Student Conduct Hearing Preparation Guide

Kutztown University of Pennsylvania
Office of the Dean of Students
http://www2.kutztown.edu/studentconduct
Hearing Sequence Summary

The following is a guide to the sequence of events in a hearing. 

*Note: Not all hearing orders are the same.*

1. Hearing opens and introductions are made by the Process Administrator.

2. The Respondent (accused student) and Complainant (accusing party) are sworn in.

3. The charges for the alleged violation are read.

4. The Respondent pleads responsible or not responsible.

5. Hearing:

   a. Opening Statement
      • Complainant
      • Respondent
   b. Complainant’s Case
      • Statement of allegation
      • Presentation of witnesses
      • Cross questioning of witnesses by the Respondent
      • Hearing authority questioning
   c. Respondent’s Case
      • Statement of defense
      • Presentation of witnesses
      • Cross questioning of witnesses by the Complainant
      • Hearing authority questioning
   d. Closing Statements
      • Complainant
      • Respondent

6. Conclusion of the hearing.
Respondent Questions

- During the preliminary briefing, the Respondent receives a list of any witnesses to be called by the Complainant and has the opportunity to request their own witnesses.

- The purpose of calling and questioning witnesses is to find the truth of the case. During the questioning segment, the Complainant or the Respondent will bring facts and evidence (testimony) to the hearing authority’s attention. *The burden of proof rests with the Complainant; he/she/they must prove that the Respondent is responsible for a policy violation by a preponderance of the evidence.*

- Think of what types of questions are important to ask and what needs to be proven. *Questions must be relevant and posed in actual question form. No statements allowed!*

- At a student conduct hearing, the Complainant will call witnesses after opening statements are presented. After the Complainant questions each witness, the Respondent will have the opportunity to question his/her witnesses.

- The procedure may vary in sexual misconduct cases.

- Once all of the Complainant’s witnesses have been called, the Respondent will have the opportunity to call witnesses on his/her behalf and the Complainant will have the opportunity to question them as well.

- Each party will have the opportunity to question witnesses of the opposing party.

- The hearing authority may also question witnesses.
Witness Preparation Worksheet

Keep in mind what you are trying to accomplish as you call and question witnesses.

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Reason for calling/ key questions:
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The following is a list of the types of evidence and their admissibility at student conduct hearing.

**ACCEPTABLE EVIDENCE:**

- **Testimonial Evidence:** The verbal presentation of facts based on the personal knowledge of the witness.
- **Real Evidence:** Evidence furnished by tangible items. (e.g. a can of beer, physical appearance, etc.)
- **Opinion Evidence:** What a witness believes or infers in regard to the facts in dispute, as distinguished from the personal knowledge of the facts.
- **Circumstantial Evidence:** Based upon facts from which deductions are drawn to indirectly show original premise to be proven. Actual personal knowledge or observations of fact are not factors in this type of evidence.

**EVIDENCE TO AVOID:**

- **Hearsay Evidence** – statements made by third parties regarding direct evidence.
  - Evidence that comes forth not from personal knowledge of a witness, but from the repetition of what he/she heard others say.
  - Hearsay evidence cannot be used as the sole source of testimony to establish responsibility.
Student Conduct Hearing Worksheet: Respondent

**OFFENSE**

Alleged Student Code of Conduct Violation(s) (found on incident report):

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Cite the elements of the offense which are described using action words. Examples of those words represent an element of the offense: possession, consumption, tampering, transportation, etc.:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

**EVIDENCE**

Evidence presented against you:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Specific evidence related to you and the incident:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Evidence that specifically challenges the Complainant’s evidence:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

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1 Refer to the Student Code of Conduct for definitions of conduct standards; http://www2.kutztown.edu/TheKey
OPENING STATEMENT

An opening statement is intended to introduce your side of the case to the hearing authority. The statement is also intended to preview the evidence you will be presenting at the hearing. The most effective opening statements are concise and to the point; they clearly state why you feel you are not responsible for the policy violation in question. An example of how an opening statement can be structured is as follows:

<table>
<thead>
<tr>
<th>Introduction</th>
<th>Tells something about yourself and thanks the board for allowing you to present your case</th>
</tr>
</thead>
<tbody>
<tr>
<td>Theme</td>
<td>A few sentences that capture the essence of your argument</td>
</tr>
<tr>
<td>Body</td>
<td>A brief overview of your version of the event; should not be used to introduce or offer testimony*</td>
</tr>
</tbody>
</table>

*Testimony can only be introduced by a witness who is subject to cross-examination.

COMMUNICATING WITH WITNESSES

When communicating with witnesses, it is important to treat them with respect and courtesy. One should take steps to best promote the witness's ability to feel comfortable to answer questions to the best of their ability:

- Address the witness by using their name.
- Demonstrate that you are listening to them:
  - by nodding your head
  - keeping eye contact
  - giving verbal indications to responses
- Present a welcoming presence by:
  - smiling
  - utilizing an open body position
  - using a warm and supportive voice intonation
- To begin questioning, you may want to build rapport and ease the witness in to questioning by asking more open-ended questions. Repeatedly direct and close-ended questioning may give off an interrogative feel to the witness.

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QUESTIONS TO BE PREPARED FOR WITNESSES IN ADVANCE OF HEARING

Open-ended questions (Encourage person to expand freely on an issue; e.g. what, how, why or why not):

____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________

Close-ended questions (Used to pinpoint or obtain factual information or details; e.g. who, where and when):

____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________

CLOSING STATEMENT

A closing statement sums up your case in a final address to the hearing authority. When making a closing statement, highlight the facts from the case presentation that support your argument and refute the Complainant’s case. Final statements should be tied to the opening statement and serve as a summation of your argument. An example of how a closing statement can be structured is as follows:

<table>
<thead>
<tr>
<th>Introduction</th>
<th>Thank the hearing authority for their time and restates the general theme of your argument</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issues</td>
<td>Briefly restate the core issue(s)</td>
</tr>
<tr>
<td>Explanation</td>
<td>Summary of events that are supported by the evidence</td>
</tr>
<tr>
<td>Refute the Opposing Side</td>
<td>Statement of your evidence that specifically counters the evidence presented by the Complainant.</td>
</tr>
<tr>
<td></td>
<td>This should be modified based on testimony. A Respondent must pay attention and take notes during the course of the hearing.</td>
</tr>
<tr>
<td>Conclusion</td>
<td>A closing statement of the main theme that is supported by all the evidence presented</td>
</tr>
</tbody>
</table>

CLOSING STATEMENT DRAFT:

____________________________________________________________________________
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Role of Advocates

Any student acting as the Complainant or student Respondent may have an advocate with them at a hearing. Guidelines for advocates at a student conduct hearing are as follows:

- Every student bringing charges (Complainant) or student charged (Respondent) with violating University regulations has a right to counsel by:
  - A member of the University community which may be a student, staff member or faculty member.
  - A private attorney whose expenses will be borne by the student.

- Once the hearing has begun, the obligation to present the student case (Complainant or Respondent) rests solely with the student. Advocates for either party will have no interactive role with the hearing officer or hearing board. Advocates will be granted adequate opportunities during the hearing to privately advise and confer with their student.

- If the advocate is not a student, the student will be considered as host while counsel is on campus. Any disruptive or disorderly behavior on the part of the counsel may result in charges being filed against the student client under the following conduct standards: Abuse of the Student Conduct Process and/or Responsibility for Actions of Guests.

- For additional information about student advocates please refer to the Document on Student Rights & Welfare, Article IV.F Role of Counsel in Judicial Process: http://www2.kutztown.edu/TheKey
Hearing Tips

Here are some tips you may want to consider when getting ready for a hearing:

• Practice your statements several times so you become comfortable with presenting them.

• Read through student handbook, The Key, to understand more about the disciplinary process, sanctions and the appeals process. The student handbook can be found online at http://www2.kutztown.edu/TheKey.

• Contact the people you are calling as witnesses to double check that they have the correct date, time and location of the hearing. Interview them about the incident prior to the hearing to make sure you’re both on the same page.

• Make several copies of any documents you want to use in the hearing so you can hand them out to hearing participants.

• Dress appropriately for your hearing (i.e. no apparel with holes or patches, no hats, no visible profanity). No specific dress code exists, but it’s recommended that you wear something more professional than you would normally wear to class.

• Be early. You should arrive at least 15 minutes before the hearing start time to prepare yourself.

• Act professionally. You may be unhappy about having to defend yourself from an allegation of misconduct but keep in mind that the due process you are being provided is in place so you may have fairest opportunity to address such charges. Acting rudely or unprofessionally only detracts from your message and will not help you be successful.

• If you have any questions prior to the hearing, contact your Student Advocate for assistance or ask the Process Administrator prior to the start of the hearing.
Frequently Asked Questions

For further information consult the student handbook, The Key, or contact the Dean of Students Office.

**What is the UCB?**
UCB stands for ‘University Conduct Board’. An UCB is made up of faculty members, university staff and students. One person from each of the aforementioned groups is chosen to serve at a hearing. The board hears cases when a student denies responsibility for a conduct violation and is tasked with determining if the accused student is in violation of the Student Code of Conduct and if so, determines an appropriate sanction. Respondents have the ability to present their side of a case at the hearing and prove they are not responsibility for a violation.

**What is an administrative hearing?**
In some instances a single hearing officer will be utilized in lieu of a University Conduct Board.

**What is an administrative authority?**
The generic term ‘administrative authority’ refers to the person, board, or panel that is responsible for rendering an outcome or decision in a student conduct case.

**Do I need an attorney or an advocate?**
While an attorney is not required in the university student conduct process, the option of having one is entirely up to the student. However, it is his/her financial responsibility. Also, an attorney may only advise the student and may not represent him/her at the hearing. (See Role of Advocates)

**If I am found responsible, how will my sanction be decided?**
Levels of sanctions are determined by several factors, including the severity of the offense and prior offenses.

**Do I need to call upon witnesses?**
The purpose of calling and questioning witnesses is to find the truth of the case and support your position. As the Respondent, you may call witnesses and also have the option of calling upon yourself as a witness if the testimony you will provide is relevant.

**Will this go on my permanent record?**
Records of disciplinary action are kept on file in the Dean of Students Office. Records are kept confidential and are not to be disclosed to outside parties except by subpoena or by permission of the student. Depending on the circumstances, disciplinary records are generally kept on file between 2-6 years from the date the student graduates or leave the university.
Is the decision from the hearing final?
After reception of the decision from the designated hearing authority Respondents may request an appeal if they believe their due process rights were violated, the hearing was conducted improperly or that sanction imposed is unfair. Respondents must follow the published appeal procedure in order to have their appeal considered. There are several bases of appeal and several different outcomes of filing an appeal, from denial of appeal to rehearing of a case to the dismissal of the charges.

What does “Burden of Proof” mean?
Burden of Proof refers to the amount of proof the Complainant must present for the designated hearing authority to find the Respondent in-violation of the Student Code of Conduct. If the hearing authority feels that the burden of proof was not met by the Complainant the Respondent would be found not responsible.

What does “Preponderance of Evidence” mean?
The standard of evidence used in all student conduct proceedings is preponderance, therefore, a decision of responsibility will be based upon presented evidence sufficient to make a reasonable person believe that it was more likely than not a student is in violation of university policy. It is not necessary for the Complainant to show with 100% certainty that the Respondent is responsible; a hearing authority needs only be 51% certainty (or higher) that a violation was committed.

How long will it take for me to learn the outcome of the hearing?
You will be notified of the hearing outcome within approximately five days of the hearing’s conclusion.