

## **university Conduct Process**

### **DSA.SC.300.010**

**Summary/Purpose:** To describe the University conduct process from notice of allegation through the appellate process.

Below is the outline for the complete University conduct process.

#### **1. Notice of Allegations**

When a charge is initiated against a student or recognized student organization, the Office of Conflict Resolution and Student Conduct, or Department of Student Housing, sends the involved student(s) or organization written notification in the form of an email or letter to meet with a representative of that department for an intake meeting. This notice will inform the student of the specific policy, rule, or regulation that the student or organization is charged with allegedly having violated; the date, time, and place of the intake meeting; and any other information deemed pertinent to the specific case.

#### **2. Intake Meeting**

At the intake meeting, a representative of the Office of Conflict Resolution and Student Conduct or Student Housing will review student rights and responsibilities and discuss the charges with the respondent. Generally, with the consent of all parties involved, some cases may be resolved through an administrative agreement between the respondent and the Office of Conflict Resolution and Student Conduct. When appropriate, some cases may be referred for alternative dispute resolution or referred to the appropriate governing body for the student organization. Generally, if all parties do not consent on the form of resolution, the case will be forwarded to a hearing body.

If the parties agree for the case to be resolved by an administrative agreement, the respondent waives all right to appeal, and the outcome and sanctions assigned in an administrative agreement are final.

#### **3. Notice of Hearing**

If a student will participate in a hearing before a panel of the University Judicial Council, the student will be provided written notice of the charges and the date, time, and place of the hearing.

#### **4. Hearing Process**

Below are hearing procedures of the University Judicial Council; similar procedures will be followed for all hearing bodies within the University conduct system. These procedures assume an intake meeting has taken place or that the Office of Conflict Resolution and Student conduct or other conduct officer has determined that the case should immediately be forwarded to a panel for hearing.

- a. Hearings held through the University conduct system are closed to the public.

- b. Student conduct hearings are not intended to be adversarial but educational, and conducted in an atmosphere of informality and fairness. Formal rules of process, procedure, and/or technical rules of evidence such as those applied in criminal or civil court are not used in the university conduct process.
- c. The chair of the hearing panel, with the support of the Office of Conflict Resolution and Student Conduct or other hearing officer, shall notify all interested parties of the hearing, their rights at the hearing, and distribute copies of all relevant materials to the parties and members of the hearing body before the hearing. The chair will preside over the hearing and at the beginning of the hearing, the chair will explain the process that will be followed.
- d. During the course of the hearing, the chair of the panel, with the support of the Office of Conflict Resolution and Student Conduct, shall make all procedural and evidentiary determinations, which are final.
- e. In determining whether the charged party is responsible for violations of University policy, the University conduct system may consider information upon which institutions normally make academic and business judgments including, but not limited to, pertinent records, exhibits, and oral and written statements.
- f. If the University charges a student based upon the student's criminal conviction by any trial court of competent jurisdiction, the criminal conviction may be accepted as a final factual determination that the student has violated applicable University policy. The function of the University's conduct process shall be limited to determining the appropriate University sanction.
- g. The parties shall have the right to present information for the panel's consideration to include identification of witnesses.
- h. During the proceeding, complainants are responsible for supporting their complaints, and respondents are responsible for responding to the complaint. All parties have the right to have an advisor attend the hearing; however, advisors are not permitted to speak or participate directly in the hearing, and are limited to speaking only to the party they are advising. The parties may request to have one additional advisor at the hearing. This request must be submitted in writing to the Office of Conflict Resolution and Student Conduct at least 72 hours before the proceeding.
- i. As the parties present information for the panel's consideration, members of the hearing panel (including the chair), the respondent, and the complainant, when applicable, may ask questions of the parties and other witnesses concerning the information presented or other information pertinent to the charge.
- j. Refusal to respond to questions posed during a hearing may lead to an adverse inference by the hearing panel concerning the subject matter of the question posed,

and this adverse inference, if applicable, may be one factor considered by the hearing panel in making its decision.

- k. In a case in which the respondent accepts responsibility for the charge, the hearing panel may proceed directly into deliberation concerning appropriate sanctions rather than hear evidence of the charge. The parties will have the opportunity to make a final statement prior to deliberations.
- l. At the conclusion of all evidence, the hearing panel will deliberate in private and will determine by majority vote whether it is more likely than not that the respondent violated University policy. If the respondent is found responsible for misconduct, the hearing panel will determine appropriate sanctions.
- m. In cases involving harm to another member of the university community, the impacted party will have the opportunity to provide a written impact statement. This statement will be considered when determining sanctions, but only after a determination of responsibility is made.
- n. Hearings involving several students or organizations may be consolidated if the Office of Conflict Resolution and Student Conduct, or other hearing officer, finds that the issues involved arise from a common nucleus of facts and circumstances.
- o. All hearings will be recorded and will be made available (in the Office of Conflict Resolution and Student Conduct) to the respondent or complainant upon request during the period in which an appeal may be filed or is pending.

## **5. Failure to Appear**

If a student fails to attend an intake meeting, an administrative agreement meeting, or a hearing before a student conduct body, the hearing may be held in the student's absence, which may lead to further charges for disregard of University authority.

## **6. Appeal**

If the decision of a University hearing body is subject to appeal, the student (whether respondent or complainant) or student organization must submit a written appeal to the Office of Conflict Resolution and Student Conduct within five (5) business days of the decision being appealed, unless a longer period of time is specified in writing.

### **a. Basis for Appeal**

The chair of the Appellate Consideration Board will review the written request for appellate consideration, the case file, and the hearing record. In determining the merit of an appeal, the chair of the Appellate Consideration Board will not substitute his or her judgment for the decision of the university hearing body. Determination of merit will be based on the following:

- i. whether prescribed University disciplinary procedures were followed, including whether the alleged misconduct falls within the jurisdiction of the University conduct system;
- ii. whether the decision reached by the University hearing body was arbitrary and capricious (that is, the decision was not based on substantial evidence);
- iii. whether the sanction(s) imposed by the hearing body was appropriate for the violation that the student or organization was found to have committed; and/or
- iv. whether new evidence exists sufficient to alter the original decision that was not considered at the original hearing and was not known by the charged party at the time of the hearing.

#### **b. Appellate Process**

Cases involving violations of University policy heard by any University hearing body, including the university Judicial Council and the Department of Student Housing Hearing Board, may be submitted for appellate review. The Chancellor has delegated final authority of review to the Appellate Consideration Board. Once the Appellate Consideration Board has made a decision, the respondent and the complainant will be notified in writing of the appellate ruling.

#### **c. Appellate Decisions**

After reviewing the appeal and documents pertaining to a particular case, a panel of the Appellate Consideration Board may:

- i. request additional information from the appealing party, the hearing panel, impacted parties; or the complainant and respondent;
- ii. remand the case back to the original hearing panel for reconsideration;
- iii. uphold the decision of the hearing panel in part or in total;
- iv. modify by changing the imposed sanctions; or
- v. reverse the decision of the hearing panel in part or in total.

### **7. Impacted Party Notification**

The Office of Conflict Resolution and Student Conduct will disclose to impacted parties the results of any disciplinary proceeding conducted by the institution. If the impacted party is deceased as a result of the crime or offense, the information shall be provided, upon request, to the next of kin of the impacted party.

### **8. Actions Including Student Holds**

If a student fails to appear in response to a notice of an intake meeting, a notice of hearing, or a notice to appear before any University hearing body or officer under another University conduct process, and/or if a student receives sanctions based on a finding that he or she was in violation of a University policy and has neglected to complete those sanctions, a hold may be placed on the student's account. A hold restricts a student's ability to conduct the following nonexclusive list of activities: register for classes, drop or add classes, and other administrative privileges. It is within the discretion of the Office of Conflict Resolution and Student Conduct to place a hold and to determine under what circumstances a hold may or may not be released.

9. For additional procedures involving cases of sexual misconduct please reference policy DSA.SC.200.075.

**10. Students with Disabilities**

University policy calls for reasonable accommodations to be provided to students with disabilities on an individualized and flexible basis as mandated in Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

Students with disabilities who require an accommodation in order to complete any of the appeal or judiciary proceedings noted above should contact the University department handling the appeal or judiciary proceedings. Students may also contact the Office of Student Disability Services for assistance and referral. More information regarding the Office of Student Disability Services can be found at [www.olemiss.edu/depts/sds/](http://www.olemiss.edu/depts/sds/) or by visiting the Office of Student Disability Services located at 334 Martindale Student Services Center.