask those requested questions that the Fact-finder determines are likely to elicit relevant facts for resolution of the conduct concern or to surface issues of credibility (but need not ask duplicative or immaterial questions, as determined in the Fact-finder).
- (iii) *The Fact-finder provides to the Society Authority the documented facts, together with any supporting documents and notes (including but not limited to the questions posed under (ii) and the responses received).*
 - (iv) *The Society Authority reviews the documented facts and supporting materials; and, if needed in the Society Authority’s view, requires any supplementary fact-finding to be undertaken by the Fact-finder; and the Fact-finder follows through and submits any supplementary information to the Society Authority.*
 - (v) *The Society Authority preliminarily determines whether or not a violation of the Society’s Code of Conduct has occurred and identifies the facts found by the Fact-finder on which that determination is made.*
 - (vi) *The Society Authority provides a copy of the preliminary determination and supporting facts to the accused and any identified target (“preliminary determination notice”).*
 - (vii) *Any identified target and the accused have an opportunity during a 14-day period that begins when the preliminary determination notice is given to them, to again access the factual record and respond in writing, providing the Society Authority with any relevant facts or circumstances that the responder believes should inform the final determination and any consequences.*
 - (viii) *The Society Authority reviews any submission received.*
 - (ix) *Upon expiration of that 14-day period, whether or not response(s) are submitted, the Society Authority makes a final determination and, if a violation is found, imposes consequences, which may be punitive or restorative/community-building, or both.*
 - (x) *The Society Authority notifies (in writing or electronically) the accused, any identified target, and any other individual who reported the concern of the Society Authority’s*

final determination and any consequences. The notice of a final determination to the accused and any identified target will include notice of potential appeal rights and the conditions that must be met to pursue an appeal.

- Appeal information may be provided, either by linking to this Policy posted on the Society’s website, or by pasting the relevant information into the notice. (See Part I, below).
- Any such notification will include a reminder of the obligation to maintain confidentiality until an appeal is decided or the appeal period expires without an appeal being filed.

b. *Timing.* The goal for timing to complete a formal process is 90-120 days from the submission of the conduct concern (see Part G.2) to the final determination (prior to any appeal). However, the Society Authority may extend the period for good cause, such as due to limited availability of individuals most directly involved, difficulty of obtaining needed information, complexity of issues, exceedingly voluminous information, or resource capacity. The Society Authority will inform the accused and any identified target of any extension.

c. *Standard of Proof.* The Society Authority will make a determination of whether there is a violation of the Code of Conduct Policy using a preponderance of the evidence standard (i.e., more likely than not), unless otherwise required by applicable “Baseline Requirements.”⁴

IV. Additional Responsibilities

a. *General Responsibilities*

Fact-finders and the Society Authority will be responsible for the following:

- ***Human concern.*** Attend to the human aspects of conduct concerns; lend an empathetic ear to anyone who is in distress and refer them to resources for assistance if needed. Respect choices made by any identified target regarding the target’s participation to the extent possible without violating applicable legal requirements. Avoid pressuring targets and those accused about choices. Prioritize safety, as well as inclusion, while also satisfying Baseline Requirements.
- ***Confidentiality obligations of the Society.*** To the extent feasible and not at odds with Baseline Requirements, maintain confidentiality about any conduct concern raised and

⁴ As used in this Investigation Policy (and also as defined in the Code of Conduct Policy), “Baseline Requirements” mean the requirements of applicable law, regulations, policies, funders’ and other authorities’ requirements (including, but not limited to, those relating to discrimination and harassment, avoidance of research misconduct, conflicts of interest, and financial misconduct).

the individuals most directly involved, while carrying out the resolution process, to enable a fair review and meaningful resolution of the concern.

- **Confidentiality instructions to Society Affiliates/Others.** To the extent not at odds with Baseline Requirements, instruct those with whom they need to communicate in the course of reviewing, investigating and resolving a conduct concern to maintain confidentiality, and that a failure to do so is a violation of the Code of Conduct Policy and Investigation Policy.
- **Record of review/investigations.** Document a record of steps taken, sources and substance of information and documents obtained, and communications with individuals as part of review, investigation and resolution of a conduct concern. Include in the record names, relevant affiliations and titles, dates and times.
- **Internal Reporting.** Report to the Society Authority on the conduct concerns raised and how they were resolved on at least an annual basis.
- **Reporting-out.** Provide data to the appropriate Society officials for purposes of reporting-out to Society Affiliates and the Society Membership at least annually about the options for raising and resolving conduct concerns; the types and frequency of conduct concerns raised; and the status and manner of resolution, without revealing the identities of individuals most directly involved.

b. Short-term Actions

Short-term actions that a Fact-finder and Society Authority may or must (as indicated) take when receiving a conduct concern, whether through formal or informal means, include the following:

- i. **Safety.** The Fact-finder must, if the known facts warrant, ask all then-known individuals most directly involved if they need help to feel safe, or have reason to believe that any individual or Property⁵ needs to be made safe or protected from damage, on a temporary basis.
 - **Initial temporary safety measures:** After engaging with the then-known individuals most directly involved or known to be affected with whom the Fact-finder is able to connect promptly, the Fact-finder may, effective immediately, require temporary separation of any individuals, require an accused or other individual to temporarily not participate in some or all Society-associated activities, or take

⁵ “Property” as used in this Policy includes tangible and intangible property including, but not limited to, buildings, equipment, research, research specimens, intellectual property, animals, chemicals, radioactive and biological materials, etc.

other temporary action to address concerns about safety of individuals or safety or protection of Property. (See Part G.4 regarding temporary suspensions and administrative leave.)

- This engagement may be done promptly after implementing the initial temporary safety measure, if it wasn't feasible to do so before. (Information gleaned in such engagement may be a basis for the Society Authority to adjust the initial measure.)
- Society Authority oversight: The Fact-finder must follow up with the Society Authority promptly (generally within 48 hours of deciding whether or not to implement an initial temporary safety measure). The Society Authority will determine the ultimate temporary safety measure—confirming or “adjusting” (meaning changing, supplementing, replacing or terminating) the Fact-finder’s initial measure—and will do so in writing.
 - *Initial temporary safety measures.* The Society Authority may take the initial steps typically taken by the Fact-finder (and may adjust the Fact-finder’s initial steps), coordinating with the Fact-finder if feasible, prior to determining the ultimate temporary safety measures.
 - *Notice of intended ultimate temporary safety measures.* Before acting to implement ultimate temporary safety measures, the Society Authority will give notice to the accused, any identified target, and any other then-known person who would be uniquely subject to a restriction under (or need protection of) the ultimate temporary measures (“affected individuals”). (Such a notice need not be given to all individuals who would be affected by a generally applicable restriction, such as closure of a building or cancellation of an event.)
 - ✓ The notice of the ultimate, temporary safety measures will include the following statement: ***“No determination (one way or the other) has been made about the allegation leading to this notice. In determining the initial and intended ultimate temporary safety measure(s), giving this notice, and implementing temporary safety measure(s), the Society is not making a judgment of any kind against any individual who would be restricted by the intended action. Any statement or action to the contrary is not authorized by the Society. In these circumstances, before a determination is made of whether a violation of the Code of Conduct Policy occurred, the Society prioritizes preventative safety measures in the interest of the Society’s mission and the many it serves, over the interests of one or a few, if the two must be weighed.”***

- *14-day opportunity to respond.* The affected individuals will have 14 days after receiving notice to respond by submitting to the Society Authority a written statement of information relevant to the appropriateness of the terms of the intended ultimate temporary safety measures.
- *Temporary adjustments during response period.* With notice to the affected individuals, the Society Authority may adjust the initial temporary safety measures during the 14-day response period, if the Society Authority determines that action is warranted for safety of people, or safety or protection of Property, pending consideration of additional information.
- *Decision on ultimate temporary safety measures.* Upon expiration of the 14-day response period, the Society Authority will finalize the ultimate temporary safety measures, including the original period of application (not to exceed 180 days), and any triggers and processes for extension, and will notify all then-known affected individuals.
- *Notice to home institution:* The Society Authority also may notify an accused's home employing or educating institution of the alleged conduct concern that has been raised and the temporary safety measure(s) that have been taken until the Society makes a determination (and the Society Authority may also notify any other institutions where the accused has an affiliation), if these criteria are satisfied:
 - an initial or ultimate temporary safety measure applies;
 - the Society Authority has determined that there is a credible question of a conduct concern that would be a serious violation of the Society's Code of Conduct Policy **and** constitute a substantial threat to the safety of people or Property, not only in Society-associated activities, but also in other roles and activities in the Field or beyond (e.g., rape or other sexual assault, another act of violence, or destruction of research), if the violation ultimately were determined to have occurred;
 - in any such notice that is given:
 - ✓ the notice will state: *"The American Society of Biomechanics received an allegation that [name] violated the Society's Code of Conduct Policy [Insert if applicable] or any Other Policies by [Insert a brief, purely factual summary of the allegation]. The Society has implemented temporary safety measure(s) [specify]. No determination (one way or the other) has been made about the allegation. In taking that action and giving this notice, the Society is not making a judgment that the accused violated the Code of Conduct Policy. Any statement or action to the contrary is not authorized by the Society. In these circumstances, before a*

determination is made, the Society prioritizes preventative safety measures based on the nature of an allegation in the interest of the Society's mission and the many it serves, over the interests of one or a few, if the two must be weighed;"

- the names of the other individuals most directly involved will not be disclosed to the accused's home or other institutions; and
- until a final determination is made (i.e., in an appeal or with the appeal period having expired without an appeal being filed), the Society will be clear about these points.

ii. Confidentiality.

- Confidentiality of the name of the identified target. The Society will not name any identified target in communications about a conduct concern having been raised, a review or investigation having been initiated or concluded, or a violation having been determined, unless:
 - the target consents;
 - the Society Authority determines there is a legal, regulatory, safety, insurance coverage or other contractual requirement to do so; or
 - under the other exceptions below.
- Confidentiality of the name of the accused. Until a final determination is made, the Society will not name the accused in any communication that may become necessary about the matter to the public or particular individuals, unless:
 - the Society Authority determines there is a legal, regulatory, safety, or insurance coverage requirement to do so;
 - it is part of notice to the accused home and certain other institutions where the accused has an affiliation, as provided above; or
 - under the other exceptions below.
- Other exceptions. The other exceptions that permit naming any identified target or the accused are when the Society Authority (or senior designee), Fact-finder or Society Authority determines there is a need to do so:
 - in confidential communications with those who are involved in or advising (a) the investigation or (b) determination of needed action or consequences or (c) implementation of temporary safety measures **and** (d) who are reminded of their confidentiality obligation or bound by a professional ethical standard to maintain confidentiality;
 - to those who have a fiduciary or oversight function for the Society, including a fiduciary duty to maintain confidentiality; or

- in a notice to the target and accused of the Society Authority’s final determination of a violation of the Code of Conduct Policy and right to appeal.
- iii. **Other Short-term actions.** The Society Authority may take any other short-term actions, and may periodically adjust or end any short-term actions, when the Society Authority determines such action(s) are in the best interests of the Society and its mission, pending a final decision resolving the conduct concern.
- The engagement and oversight processes in Part G.3.IV(b)(i) relating to Society Authority oversight for temporary safety measures addressed above will apply.
 - However, in the case of an emergency imminently threatening harm to people or Property, those engagement and oversight processes may occur in lieu of, or promptly after, a temporary safety measure is implemented by the Fact-finder. Any needed adjustment will then be made as soon as reasonably feasible under the circumstances.
- iv. **Police Involvement.** The Fact-finder will ensure that any identified target of sexual harassment that may be a criminal act is aware of how to pursue police involvement (apart from any action by the Society) and will not discourage the identified target from pursuing it.
- v. **Timing.** Short-term actions are generally taken around the same time as, or within a few days or weeks of, a conduct concern being raised. Other timing may apply, depending on the facts and circumstances.

H. Consequences That May Be Imposed for Violations of the Code of Conduct Policy, or Credible Questions About Violations

1. **Potential consequences:** A violation of the Code of Conduct Policy may result in the following consequences (including combinations):

- private reprimand;
- public reprimand or statement;
- revocation or denial of membership privileges; Suspension of membership and associated privileges;*
- permanent expulsion from Society (for egregious misconduct in severity or frequency);
- removal or suspension from a volunteer position;*
- removal or suspension from a leadership position whether or not employee or volunteer;*
- administrative leave from any role for the Society;*

- denial or revocation of honors or awards;
- suspension or permanent prohibition from attending or making presentations at Society meetings;*
- temporary or fixed-term no-contact requirements for the accused and identified target;*
- notification by the Society Authority of the Society's determination of a violation (the allegations, facts and conclusion) to the violator's home institution (employing) and other institutions where the violator has an affiliation;
- disciplinary action, up to and including suspension or termination of employment for Society employees; or*
- restorative or community-building practice (which may be pursued to address conduct concerns even without a determination of a violation of the Policy). The community-building practices may include a conciliatory meeting, required trainings, or other practices including but not limited to those described in the [Glossary of Terms](#).

*Suspension and administrative leave may be imposed by a Fact-finder or Society Authority on an interim basis as a short-term safety measure applying the criteria and process of Part G.3.IV(b)(i).

2. Considerations and Proportionality. Consequences imposed will be proportional to the severity of the violation, and the corresponding harm caused or threatened to individuals (any identified target and/or others), the Society, the Field, or society-at-large. Considerations to determine severity of the harm include, but are not limited to:

- the nature of the violation;
- whether the violation is repetitive;
- the frequency of the violation;
- whether the violation is repetitive;
- whether the violation reinforces longstanding barriers or creates barriers to inclusion of all talent in the Field;
- the other actual effects or threatened effects of the violation (harm or threatened harm to individuals, the Society and/or Field, including, e.g., regarding reputation, operations, legal exposure, finances or other resources);
- whether the violations implicate safety interests;
- the stage of career and role of the accused; and
- whether the accused, in a first-time violation situation, has taken responsibility, demonstrated an appreciation of the severity of the violation, and taken or committed to action to remedy the adverse effects.

While all facts and circumstances are considered, a violation perpetuated by an accused who is in a senior stage of career, or in a leadership role, is generally considered more severe than

the same violation perpetuated by an accused who is in a junior stage of career and is not in a leadership role. However, some violations, by nature, are severe in any event.

3. **When Effective.** Consequences imposed by the Society Authority as its final decision will become effective upon expiration of the period in which an appeal may be filed, without an appeal being filed. If an appeal is timely filed by an “authorized appeal party” under Part I of this Policy, the Appeal Authority will decide the final consequences (and any consequences decided by the Society Authority will not become effective unless ultimately affirmed by the Appeal Authority). The final consequences will become effective immediately upon the appeal authority giving notice to the authorized appeal parties of the final determination of the appeal.
4. **Notice to Home Institution/Other Institutions When No Violation Was Found.** Upon the final decision becoming effective (under H.3 (above)), the Society Authority will notify the accused’s home institution and any other institutions with which the accused has an affiliation of a determination that there was no violation of the Code of Conduct Policy found. However, such notice of the final decision will be given only if the Society Authority notified these institutions of the allegation or if the accused requests that the notice be made.

I. Appeals:

1. **Availability of an Appeal.** An appeal of a final determination of a conduct concern may be available to the accused and any identified target (each being an “authorized appeal party”), but only regarding the final determination made by the Society Authority in a formal resolution process, and only if the following additional appeal standards and appeal conditions are met:
 - a. **Standard.** The appeal standard is: *An appeal of a final determination or consequences imposed (or not imposed) is available only due to the existence of one or more of the following “appeal bases”: newly surfaced, consequential facts that were not previously available when the determination was made and consequences were imposed; consequences grossly disproportionate (in leniency or stringency) to the violation found, considering how similar situations were handled, if any, under current Society policies (i.e., not under prior policies); lack of facts to support the determination; a consequential conflict of interest by the Society Authority; a failure to fulfill process requirements with consequential effects on the appealing person’s ability to address important considerations.*
 - b. **Conditions for right to file.** The appeal conditions are:
 - An appeal may be filed by an authorized appeal party only within 14 to 30 days after that party receives notice of the final determination and any consequences imposed by the Society Authority (“appeal submission deadline”).

- A statement of appeal, explaining the appeal bases, and all supporting materials must be submitted, so that they are received by the appeal submission deadline at asbdiversity@asbweb.org. The appeal and any supporting materials must be provided as a single digitally signed PDF file.
- If the only applicable appeal basis is newly surfaced information, only documents reflecting the new information will be considered and should be submitted. Supporting information that was available when the final determination was made by the Society Authority in the formal resolution process will not be considered and should not be submitted or referenced. However, previously submitted information may be referenced if the new information alters the meaning or import of the previously submitted information.

2. Appeal Authority for an Appeal. An appeal will be decided by the “Appeal Authority,” who are individual(s) appointed by the Society Authority for this role, either for one particular appeal or for appeals generally. The Appeal Authority may be an individual (who may be a volunteer or employee of the Society or an external consultant retained by the Society) or an ad hoc or standing committee of such individuals. The Appeal Authority assigned to address a particular conduct concern are required to be free of conflicts that would interfere with their performance of their responsibilities.

3. Appeal Decision Process. The Appeal Authority will endeavor to decide an appeal within 30 to 60 days of receiving complete submissions from all authorized appeal parties who file before the appeal submission deadline, initiating the appeal. However, the Appeal Authority may extend the time on its own initiative for good cause. The Appeal Authority will notify the authorized appeal parties in writing of any extension. The Appeal Authority will decide the appeal based on the submissions, unless it notifies all authorized appeal parties of a need for amplifying information. Any requested amplifying information will be in written form. (An Appeal Authority may, for example, pose written questions and require written responses.) All authorized appeal parties will have access to the written appeal submissions (initial and any supplements required by the appeal authority) and the final decision, if requested. Upon deciding the appeal, the Appeal Authority shall notify the authorized appeal parties of the determination of the appeal. The determination of the appeal is final.

4. Short-term Safety Measures. During the period for filing an appeal and while an appeal is pending, any short-term safety measures previously imposed by the Society Authority under Part G.3.IV.(b)(i) (including any interim suspension, administrative leave, or temporary no-contact under Part H) will continue in effect. However, during a pending appeal, the Appeal Authority may modify, supplement or replace any short-term safety measures that were previously imposed with amended, additional and/or different measures. Any new or modified short-term safety measures will be subject to the criteria, processes, and process exceptions provided in Part G.3.IV.(b)(i); however, the Appeal Authority will assume the Society Authority role.