

University of Kansas

Student Non-Academic Conduct Procedures

I. Background

Under the University of Kansas' Senate Rules and Regulations Article VI, Section 6.4.9, the Vice Provost for Student Affairs has the authority to define and describe the procedures for disputes involving alleged violations of the Code of Student Rights and Responsibilities by students (non-academic student conduct).

The University of Kansas' non-academic student conduct process is not intended to be adversarial in nature and is substantially less formal than a court of law. The majority of cases can, and should be, handled informally. The purpose of the student conduct procedures is to resolve conflict situations that involve violations of the Code of Student Rights and Responsibilities or other University policy and educate and prepare students for responsible citizenship.

II. Authority

The Vice Provost for Student Affairs will designate individuals or units to administer the University student conduct system, as appropriate. The responsibilities of these individuals or entities are briefly defined as follows:

1. The Vice Provost for Student Affairs, or their designee, will be responsible for the coordination of the activities of the entire University student conduct system. The Vice Provost for Student Affairs, or their designee, will process and resolve student non-academic conduct matters. The Vice Provost for Student Affairs and their designee shall be responsible for monitoring student compliance with all non-academic conduct conditions and sanctions imposed through the conduct process and shall maintain all official non-academic student conduct records.
2. Hearing Officers will be appointed by the Vice Provost for Student Affairs or their designee. The responsibilities of Hearing Officers include preparing notices of violation, collecting information, conducting administrative hearings, making decisions related to conduct outcomes, and performing other functions as required in the student conduct process.
 - a. Graduate level staff working in the Department of Student Housing are authorized to hear violations specific to the KU Student Housing Handbook and low-level violations of the Code of Student Rights and Responsibilities for students living within student housing.
 - b. Professional level staff within the Department of Student Housing are authorized to hear violations of the KU Student Housing Handbook and University Policy for students living within student housing which may rise to the level of University probation and/or Student Housing contract cancellation.

- c. Staff working in the Office of the Vice Provost for Student Affairs are authorized to hear violations of the KU Student Housing Handbook and University Policy for all students; including violations that may lead to suspension or expulsion from the University.
3. Formal Hearing Panels are scheduled when suspension or expulsion from the University may be a likely sanction if the alleged violation is found to have occurred. The Panels will consist of three members; one student, and two faculty or staff members. Typically, the complainant and respondent are present for the Panel hearing. In the event that either party does not appear at the hearing, the Panel may reach a decision by taking into consideration the totality of the information available at the time of the hearing.

III. Definitions

“Non-Academic Conduct” involves conduct covered under published policies, rules and regulations of the University and Kansas Board of Regents. This definition excludes conduct otherwise covered by the University’s definition of academic misconduct, U.S.R.R. 2.6.1.

“Respondent” is a person or organization who is alleged to have violated University Policy.

“Advisor” is a person that serves as a supporting person for a respondent or complainant. Advisors are selected by the respondent or complainant and may be present with the complainant/respondent throughout the investigative and hearing process. If any Advisor wishes to be a witness as well, they may be limited in the level in which they may serve as an advisor in order to maintain the integrity of the hearing process.

“Witness” is a person who has relevant information to share.

“Complainant” is an individual who claims to have been harmed by a student through a violation of the Code or University Policy. The University reserves the right to serve as a complainant or co-complainant when the alleged behavior may have a larger impact on the University community, when the harmed party chooses not to participate, or when the harmed party cannot participate.

“Incident Report” is the written report submitted describing the behavior and/or alleged violations of the University Policy.

“University Policy” are the written rules and regulations of the University as found in, but not limited to, the Code of Student Rights and Responsibilities; KU Student Housing Handbook; and the University policy library. These include, but are not limited to, policies related to computer use, solicitation, sexual harassment and other anti-discrimination policies, athletic events, use of facilities, travel, alcohol and drugs, and participation in student organizations.

“Hearing Officer” means a University official authorized by the Vice Provost for Student Affairs, or designee, to determine whether a student has violated University Policy, and to impose sanctions when a policy violation has been committed.

“Hearing” is the educational meeting between the Hearing Officer/Panel and student to determine the student’s behavior in the complaint, whether the student’s involvement is a violation of University Policy, and if a violation exists, determine appropriate sanctions. See Section VI C. for the types of hearings that exist.

IV. Student Rights in the Conduct Process

Students and student organizations who participate in the conduct process, as either a complainant or as a respondent, have the rights afforded by University Senate Code, Article XIV, Section 2 and University Senate Rules and Regulations Section 5.2.2, including the right to:

1. Present their version of the events in question.
2. Be accompanied by an advisor(s). They have the right to up to three advisors.
3. Have witnesses present information, in writing or in person, on their or its behalf.
4. Not participate or answer questions in a hearing.
5. Question any statements presented (directly or indirectly).
6. The hearing officer/body be disinterested and able to act impartially. Note: Graduate level and Professional level staff working within student housing will often serve as hearing officers within their specific housing facilities due to greater rapport with student residents, and to foster a sense of community. This alone does not create an interest in the complaint.
7. Appeal the outcome of the hearing.
8. For the respondent, receive advance notice of the alleged violation(s), a general summary of the complaint, who to contact for a meeting, and the date by which that contact must occur.

V. Making a Complaint

1. Any person attending University programs, using University facilities, working at or for the University, or participating in University-sponsored events or activities may file a complaint against a student. The complaint should be filed with the Vice Provost for Student Affairs. The Vice Provost for Student Affairs or designee may also initiate a Complaint.
2. Timeline for Complaints: Complaints of student non-academic conduct should be made as soon as possible, and in accordance with USRR Article VI, Section 3.1.3, within six months of the incident or event that is the subject of the complaint, except in cases of sexual harassment or as otherwise provided by law. In exceptional circumstances, the hearing officer/body may grant an extension to this time limit.
3. Dual Reporting: Non-academic conduct may be both a violation of University policy and law, and as such, the University encourages complainants to make reports to both

local law enforcement agencies and the University. Because the standard of proof required in criminal law is different from the standard of proof required in University policy, the result of criminal investigations is not dispositive of whether a violation of University policy has occurred. In addition, the criminal investigation will not take the place of a University investigation, although such criminal investigation may supplement a University investigation. The University will not wait for the conclusion of a criminal investigation to begin conducting its own independent investigation, or to take interim measures to protect the University or any member of the University community, or when necessary, to initiate hearing procedures as outlined below.

4. **Information Requested:** When filing a complaint, you should provide as much detail as possible regarding the nature of the complaint and any witnesses. The more information that you can provide, the better equipped the University will be to address the complaint. The University suggests you provide the following information to the extent possible:
 - Name and contact information (address, telephone, email) for the complainant;
 - Name of person(s) directly responsible for the alleged violations of policy;
 - Date(s), time(s), and place(s) of the alleged violation(s);
 - Detailed description of the specific conduct that is the basis of the alleged violation(s);
 - Copies of any documents or other tangible items pertaining to the alleged violation(s);
 - Names and contact information for any witnesses to the alleged violation(s); and
 - Any other relevant information.
5. Complaints will be acted on within thirty (30) days of receipt by the Office of the Vice Provost for Student Affairs, except when good cause exists for delay.
6. **Retaliation is Prohibited:** University policy prohibits retaliation against a complainant or individual cooperating in the investigation and/or hearing of an alleged violation of University Policy. Retaliation includes any harassment, intimidation, threats, or adverse action against any complainant or individual as a result of participation in a complaint. Retaliatory behavior is not limited to behavior by the respondent, and covers behavior by their associates, as well as third parties. Retaliation should be reported to the Hearing Officer and is considered an independent allegation that may lead to additional interim measures or disciplinary action.

VI. Complaint Handling and Resolution Process

A. Charges

1. **Intake and Review:** All concerns and complaints about a student's or students' conduct shall be referred to the Office of the Vice Provost for Student Affairs. The Hearing Officer will review the allegations and select the appropriate charges to be considered, if any. In instances where the complaints involve behavior that may fall

under the University's Nondiscrimination or Sexual Harassment policies, the complaint will be referred to the Office of Institutional Opportunity and Access (IOA) for investigation. A referral to IOA would not prevent a hearing officer from taking action prior to the conclusion of an IOA investigation if other Code of Student Rights and Responsibilities violation may be present or if sufficient information exists independent of the IOA investigation. Adjudication of violations of the KU Student Housing Handbook will ordinarily proceed prior to the conclusion of an IOA investigation. For information regarding the adjudication of IOA findings of responsibility, please see section IX.

- a. When appropriate, the Hearing Officer will make outreach or meet with the complainant in order to provide the complainant a general understanding of these procedures and to identify forms of support or interim measures available to the complainant.
- b. If the complainant does not wish to pursue resolution and/or requests that their complaint remain anonymous, the University may still need to investigate and take reasonable action in light of the complainant's request.

The complainant's request will be balanced against the University's need to provide a learning and working environment for all members of the University community that is reasonably safe and non-discriminatory. Factors that will influence the University action include: the seriousness of the allegation; whether there are additional allegations involving the same student; and the University's ability to bring the complaint forward absent the involvement of the complainant.

2. Interim Measures: To ensure the health, welfare, and safety of the complainant, respondent, third-parties or the University community, or to uphold the integrity of the process, the University may take interim action at any time and is not required to wait to take such action until after the Intake and Review or a hearing. Interim measures are available to all parties. Depending on the specific nature of the allegation, interim action may include, but is not limited to, the following:
 - a. Imposition of a No-contact order (a directive that the complainant and respondent refrain from having contact with one another, their families, and/or their personal possessions, directly or through proxies, whether in person or via electronic means, pending the investigation and, if applicable, the hearing);
 - b. Provision of counseling services;
 - c. Provision of medical services;
 - d. Provision of academic support services, like tutoring;
 - e. Provision of alterations to the student's class schedule to ensure the complainant and alleged student do not attend the same classes;
 - f. Moving a student to a different student housing facility;
 - g. Removing a student from residential facilities (See Residential Suspension); and
 - h. Provision of an escort to ensure the student can move safely between classes and University activities.
3. Standard of Proof: A violation of University policy will be found and the respondent will be found responsible if the Hearing Officer, or Formal Hearing Panel by a

majority vote, finds it more likely than not that the respondent violated University Policy and/or the KU Student Housing Handbook based on all of the information presented during the investigation and hearing process.

B. Hearing Notification

1. **Charge Letter:** The Hearing Officer or Student Hearing Board Advisor will issue a written letter which shall inform the respondent of the approximate date, time, place and type of incident, the complaining individual or entity, and the section(s) of University Policy and/or KU Student Housing that have allegedly been violated.
2. **Timeline:** Hearings should not be scheduled less than two (2) working days or more than ten (10) working days after the student has been notified of the charges. A respondent may waive the one-day hearing requirement with approval from the Hearing Officer. The ten (10) working day timeline may be extended at the discretion of the Hearing Officer, taking into consideration finals, scheduled breaks, and other extenuating circumstances.
3. **Notice:** Charge letters are sent to student's University email accounts and are considered received when sent. Failure to read email will not be grounds for appeal or delay of any process.
4. **Notice of Restrictions:** To protect the interests of involved students or the University, the charge letter may contain specific requirements or restrictions, pending the resolution of the matter through the hearing process. These requirements may include any of the interim measures listed in Section VI, A#3.
5. **Interim Suspension:**
 - a. **University Suspension:** When there is a cause to believe a student/student organization endangers the health, safety, or welfare of the University community or its property, the Vice Provost for Student Affairs or their designee may order the student/student organization be temporarily suspended from University property and activities. A hearing for incidents involving interim suspension from the University shall occur within five (5) working days.
 - b. **Residential Suspension:** A housing contract may be immediately suspended and the resident required to vacate the premises when circumstances indicate that the resident's continued presence in the living unit may constitute danger, or threat of danger to property, the resident, or others in the housing system. For example, housing contracts of residents who are arrested for alleged criminal acts, or against whom criminal charges are pending, may be suspended. A hearing shall be held

within five (5) working days, or on the earliest working day thereafter identified by the student, during which the resident may demonstrate why their continued presence in the housing unit does not constitute a danger, or threat of danger to others, the resident, or property.

- c. Interim suspension hearings may serve as an opportunity to evaluate the student/student organization's interim status as well as serve to decide alleged violations of policy if enough information is available at the time of the hearing. If such information is not available, the Interim suspension hearing will serve as a 'show cause' hearing to evaluate the interim status of the student/student organization, and the regular hearing process will be followed to determine violations of policy. The decision regarding whether there is sufficient information to adjudicate alleged University policy violations lies solely with the University.
- d. In cases of interim suspension, in order to facilitate a timely resolution, deadlines and time frames in this procedure will be accelerated at the discretion of the hearing office. Parties will be notified of the applicable deadlines.

C. Options for Resolution of Conduct Charges

As explained below, student non-academic misconduct matters may be adjudicated in different ways depending on the nature of the alleged conduct violation and the potential sanction that may be imposed. The methods of adjudication include an administrative hearing, a student hearing board, and a formal panel hearing.

Unless specified elsewhere in this procedure (see section IX), in situations where the alleged behavior is a violation of University Policy and suspension or expulsion is a likely sanction if the alleged violation is found to have occurred, a Pre-Hearing Meeting will be held and respondent will be given the opportunity to choose an informal administrative hearing with a Hearing Officer in Student Affairs or participate in a Formal Panel Hearing. The respondent will receive Notice of a Pre-Hearing Meeting no less than one business day in advance. The notice will include: the date, time and location of the pre-hearing meeting; who the Hearing Officer(s) will be, the alleged policy violations, and a general summary of the complaint. During the Pre-Hearing Meeting, the Hearing Officer will present the student with three options for resolution – administrative hearing, formal hearing, or mutual agreement. Facts of the case will not be discussed during the Pre-Hearing Meeting. The respondent will have two (2) working days following the Pre-Hearing Meeting to make a decision about their desired resolution option. This decision must be submitted in writing to the Hearing Officer. If the student elects to resolve the case through an administrative hearing, the case will proceed as follows. If a respondent fails to respond to the Pre-Hearing Notice, the Hearing Officer will proceed with a formal hearing as the default resolution option.

1. Administrative Hearings

- a. In situations where (1) the respondent is a resident of Student Housing, and the behavior is a violation of only the KU Student Housing Handbook; (2) the behavior is a violation of the Code of Student Rights and Responsibilities, and the

administrative sanction is less than University suspension; or (3) as otherwise provided in these procedures, then the respondent shall meet with a Hearing Officer in an informal administrative hearing.

- b. In situations where the respondent is a resident of Student Housing, and the behavior is a violation of the KU Student Housing Handbook, as well as Code of Student Rights and Responsibilities, the administrative hearing may proceed in one of two ways, at the University's discretion. First, a respondent may meet with a Hearing Officer in Student Housing for adjudication of the Student Housing violations through an Administrative Hearing, and also meet with a Hearing Officer in Student Affairs for adjudication of the University policy violations through an Administrative Hearing. Second, a respondent may meet with a Hearing Officer in Student Housing for adjudication of all Student Housing and Code of Student Rights and Responsibilities violations. Any notification letter will denote the specific charges that will be subject to that hearing (e.g., violations of KU Student Housing Handbook, University Policy, or both). Student Housing Hearing Officers will not adjudicate Code violations that may result in suspension or expulsion from the university.
- c. Administrative Hearing Procedures
 - i. Notice of an Administrative Hearing will be sent no less than two business days in advance. The notice will include: the date, time and location of the hearing; who the Hearing Officer(s) will be, the alleged policy violations, and a general summary of the complaint.
 - ii. Administrative Hearings are informal educational conversations between the Hearing Officer and the respondent regarding the alleged policy violations and, if a student is found responsible, what are the appropriate sanctions address the policy violations.
 - iii. Administrative Hearings are not recorded unless a suspension or expulsion is a likely outcome of the hearing.
 - iv. Respondents may be accompanied by up to three (3) advisors of their choosing. Students should inform the Hearing Officer at least 24 hours prior to the Administrative Hearing whether any of their advisors are attorneys.
 - v. The Hearing Officer gathers information relating to the matter outside of the hearing and shares the information with the Respondent during the Administrative Hearing.
 - vi. The Respondent participating in an Administrative Hearing has the opportunity to confront the information available to the Hearing Officer, and may present their version of events regarding the incident in question, challenge information shared by the Hearing Officer, have witnesses present information on their behalf, and elect to not answer questions.

- vii. The Hearing Officer may further investigate the incident after the meeting and, should they learn of new, substantive information will contact the respondent to offer the opportunity to be informed of the information and respond or challenge it.
 - viii. The Respondent will be notified in writing of the outcome of the Administrative Hearing by the Hearing Officer within 10 business days, unless extended at the discretion of the Hearing Officer.
 - ix. Sanctions
 - 1. If a University Policy violation is found, the Hearing Officer may assign any formal conduct sanction, educational sanction, and/or restriction, with the exception of expulsion.
 - 2. In instances where a student is sanctioned with suspension, the Hearing Officer may assign terms for readmission upon completion of the suspension (if applicable).
 - x. If the respondent fails to participate in the process by failing to attend a meeting or providing information, the Hearing Officer may render a decision based on the available information.
 - xi. A respondent who fails to participate or disagrees with the finding of the administrative hearing does not waive the right to appeal.
2. Student Hearing Board: A case may be assigned to the Student Hearing Board when no more than two (2) years of disciplinary probation is the likely outcome of the case. The Board will be advised by the Director of Student Conduct and Community Standards, or designee.
- a. A Respondent may indicate they do not wish to have their case heard by the Student Hearing Board and opt for an administrative hearing. The Respondent must notify the Office of Student Conduct and Community Standards at least two (2) working days before their hearing to request an administrative hearing.
 - b. Notice of the Student Hearing Board hearing will be sent by the Office of Student Conduct and Community Standards, to the Respondent at least five (5) working days prior to any hearing. The notice of hearing shall include the following information:
 - i. Date, time, and place of hearing;
 - ii. Specific violations of the Code and/or University Policy the student is charged with;
 - iii. Notice of the conduct forming the basis for the complaint, which may include the time, place, person(s) involved and the circumstances of alleged misconduct;
 - iv. The student's right to request an administrative hearing in lieu of a Board hearing;

- c. The Respondent will be responsible for submitting documents, a list of witnesses, and/or advisors, to the Office of Student Conduct and Community Standards at least three (3) working days prior to the hearing. A hearing file will be created for the Board and the Respondent to review prior to the hearing. All other rights afforded students in the conduct process as listed in Section IV will be maintained.
- d. The Student Hearing Board is a type of administrative hearing and will *not* follow a courtroom model or formal rules of evidence. The Chair of the Board will ask the Respondent to present their information regarding the incident, including witnesses, if any. The Board will be allowed to ask questions of the Respondent and any other witnesses throughout the hearing process. Immediately after the hearing, the Board members will deliberate among themselves and determine:
 - i. What conduct is more likely than not to have occurred;
 - ii. Whether the conduct that occurred violates the *Code of Student Rights and Responsibilities*; and
 - iii. The sanctions deemed appropriate, if any.
- e. Hearing Determination: The Board will document its findings as to the facts, any violations, and its recommended sanctions. The hearing panel will provide its findings and recommendations to the Office of the Student Conduct and Community Standards within three (3) working days after the hearing. The Office of Student Conduct and Community Standards will send the findings and recommendations to the Respondent within two (2) working days after receipt.
- f. The Respondent may accept the findings and sanctions or request the Director of Student Conduct and Community Standards review the findings and sanctions. Such a request shall be in writing and explain what findings and recommendations the Respondent wants to have modified, and why. If the Director has not received such a request from the Respondent within 5 working days after sending notice of the Board's findings and recommendations, the Director may impose the sanctions recommended by the Board. The Director also has the authority to modify the findings and sanctions at the Director's discretion based on the evidence in the hearing record.
- g. Board Composition: The Board will consist of three students with representation from at least: one residential (on-campus housing) student, one student affiliated with a registered student organization, and one off-campus student. The Board will be chaired by one of the students as selected by the Director of Student Conduct and Community Standards, or their designee. The Chair will be responsible to facilitate and ensure an orderly hearing process.
- h. Board Advisor: The Board Advisor is present during the hearing for consultation by any person on the Hearing Board. The Board Advisor also acts to help assure that appropriate procedures are followed. Should the Board find the Respondent in violation, and move to the sanctioning stage, the Board Advisor may also be consulted to offer guidance on appropriate sanctions. Only after the Hearing Board has moved to the sanctioning stage of deliberations may the Board Advisor advise the Hearing Board of prior violations of the Respondent, if any, and only to assist the Board in the sanctioning process.

3. Formal Panel Hearing: A respondent shall meet before a formal hearing panel when expulsion from the University may be a likely sanction, when suspension may be a likely sanction and the respondent has chosen to go to a formal panel hearing, and when provided in section IX, below.
 - a. A student may waive their right to a Formal Panel Hearing and resolve an incident through an informal administrative hearing. Waiving the right to a Formal Panel hearing does not waive the right to appeal.
 - b. Notice of Formal Hearing will be sent by the Vice Provost for Student Affairs, or their designee, to the respondent and complainant at least 10 working days prior to any hearing, except in cases involving an interim suspension. The notice of hearing shall include the following information:
 - i. Date, time, place of hearing;
 - ii. Specific violations of the Code and/or University Policy that the student is charged with;
 - iii. Name of complainant or University department submitting complaint;
 - iv. Notice of the conduct forming the basis for the complaint, which may include the time, place, person(s) involved, circumstances of alleged prohibited conduct, and name(s) of possible witness(es);
 - v. Any applicable requirements or restrictions to protect the interests of affected students or the University; and
 - vi. Other information the Vice Provost for Student Affairs and their designee may wish to include.
 - c. Pre-hearing Submission: The complainant and the respondent shall submit to the Vice Provost for Student Affairs, or designee, any information they wish present at the hearing, the name of their advisor(s) and if they are an attorney, and a possible list of witnesses six (6) working days prior to the hearing. Absent good cause, as determined by the Vice Provost for Student Affairs or designee, the parties may not submit information for the hearing after this deadline. Upon the receipt of information from both parties, the Vice Provost for Student Affairs, or designee, will review the information submitted to eliminate any redundant or unfairly prejudicial information. The Vice Provost for Student Affairs, or designee, based on the totality of information, reserves the right to modify the charges included in the notification of Formal Resolution and add witnesses to the witness list. In the event charges are added, the hearing will be rescheduled at least 10 working days from notice of new charges.
 - d. The Vice Provost for Student Affairs or designee will be responsible for notifying all witnesses of the hearing and for the creation of the Formal Panel Hearing file. Copies of the Formal Panel Hearing file will be made available to the parties and Panel at least three (3) working days prior to the hearing and will contain, at a minimum, statement of complaint, witness lists submitted by each party, and any related information collected through the investigative process by the Hearing Officer. It is the parties' responsibility to contact the Hearing Officer to arrange to review the file in advance of the hearing.

- e. The Formal Panel Hearing is an administrative hearing and will not follow a courtroom model or formal rules of evidence. The Panel will determine the order of witnesses, and the Chair will resolve any questions of procedure during the hearing. The decision of the Chair is considered final. Each party will be allowed to make a presentation, have witnesses called on their behalf, challenge any information presented, ask questions of witnesses present at the hearing, and make a closing statement. Only the Chair and Panel members are given absolute authority to directly question parties and witnesses. At the discretion of the Chair, parties may directly question witnesses and each other, but the Chair is empowered to have questions directed to the Chair, disallow or reframe any questions.
- f. The University does not have subpoena powers, and as such, witnesses and other individuals asked to participate in a Formal Panel Hearing, including a complainant, may choose not to participate. In the absence of personal appearances, the Panel and parties will rely on the documentary information provided in the Formal Panel Hearing file and other information presented during the hearing. If witnesses are unavailable to attend the hearing, they may submit witness statements in their absence as part of the Formal Panel Hearing file.
- g. The student respondent may choose not to attend the formal hearing. If a student respondent, with notice, does not appear for a Formal Panel Hearing, the failure to respond or appear will not create a presumption of either responsibility or non-responsibility. In such cases, available information shall still be presented and considered and the Panel shall make a decision based upon the information available to it.
- h. The University is able to provide information/testimony through closed-circuit technology; Webex, Skype, etc. This technology may be used in circumstances where parties or witnesses are otherwise unable to participate in the hearing, or at the request of parties for good cause, as determined at the discretion of the Vice Provost for Student Affairs or designee.
- i. A recording will be made of the hearing for the purpose of review by an appeal panel, if necessary. The recording shall be the property of the University and will be maintained as such for a period of seven (7) years after the hearing. However, it shall be maintained for a longer period if the matter is subject to a litigation hold and/or pending in a court of law. Upon the written request of the student respondent or complainant, or their advisor, a copy of the recording shall be made available by the Vice Provost for Student Affairs within fifteen (15) working days of the request. Confidentiality of recordings from hearings shall be maintained by all parties and their representatives/advisors.
- j. Hearing Panel Findings and Recommendations: Immediately after the hearing, the Panel members will deliberate among themselves and determine:
 - i. Whether the facts presented establish that the alleged conduct charged occurred;

- ii. Whether the conduct that occurred violates the Code of Student Rights and Responsibilities, as charged; and
 - iii. Their recommendations for which specific sanctions, if any, should apply in light of their findings.
 - iv. The Chair will write a report containing the Hearing Panel's findings of facts, its conclusion about the charge(s) based on the facts, and its recommendations for sanctions, if any. This report will be sent to the Office of the Vice Provost for Student Affairs within five (5) working days after the hearing.
- k. **Hearing Determination:** After a formal hearing before a Panel, the Vice Provost for Student Affairs will review the report of the Panel and all hearing materials, determine whether to accept the recommendations, and provide written notification to the respondent and the complainant within five (5) business days after receipt of the findings and sanctions recommendations, if any. Sanctions imposed by the Vice Provost for Student Affairs are effective immediately unless otherwise specified in the notification. If sanctions are imposed, notice of the appeal procedure will be provided to both parties. Minor technical departures or errors in the procedures established by this policy will not necessarily be grounds to withhold conduct action.
- l. A single hearing may be held for more than one respondent in cases arising out of a single occurrence or common set of facts. Each respondent retains the right to request that their or its case be heard individually.
4. **Mutual Agreement:** A respondent shall have the option to pursue a mutual agreement when suspension or expulsion from the University may be likely sanctions, when they substantively take responsibility for the alleged violations, and when they desire to collaborate with Student Conduct and Community Standards to create a set of mutually acceptable sanctions.
- a. A respondent may waive their right to an Administrative or Formal Hearing and resolve an incident through a mutual agreement. Waiving the right to a hearing and pursuing a mutual agreement waives the right to appeal.
 - b. If a respondent elects to pursue a mutual agreement, they discuss with the Hearing Officer sanctions designed to help change the behaviors in question, learn from the experience, and repair harm to the offended parties (if appropriate).
 - c. The Hearing Officer will review the proposed sanctions in consultation with the Vice Provost for Student Affairs or their designee. The Hearing Officer may respond in writing to accept the respondent's sanctions or propose a revised list of sanctions. The Hearing Officer may request to meet with the respondent (and their advisors, if desired) to further discuss mutually agreeable sanctions.
 - d. In cases involving allegations of discrimination, sexual harassment, and/or retaliation, the proposed mutual agreement will be shared with the complainant prior to acceptance. The Hearing Officer will consider the input of the

complainant in determining whether and how to resolve a complaint by mutual agreement, but the Hearing Officer will have discretion to reach agreement with the respondent.

- e. If the respondent and Hearing Officer reach agreement about the terms of the mutual agreement, the Hearing Officer will document the agreed upon terms in writing. The respondent will have three (3) working days to sign and return the completed mutual agreement. The Vice Provost for Student Affairs or their designee will then sign the agreement.
- f. The Hearing Officer will issue to the respondent a formal outcome letter detailing the terms of the mutual agreement and will provide a signed copy of the agreement to the respondent.
- g. In the event that a respondent elects to pursue a mutual agreement but the respondent and Hearing Officer are not able to reach agreement on sanctions, the case shall be resolved by administrative or formal hearing. The Hearing Officer will notify the respondent (and their advisors) of the formal hearing and will follow the procedures outlined in Section VI.C.3.

VII. Appeals

A. Appeals of Student Housing Handbook Violations

1. Rights: A respondent involved in an informal administrative hearing has the right to appeal the decision and any sanction imposed by the Hearing Officer. A request for appeal shall be directed to the Hearing Officer's direct supervisor within five (5) working days from the respondent's receipt of findings. The right of appeal is a right to seek review of the informal administrative hearing; it is not a right to a new hearing. Students who resolve their violation through Mutual Agreement waive their right to appeal the outcome.
2. Grounds for Appeal: A request for appeal must be based on one of the following three reasons:
 - a. Proper procedures have not been followed;
 - b. The student believes the sanction is excessive given the violations; and
 - c. The student has obtained new relevant information that was not available at the time of the hearing.
3. Dismissal without a Hearing. The administrator adjudicating an appeal may involuntarily dismiss an appeal without a hearing if:
 - a. The appeal has not been filed in a timely fashion.
 - b. The appeal does not state a valid ground for appeal.

B. Appeals of Student Housing Contract Cancellation

1. A respondent may appeal a Department of Student Housing contract cancellation by submitting a request for appeal to the Associate Director of Residence Life within five (5) working days from the respondent's receipt of findings. In the event the Associate Director was the original hearing officer, the appeal would be sent to the Director of Residence Life.
2. Grounds for Appeal: A request for appeal must be based on one of the following three reasons found in Section VII A.2.

C. Appeals of the Code of Student Rights and Responsibilities

1. Rights: A respondent and complainant involved in a hearing have the right to appeal the decision and any sanctions imposed by the Vice Provost for Student Affairs or designee. The parties and their advisors have the right to review the hearing file, including any recording of the hearing, in preparation for filing an appeal. A request for appeal must be filed within thirty (30) calendar days from the parties' receipt of findings. The right of appeal is the right to seek review of the original hearing decision by an impartial appeal panel; it is not a right to a new hearing. Students who resolve their violation through Mutual Agreement waive their right to appeal the outcome.
2. Grounds for Appeal: All appeals must follow the procedures set forth in the University Senate Rules and Regulations 6.7.3.

- D. Appeals of findings that include both Student Housing Handbook violations and Code of Student Rights and Responsibilities will be heard by their respective appeals process as noted above. Student Housing reserves the right to delay the decision of their appeal until the University Judicial Board has resolved the Code appeal.

VIII. Additional Information

The University will strive to complete complaint investigations, including issuance of a report of findings to the complainant and respondent, in as timely and efficient a manner as possible and typically within sixty (60) business days of receipt of a complaint. However, this timeframe may be extended based on factors such as, but not limited to, schedule and availability of witnesses, holidays or semester breaks including summer break, and complexity of the complaint. If an investigation cannot be completed within sixty (60) business days of receipt of the complaint, then the parties will be notified of that fact and provided an estimated timeframe for completing the investigation.

IX. Incidents involving acts of discrimination, sexual harassment (including sexual violence, domestic violence, dating violence and stalking), and/or retaliation (including matters investigated by the Office of Institutional Opportunity and Access (IOA))

Incidents involving Title IX violations (as determined by the Office of Institutional Opportunity and Access) will follow the Hearing Procedures for Complaints of Sexual Harassment as set forth in the university policy library.

Notwithstanding the foregoing, in cases involving allegations of discrimination, sexual harassment (including sexual violence, sexual assault, domestic violence, dating violence, and stalking) and/or retaliation, which are investigated by the Office of Institutional Opportunity and Access (IOA), as set forth above, the following procedures will apply.

- A. Upon receipt of an investigative report from IOA, Student Affairs will review it to determine whether the Code of Student Rights and Responsibilities has been violated. When IOA has found sufficient information to support a violation:
 1. Student Affairs will make a reasonable effort to contact the complainant regarding IOA's findings and recommendations. In that contact, the complainant will have the opportunity to share if they agree with the recommendations of the investigation and provide any further information for consideration by Student Affairs.
 2. If the complainant agrees with the findings and recommended sanctions of the investigation and Student Affairs' assessment of the same, Student Affairs will

proceed with resolution of the complaint.

3. If IOA has not recommended and/or Student Affairs will not seek suspension or expulsion, but the complainant believes that it is an appropriate outcome, they will be given the opportunity to present their complaint to a formal hearing panel as either a co-complainant or witness.
 4. If a complainant does not respond, cannot be contacted, or does not wish to participate further, the Student Affairs will proceed at their discretion.
- B. The complainant and respondent will be notified of the final resolution of a case by being sent a copy of the hearing summary/outcome letter by Student Affairs, and both parties have the right to appeal the findings.