



Respondent's Guide

UNIVERSITY of **HOUSTON**
STUDENT AFFAIRS & ENROLLMENT SERVICES
Dean of Students Office

Respondent's Guide

As a student at the University of Houston, understanding policies and procedures can be a seemingly overwhelming task. In the event that you find yourself referred to the student conduct process for an alleged violation(s) of the Code of Student Conduct, it is important for you to know what to expect and how the process works. Prior to meeting with your designated hearing officer, please review the following information intended for Respondents.

Disciplinary Process Overview

WHO IS THE RESPONDENT?

In short, YOU! The Respondent refers to the student accused of violating the UH Student Code of Conduct. You are responsible for responding to the complainant's alleged conduct violations.

WHO IS THE COMPLAINANT?

The Complainant refers to the individual student, faculty member, staff member, or department (such as UHPD, Campus Recreation, etc.) that is bringing charges against you. The complainant or a representative from the Dean of Students office may present the case on behalf of the University.

WHO CAN BE ACCUSED OF A STUDENT CODE OF CONDUCT VIOLATION?

Any student who:

- (a) Is currently enrolled at the University
- (b) Is accepted for admission or re-admission to the University;
- (c) Has been enrolled at the University in a prior semester or summer term and is eligible to continue enrollment in the semester or summer term that immediately follows;
- (d) Is attending an additional program sponsored by the University while that person is on campus; or
- (e) Has engaged in prohibited conduct at a time when he/she met the criteria of (a), (b), (c), or (d).

Students may be disciplined by the University for violating any of the conduct standards or participating in any of the items outlined in the Code of Conduct as “Prohibited Conduct on or off University grounds when the incident occurs in connection with a University sponsored or affiliated activity or program, when the incident has a substantial connection to the interests of the University, when the incident poses a threat of serious harm to any member of the University community, or when the behavior is prohibited by University policy regardless of where it occurs, even if the student is or may be penalized by civil or criminal authorities for the same act. Students are subject to University disciplinary action for prohibited conduct that occurs while the student is participating in off-campus activities sponsored by or affiliated with the University including, but not limited to, field trips, retreats, and study abroad programs.

I WAS INVOLVED IN A SITUATION THAT WAS DOCUMENTED IN AN INCIDENT REPORT. WHAT HAPPENS NEXT?

If sufficient information is presented in the Incident Report, a letter citing the alleged violation(s) stemming from the incident will be emailed to your University of Houston email address. This letter will provide instructions on how to set up the initial meeting, known as a *Procedural Interview*. Notice is considered “received” upon sending this correspondence to the student’s official UH e-mail address. Failure to provide and maintain current addresses with the Registrar or failure to receive an e-mail message because the mailbox is full or the message is inappropriately forwarded will not constitute good cause for failure to comply with written notices.

WHAT IS A PROCEDURAL INTERVIEW?

You will be asked to schedule a Procedural Interview (PI) with the your designated Hearing Officer to review the allegation. The student is requested to schedule a PI within five business days of the notice being sent to their University of Houston e-mail address.

At the procedural interview the Respondent is provided a copy of the Student Code of Conduct, a copy of the incident report, and a copy of the Students’ Rights and Responsibilities Respondent Information and Acknowledgment Form.

While at the PI, or within five business days of the PI, you shall choose either a hearing before the University Hearing Board or a Disciplinary Conference with the Hearing Officer. The University Hearing Board is comprised of five individuals (three students, one staff member and one faculty member) and aims to adjudicate cases within the jurisdiction of the Board and to ensure that all persons appearing before the Board receive a fair and impartial hearing. Similarly, a Disciplinary Conference is a one-on-one meeting aiming to adjudicate the case, but between you and your Hearing Officer. Students who fail to select either a hearing before the University Hearing Board or a Disciplinary Conference with the Hearing Officer within the five business day period will be considered to have elected to proceed with a Disciplinary Conference.

CAN I HAVE AN ADVISOR? CAN THAT ADVISOR BE AN ATTORNEY?

You are entitled to be accompanied and assisted by an advisor. An advisor can be a non-involved student, attorney, parent, faculty member or administrative staff member.

An advisor may be an attorney, but one who sits in an advisory capacity. The attorney addresses the Board only upon permission from the Hearing Officer/Chair. If you wish to have an attorney attend the hearing as their advisor shall notify the Hearing Officer/Dean of Students office of the attorney's name and contact information at least three business days prior to the hearing. If your advisor is an attorney, the University may have a University attorney present at the disciplinary hearing. Failure to provide the attorney's name and contact information three days prior to the hearing will preclude their participation from the hearing. *An advisor may not appear in lieu of a respondent.*

DO I HAVE TO BE PRESENT AT MY CONFERENCE/HEARING?

No. If a you fail to appear, the University Hearing Board or Hearing Officer will decide the case in your absence. It is recommended that you attend your hearing even if you choose not to present statements or answer questions from the Board.

DO I PRESENT MY OWN CASE AT THE CONFERENCE/HEARING?

Yes. You are responsible for presenting your own case at a hearing. Although you may have an advisor present to serve as an advocate at your conference/hearing they cannot represent you or speak on your behalf at conference/hearing.

DO I HAVE TO SPEAK AT THE CONFERENCE/HEARING?

No. You have the right to not speak at the conference/hearing. If the respondent chooses not to speak, the investigation will proceed and their silence will not be used to their detriment.

WHAT HAPPENS IF I REFUSE TO PARTICIPATE IN THE STUDENT CONDUCT PROCESS?

Your failure to respond to the initiation of charges or schedule a procedural interview shall in no way prevent the University from scheduling and conducting a University Hearing Board hearing or a Disciplinary Conference in the absence of the accused student. Your decision not to participate in the process is not held against you; decisions are made based on the presented evidence in relationship to the policy standards in question.

WHAT IS THE STANDARD OF EVIDENCE IN THE STUDENT CONDUCT PROCESS?

The standard of evidence in the student conduct process is based on the preponderance of evidence standard. The preponderance of evidence standard is the burden of proof requirement that is used to determine whether it is more likely than not that the you violated a Code provision and/or University policy. The burden of proof shall be on the complainant or University, whichever is applicable.

WHAT IS DIFFERENT ABOUT GOING THROUGH THE LOCAL COURT AND GOING THROUGH THE STUDENT CONDUCT PROCESS? WHAT IF I AM BEING ACCUSED OF VIOLATING LOCAL, STATE OR FEDERAL LAW?

The University addresses cases involving violations of UH policy. The court system adjudicates cases involving violations of law. Depending on circumstances, students may have to go through one or both channels. In some cases, they may be subject to both. Regardless, both systems are separate and distinct from one another; an outcome in one process does not equate to the same outcome in the other process, nor will it impact the decision of them.

WHAT DOES THE DISCIPLINARY RECORD CONSIST OF?

A disciplinary record shall reflect the nature of the charge, the disposition of the charge, the sanction assessed, and any other pertinent information.

IF I AM FOUND RESPONSIBLE FOR A CONDUCT VIOLATION< HOW LONG WILL THE INCIDENT REMAIN ON MY DISCIPLINARY RECORD?

Disciplinary records of students who were not assessed a sanction of suspension, expulsion, denial or revocation of a degree, and/or withdrawal of a diploma will be maintained by the Dean of Students Office for **six (6) years** after the final disposition of the case in accordance with the University's Records Retention Schedule.

The University shall maintain a permanent written disciplinary record for every student assessed a sanction of suspension, expulsion, denial or revocation of a degree, and/or withdrawal of diploma.

HOW DOES A WARNING SANCTION EFFECT A RESPONDENT'S DISCIPLINARY RECORD?

Disciplinary warning records are maintained as active conduct records by the Dean of Students Office for the specified period of warning. Students that are only issued a warning sanction may request that the record be expunged once the period of warning has expired or when they have graduated from the University.

CAN I APPEAL A DECISION MADE IN THE STUDENT CONDUCT PROCESS?

Yes. You may appeal the decision of the Hearing Officer by filing a written appeal, including a detailed explanation of the reason for the appeal consistent with the grounds for appeal outlined in Section 19.2 of the Student Code of Conduct, with the appropriate Appellate Officer within ten business days after receiving written notification of the decision.

An appeal may be granted on the following:

- a) New information, not available at the time of the original hearing/conference, was discovered and such new information could affect the decision rendered in the original conduct case.
- b) Procedural error that resulted in material harm or prejudice to the student (i.e., by preventing a fair, impartial, or proper hearing). Deviations from the designated procedures will not be a basis for sustaining an appeal unless material harm or prejudice results.
- c) Appeals submitted on a claim that the sanction was excessively severe do not have bearing on the finding of "in violation" and relate only to the sanctions imposed.

An appeal is not an opportunity to re-hear the original conduct case and will not be granted based on a respondent's disagreement with the outcome of the original conduct case.

WHAT IF I DIDN'T KNOW I WAS BREAKING THE RULES?

You are responsible for knowing the rules and will be held accountable for violations despite a lack of awareness of a particular policy. A student admitted to the University of Houston accepts the responsibility to conform to all University of Houston rules and regulations. Proven failure to meet this obligation will justify appropriate disciplinary action including, but not limited to, expulsion, suspension, disciplinary probation, or warning. The University will make every reasonable effort to make the rules and regulations available. You are responsible for becoming familiar with them.

ARE THERE ANY REPERCUSSIONS IF I DO NOT COMPLETE MY SANCTION BY THE APPOINTED DEADLINE?

Failure to report or comply with the Dean of Students or designee on any matter may constitute a separate violation of the Code and may result in further disciplinary action, such as a disciplinary hold being assessed to your student account. A disciplinary hold restricts a student's ability to enroll in classes.

IF A COURT OF LAW FINDS ME NOT-GUILTY OR ALL CRIMINAL CHARGES ARE WITHDRAWN, AM I STILL SUBJECT TO STUDENT CONDUCT CHARGES?

Yes. You will still be subject to the student conduct process at UH because they are accused of violating the Student Code of Conduct. Remember that the University of Houston's policy and procedures are separate from local, state, and federal laws. The outcomes between UH's disciplinary process and the court's proceedings may vary because the standard of evidence is different.

WHAT IS FERPA? HOW DOES IT APPLY?

The Family Educational Rights and Privacy Act (FERPA) protects a student's right to privacy concerning their academic records and information. Student conduct records are considered educational records governed under FERPA. The University of Houston will not disclose any information without your written consent, with some exceptions as stated by FERPA.

The University may, without the student's permission, release certain information to parents or guardians of students under the age of 21 found responsible for violating any law, rule or university policy pertaining to drugs or alcohol.

A FERPA authorization form can be found at FERPA Authorization Form on the Office of the General Counsel's website.

Disciplinary Conference Information

WHAT IS A DISCIPLINARY CONFERENCE? WHAT IS ITS PURPOSE?

A disciplinary conference is designed to be an informal discussion about the incident between you and a hearing officer. The purpose of the Disciplinary Conference is to adjudicate the conduct case in a fair and impartial process.

ARE THE CONFERENCES OPEN TO THE PUBLIC?

Disciplinary Conferences are not open to the public.

IS THERE A DRESS CODE FOR THE CONDUCT PROCESS?

No, but it is important to maintain a sense of professionalism at your hearing.

WHAT INFORMATION IS MADE AVAILABLE TO THE RESPONDENT?

You can have access to their case file at least three business days prior to and during the conference.

WHEN DOES THE HEARING OFFICER DETERMINE RESPONSIBILITY? WHAT'S GOING TO HAPPEN TO ME IF I AM FOUND RESPONSIBLE FOR A CONDUCT VIOLATION DURING THE DISCIPLINARY CONFERENCE?

Following the conclusion of the disciplinary conference and the investigation, the Hearing Officer will determine responsibility and administer any appropriate sanctions. The Hearing Officer will notify you of the decision in writing within ten business days of the close of the investigation. If the respondent has chosen to accept responsibility for the violation(s), the responsibility determination can be expedited.

IS THERE ANYONE AVAILABLE TO ASSIST ME WITH PREPARING FOR A DISCIPLINARY CONFERENCE?

A representative from the Dean of Students office can assist students. The representative can educate the students about the conduct process and review hearing procedures to help alleviate the stress the student may feel by walking into an unfamiliar situation. The representative will be someone other than the Hearing Officer assigned to your case.

WHAT IS THE UNIVERSITY HEARING BOARD? WHAT IS ITS PURPOSE?

The University Hearing Board is comprised of five individuals; three students, one staff member and one faculty member. The purpose of the University Hearing Board is to adjudicate cases within the jurisdiction of the Board and to ensure that all persons appearing before the Board receive a fair and impartial hearing.

ARE THE HEARINGS OPEN TO THE PUBLIC?

Hearings of the University Hearing Board will be closed to the public except when the respondent requests an open hearing and such a request is approved. That request must be made three days in advance to the Dean of Students Office.

IS THERE A DRESS CODE FOR THE HEARING PROCESS?

No, but it is important to maintain a sense of professionalism at your hearing. Business casual is an appropriate form of dress.

WHAT INFORMATION IS MADE AVAILABLE TO THE RESPONDENT AND COMPLAINANT PRIOR TO THE HEARING?

At least three business days prior to the hearing, the Hearing Officer will make available to the respondent(s) and the complainant(s) copies of documents relevant to the case and a list of witnesses.

HOW IS THE HEARING ORGANIZED?

The hearing will be held in two parts:

- a) Determination of violation.
- b) Determination of recommended sanction; only if a finding of “in violation” is determined.

WHEN DOES THE HEARING BOARD DETERMINE RESPONSIBILITY? WHAT’S GOING TO HAPPEN TO ME IF I AM FOUND RESPONSIBLE FOR A CONDUCT VIOLATION DURING A UNIVERSITY HEARING BOARD?

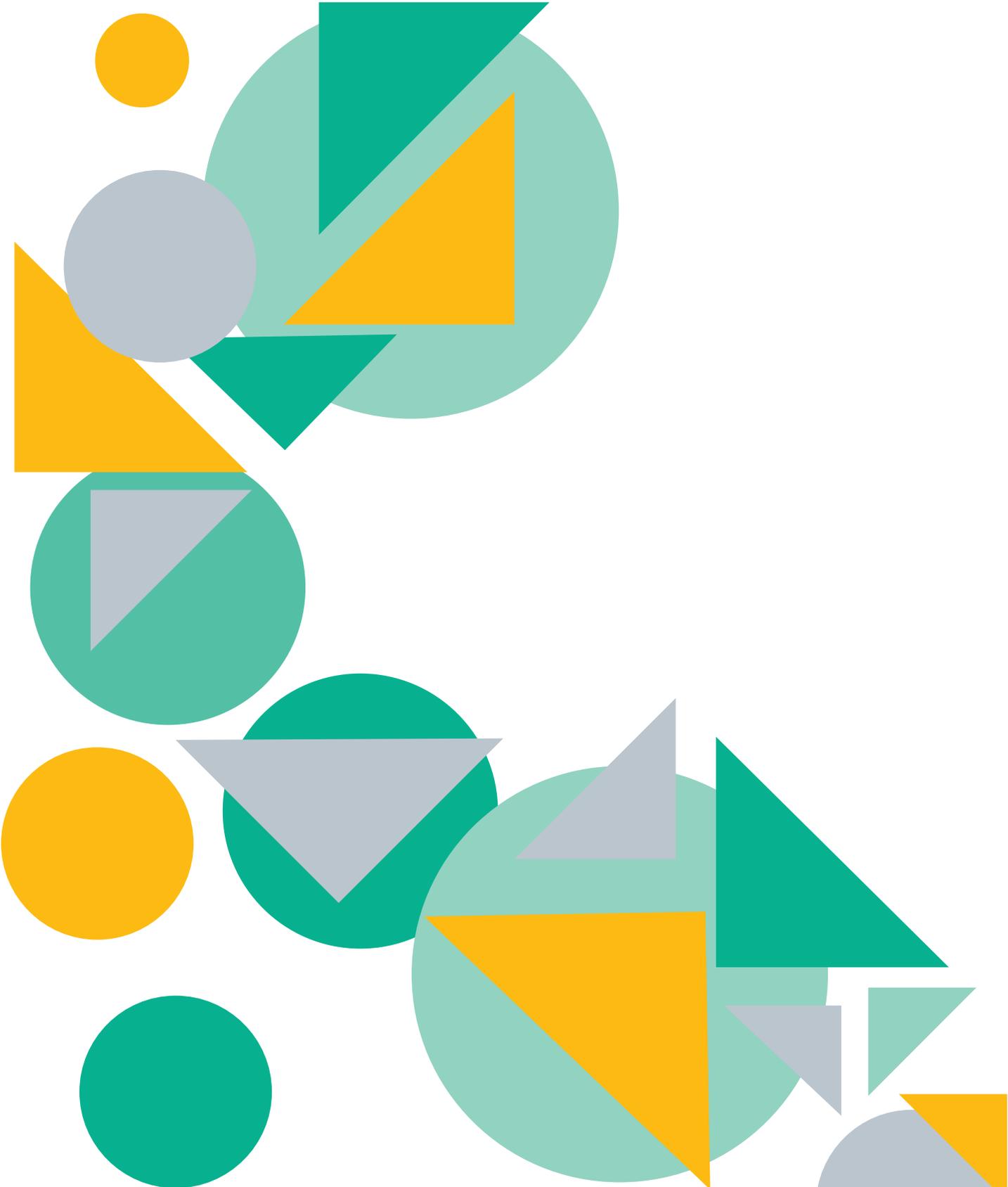
At the conclusion of the presentations and questioning, the Board shall deliberate the violation stage of the proceeding in closed session. After deliberation and a vote, the decision of the Board will be announced to the participants.

If you are found to have violated the Prohibited Conduct Section of the Student Code of Conduct, the Board may hear evidence concerning sanctioning. The Board may consider the respondent’s prior disciplinary record during the sanctioning phase of the proceedings in order to recommend the appropriate sanction(s).

The Board’s determination of violation and recommendation of sanction(s) will be forwarded to the Dean of Students for review and any further action. The Hearing Officer will notify the respondent of the decision in writing within seven business days of the hearing. The Hearing Officer will also make a copy of the decision available to the respondent in the Dean of Students Office.

IS THERE ANYONE AVAILABLE TO ASSIST ME WITH PREPARING FOR A CONDUCT HEARING WITH THE UNIVERSITY HEARING BOARD?

A representative from the Dean of Students office can assist students who are navigating the Hearing Board Process. The representative can educate the students about the conduct process and review hearing procedures to help alleviate the stress the student may feel by walking into an unfamiliar situation. The representative will be someone other than the Hearing Officer assigned to your case.



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