

Alpha Phi Omega
- Epsilon Chapter -

Judicial Board Procedure for Risk
Management Policy Violations

Written by brother James Roach
Approved by the Epsilon chapter, Dec. 2000
Revised by brother Sean Parks, Approved Nov. 2011
Revised by brother Seth Raithe, Approved Apr. 2012

Any member of Alpha Phi Omega (plaintiff) may bring up complaints of risk management violation(s) upon other member(s) (defendants). Complaints shall be made in writing and signed, and they shall be submitted to the President and the head of the Advisory Committee. Complaints should be submitted as soon as possible after the reported violation took place, no later than within fifteen (15) days after the violation occurred. The submitted complaints should include a basic outline of the evidence that supports the charges. The President and the head of the Advisory Committee may decide to take further action, including the following:

- 1) No Action--Written complaints do not constitute a violation of the risk management policy, the complaints fall outside the jurisdiction of the risk management policy, or are backed by insufficient evidence. Complaints are dismissed.
- 2) Judicial Board--The Advisory Committee convenes a judicial board to hear the charges. If a Judicial Board is assembled, the President must inform the chapter by indicating the accusation(s) but excluding the brother's name at the next active meeting.

An Alpha Phi Omega judicial board will consist of ten active or associate members of Alpha Phi Omega. All other types of members are not allowed to serve. A faculty adviser, or another advisor as approved by the faculty adviser, also will be a member of the judicial board, but they will not have a vote. The President or other advisers will not be allowed to sit in on any portion of the hearing unless called to answer questions or provide testimony.

The Sergeant at Arms will serve as the Chairperson of all judicial board hearings. The Sergeant at Arms does not act on behalf of the Executive Committee, and he or she also does not have a vote on the judicial board. The Sergeant at Arms will conduct the hearing(s) and serve as the official spokesperson for the board in all matters.

The Advisory Committee will then randomly select nine members to serve if charges are filed. Members of the judicial board will not be notified that they are part of judicial

board unless charges are filed. The judicial board members will not be considered members of the Executive Committee.

The faculty adviser present during the hearing(s) will take notes of the proceedings. Tape recording the hearings is encouraged.

Once this business is complete, the President must inform the defendant(s) in a letter of the charges brought against them, as well as the time of the judicial hearing and a summary of the evidence. Defendant(s) who have scheduling conflicts should ask the President to help reschedule a hearing time that fits into their schedule at the earliest convenience.

Voting--Judicial board decisions, unless otherwise specified, will be made by majority vote. Abstaining from voting is not allowed. Each voting member will vote to support or not support a motion.

Hearings--Hearings will be conducted in closed session, and all the contents of the hearings will be confidential and must not be discussed or presented outside the hearing by judicial board members. The faculty adviser present during the hearing(s) may dismiss any judicial board member from the judicial board if the adviser believes the member has not followed the above regulations regarding confidentiality. If this occurs, then the Advisory Committee must randomly select another member to serve on the judicial board. The judicial board members are expected to attend all meetings.

The board will be allowed to directly question all involved parties, including defendant(s), plaintiff(s), and witness(es) during the hearing. The judicial board must give the defendant(s) a chance to respond to the preponderance of evidence presented against him or her. The defendants' responses to the preponderance of evidence will be used as his or her official statements if the matter goes before the Chapter at large. All parties involved may present relevant evidence to support their case. Witnesses may be non-members of Alpha Phi Omega. The judicial board will make all reasonable attempts to establish the authenticity of the information presented. All parties involved will be questioned as individuals, one at a time. Individuals will be dismissed from the hearing when they are finished answering questions or providing statements/testimony. No group testimony is allowed.

The hearings will be informal and

administrative in nature, and each member of the judicial board must adhere to fair, impartial, professional and courteous behavior. Other than the defined terms in this document, the proceedings should be as free of legal jargon as possible.

Evidence-Evidence may include, but is not necessarily limited to, witness testimony, documents, statements, or other tangible material presented during the hearing. Judicial board members may only consider evidence presented during the hearing when making a decision.

Decision-making-The judicial board must uphold the Chapter's risk management policy, the National risk management policy, and other applicable policies when making their decision. The members of the judicial board must determine if the defendant(s) are responsible for the charges of risk management policy violations. They do not determine guilt or innocence. If the defendant(s) are found not responsible, then the judicial board dismisses the charges and informs the President of their decision as quickly as reasonably possible.

If there is a preponderance of evidence that concludes the defendant(s) are responsible, then that individual or individuals are held responsible. A preponderance of evidence means evidence which would lead a reasonable person to conclude that it is more likely than not that the act in question did occur or that the fact or proposition is true. In a judicial board hearing, the burden of proving a preponderance of evidence rests with the plaintiff. If the judicial board members find(s) the defendant(s) responsible, then the judicial board will take one of the following actions.

A. Warning-The judicial board may, by a unanimous vote, give the defendant(s) found responsible a written warning that they have been found responsible for violating the risk management policy. A defendant may only receive one warning, and this should be reserved for extenuating circumstances regarding the risk management violation(s).

The Sergeant at Arms must provide the defendant(s) found responsible with a copy of the Chapter's risk management policy. The defendant(s) must sign a document stating that they understand and agree to comply with the policies of the risk management policy and that he or she has received a copy of the risk management policy.

B Good Standing Retraction-The judicial board, by a majority vote, may declare the defendant(s) found responsible to be not in good standing as prescribed in the Chapter's bylaws. This means that members found responsible may not take office or hold office. The period of retraction of good standing will last for one semester; if five or fewer than five active non-emergency Chapter meetings exist in the semester, then the period of good standing retraction will continue for the following semester as well. Members found responsible may not petition the Executive Committee to regain good standing under these circumstances.

Any member of the Executive Committee found responsible for violation(s) of the risk management policy also must resign his or her position on the Executive Committee immediately, pending appeal.

The Sergeant at Arms must provide the defendant(s) found responsible with a copy of the Chapter's risk management policy. The defendant(s) must sign a document stating that they understand and agree to comply with the policies of the risk management policy and that he or she has received a copy of the risk management policy.

C. Loss of Meeting Privileges-The judicial board, by a majority vote, may withhold the defendant(s) privilege to vote or voice their opinion on all matters during Alpha Phi Omega Chapter meetings; if five or fewer than five active non-emergency Chapter meetings exist in the semester, then the next semester's voting and voice privileges are withheld as well.

Any member of the Executive Committee found responsible for violation(s) of the risk management policy also must resign his or her position on the Executive Committee immediately, pending appeal.

The Sergeant at Arms must provide the defendant(s) with a copy of the risk management policy. The defendant(s) must sign a document stating that they understand and agree to comply with the policies of the risk management policy and that he or she has received a copy of the risk management policy.

This sanction may be coupled with the Good Standing Retraction sanction, and vice-versa. The judicial board must separately approve both sanctions by a majority vote for this to occur.

D. Suspension-The judicial board may, by a two-thirds vote, bring the defendant(s)

found responsible for violating the risk management policy up for suspension. The judicial board's motion is then taken before the Chapter at the next regular active meeting.

The Sergeant at Arms, acting as the Chairperson of the judicial board, will move the judicial board's motion for suspension. Only one member may be brought up for suspension at a time. The complaint(s) will be read, and then the defendant(s) will have five minutes to address the Chapter, if he or she so desires. Defendants may not be present during the discussion or voting of the motion of suspension.

After the defendants' statement to the Chapter, the Sergeant at Arms will present the reasoning and preponderance of evidence the judicial board used to come to its decision. Only the information heard by the judicial board during the judicial board hearings should be used against the defendant(s).

Discussion among the members present will follow. All discussion must be in the form of a question and should be related to the preponderance of evidence and the judicial board's reasoning, and must be directed either at the President or the Sergeant at Arms. The defendants' statements made during the judicial board hearing regarding specific points may be heard by the Chapter if members of the Chapter so desire.

The President is encouraged to exercise all proper authority to ensure the guidelines of discussion are followed. The President reserves the authority to call members out of order for not following the guidelines. If the President and the advisers present feel that discussion has been grossly abused or irrelevant to the motion, then the President may choose to end discussion and bring the matter to an immediate vote.

A two-thirds vote is required, and the Chapter's decision is final. Voting will be by ballot: no proxy or absentee voting is allowed. The Chapter may only vote on the sanction, not the finding of responsibility. If the Chapter votes to not suspend the member, the judicial board has seven (7) days to vote to apply other sanctions to the defendant(s).

E. Notice of Decision-The judicial board must inform the President of their decision and their basis for their decision as quickly as possible, and the President then will hand-deliver or mail a concise summary of the decision to the defendant(s). The decision also must include information concerning the appeals

process.

F. Adviser Veto-The faculty adviser present during the judicial board hearing process reserves the right to veto any judicial board decision or sanction.

Appeals-The plaintiff(s) or defendant(s) may appeal the judicial board decision within fifteen (15) days of notification of the decision. Only the sanction may be appealed by the plaintiff. The appeals hearing will be conducted by a majority of the Advisory Committee and the President. A majority vote of the Advisory Committee and the President is needed to override the judicial board decision. The Advisory Committee and the President may also amend the sanctions. The decision of the Advisory Committee and the President is final. The appeals hearing also is held in closed session and confidential, and is otherwise held to the same standards as a judicial board hearing.

The appeal, which must be presented to the President in writing and signed, must include grounds for the appeal as well as supporting facts and arguments. Individuals may appeal; groups of people may not. New evidence may not be presented during the appeals hearing unless the defendant(s) can prove it was unavailable during the judicial board hearing. If the appeal does not meet these reasonable requirements, then it may be denied.

In an appeal, the burden of proof for proving a preponderance of evidence rests with the defendant(s). The defendant(s) may appeal if they believe the evidence was insufficient to declare responsibility, or if the sanctions imposed are not representative of the violation based on circumstances of the risk management policy violation or prior record of the defendant.