

Office of Student Conduct



Hearing Officer Training

Introduction



KSU Office of Student Conduct

- Non- investigatory office
- Adjudicatory process for students only
- Focus on the behavior of the student

OSC's goals

- To provide students with due process
- To make students aware of and able to reasonably navigate through the conduct process
- To have students accept responsibility for their actions when it is warranted
- To apply sanctions designed to assist students in their pursuit of excellence in both the classroom and the community





Decision-making Standard:

Preponderance of the evidence

- The standard in determining if a student is responsible for a violation; the Complainant must be able to show that it is “more likely than not” that the alleged behavior occurred for a Respondent to face appropriate educational sanctioning

50%



Student Conduct compared to the Legal Process

Student Conduct Process	Legal Process
• Informal / Administrative	• Formal / Legal
• Standard is “more likely than not”	• Standard is “beyond a reasonable doubt”
• Based on Code of Student Conduct	• Based on local/state/federal law
• Not responsible / Responsible	• Not guilty / Guilty
• Confidential & Educational	• Public record & Adversarial
• Outcome: sanctions	• Outcome: sentencing / jail

*****These processes may occur concurrently*****



Campus Process compared to the Legal Process

- Students may be sent to Kent City Court and KSU Office of Student Conduct for **the same incident**
- Outcomes from other jurisdictions do not have a bearing on a finding of responsibility for the campus
- University conduct action may be taken before criminal action
- The student conduct process is not a substitution for criminal proceedings, but rather is focused on education
- The conduct process is not “double jeopardy” because they are not being legally tried through the Student Conduct process and only applies to a court of law





Expectation of Privacy



- Keep everything you see and hear confidential!!
- The Office of Student Conduct does not pass along or share completed student sanctions, unless there is an 'Educational Need-To-Know' [FERPA], or unless directly related to the complainant or hearing officer(s)
- Hearing officers ***should not respond*** to reporter interviews, complainants, or respondents pertaining to an OSC hearing / process. **Contact OSC immediately!**



Prohibited Conduct



Code of Student Conduct

As members of the Kent State University community, students are expected to demonstrate responsible conduct. The Code of Student Conduct translates these expectations into specific policies and describes the process through which claims of violations are resolved.





Prohibited Conduct

- Any student or student organization found to have **committed or to have attempted to commit** the defined violations may be held accountable
- Prohibited conduct accusations are assigned by the complainant
 - Adjustments to assigned prohibited conduct may be made prior to a hearing by the director of student conduct (or designee), with notice to the accused student or student organization (if necessary).
- You are expected to know and interpret the definitions



Prohibited Conduct

Alcohol	Disorderly Conduct	Impaired Driving	Smoking & Tobacco
Animals	Fire Safety	Misrepresentation	Student Conduct Process
Complicity	Gambling	Physical Violence	Theft
Computer / IT Misuse	Gender Based Discrimination	Reasonable Request	Trespassing / Unauthorized Entry
Controlled Substances	General Safety	Recording Privacy	University Grounds
Destruction / Misuse of Property	Harassment	Residence Halls Policies	University Rules
Discrimination	Hazing	Sexual Harassment	Weapons

Hearing Process



Who participates in a student conduct hearing?

Hearing Officer- any Kent State University faculty, staff, or student who has been appointed to a student conduct decision-making role by the university and has been trained through the Office of Student Conduct

Student Conduct Convener-- responsible for logistics and procedures associated with the student conduct process; the student conduct convener may simultaneously serve as a hearing officer.

A Convener will **always** be in each Student Conduct hearing to assist.
Trained Student Conduct Conveners are:

Todd Kamenash (Director)

Brenton McNulty (Assistant Director)

Stephanie Evans (Special Assistant)

Office Intern(s)





Hearing Officer Purpose

- Maintaining a safe and educational environment where all individuals are treated with respect
- Empathize with the respondent you meet with and can more fully understand their perspectives
- Share your perspective from your role in the university community
- An ambassador for OSC and the Code of Student Conduct
- ***Your influence can often be very effective in changing students' behaviors***





What the OSC Expects from Hearing Officers

- Attend all hearings for which you have been selected.
- Be on time and CHECK IN WITH THE FRONT DESK
- Ask before going into the hearing room (another hearing may still be wrapping up)
- Limit conversations with Respondents / Complainants / Investigators before the hearing
- Do not text / e-mail during hearings
- Uphold all University Policies and the Code of Student Conduct - DO THE RIGHT THING!
- Focus on the primary tasks – findings of responsibility and sanctioning (when appropriate)





What to Expect from the Student Conduct Convener

- Be aware of all available information regarding the case
- Answer all pre-hearing questions for all hearing participants
- Start and end all hearing components
- Clarify questions & procedures during hearings
- Escort participants to / from hearings
- Be a resource / guide for following OSC policies
- Write & enter decisions on paper & in the database
- Be a sounding board for your thoughts & ideas





Who participates in a student conduct hearing?

Complainant- person providing information in an incident report alleging that a student or student organization violated university rules, regulations, or policies

Respondent- a student or student organization that has been accused, informally or through an incident report, of violating university rules, regulations, or policies

Witness - any person who has direct information regarding an alleged incident; and/or a professional with demonstrated experience (such as a licensed health care professional) in a field directly related to an element relevant to the hearing.





Who participates in a student conduct hearing?

Conduct Advisor- any person who advises a student or student organization regarding university policies or procedures. Examples of conduct advisors include but are not limited to judicial advocates, parents, attorneys, etc. A conduct advisor may not serve in any other capacity in the hearing

Investigator- University Police, other law enforcement agency representative, or non-law enforcement investigator (Title IX) who may provide information resulting from an investigation



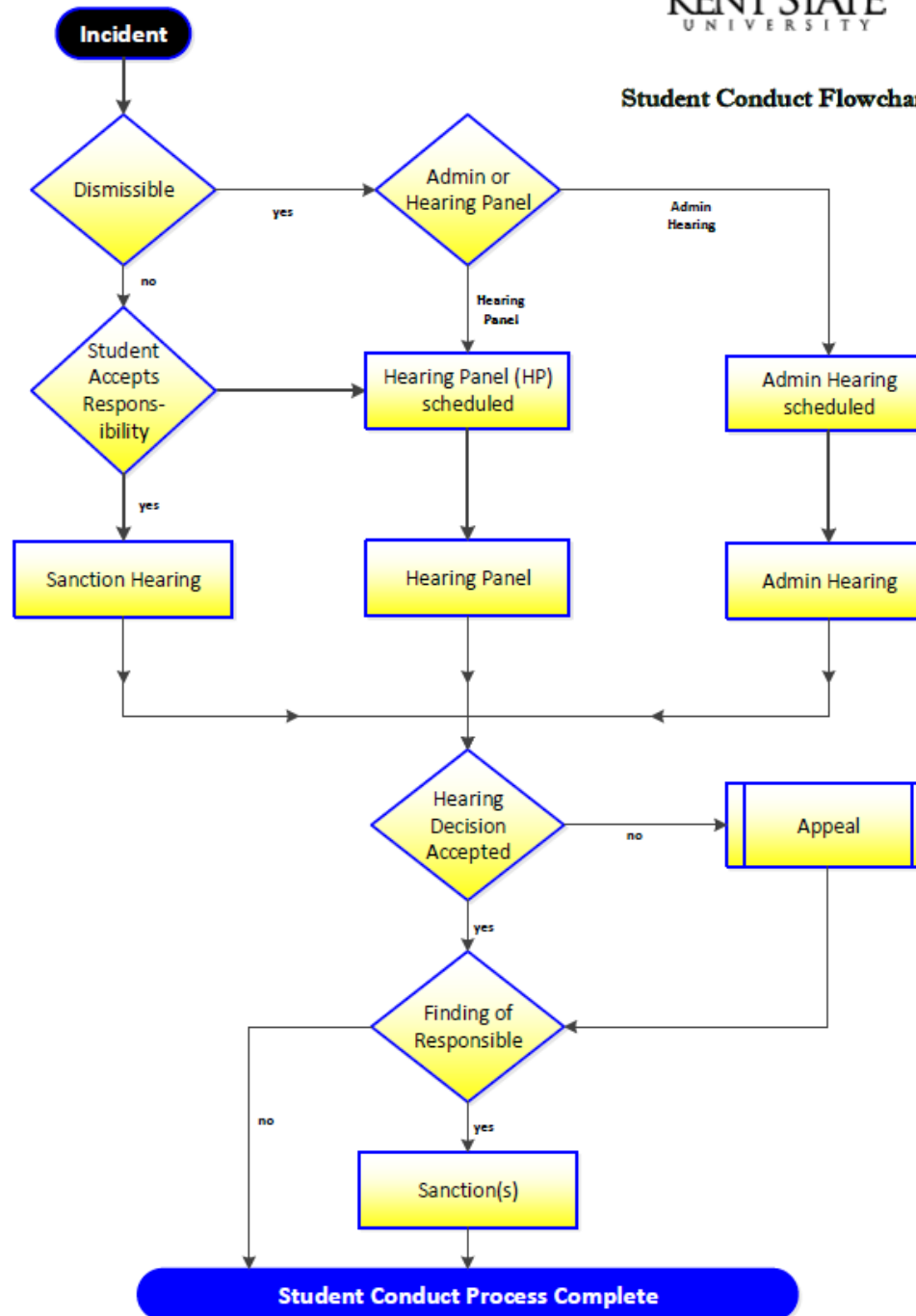


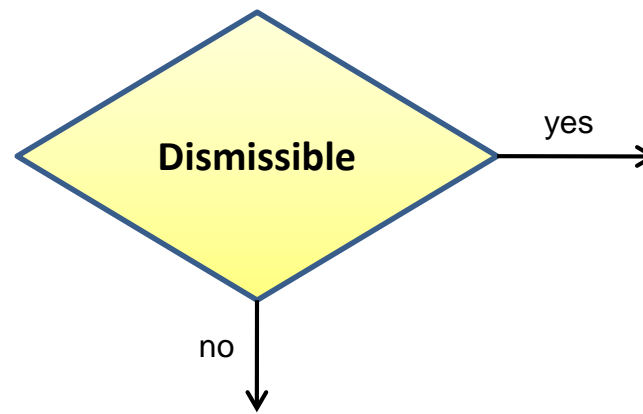
Three types of Hearings:

- 1. Sanction Hearing (SH)** – A hearing with an Respondent and a hearing officer, where Respondent has, prior to this hearing, accepted responsibility for accusations, and the hearing officer renders a sanctioning decision. Complainants do not attend sanction hearings.
- 2. Hearing Panel (HP)**– A hearing with an Respondent and a panel of hearing officers where it is determined by a preponderance of the evidence if a campus rule has been violated, and if so, the assignment of appropriate sanctions. A hearing panel consists of an odd number of hearing officers, including at least one current Kent State University student and one Kent State University faculty or staff member.
- 3. Administrative Hearing** – An administrative hearing may be assigned by the director of student conduct (or designee) in cases where the accusation includes an alleged act of violence, significant personal or property damages, and/or the alleged behavior may be considered detrimental to the health or safety of the university.



Student Conduct Flowchart





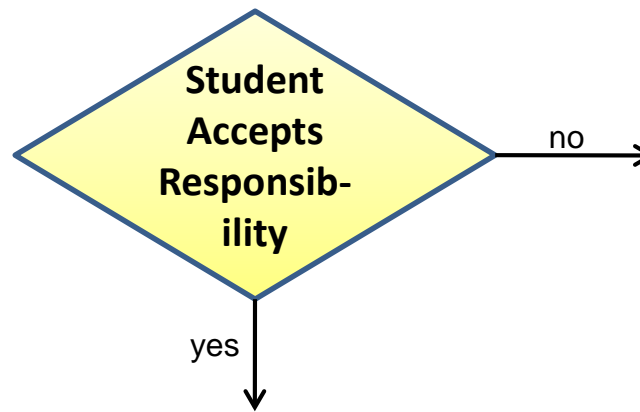
Director of OSC reviews the IR and determines if the conduct is something that may raise to a level of separation from the University – is it dismissible?

If NOT dismissible, the Respondent is offered a Sanction Hearing.

If dismissible, automatically assigned to either a Hearing Panel or an Administrative Hearing.

- Examples of dismissible:
- Acts of violence
- Sexual harassment
- Repeat offenders





If NOT dismissible the Respondent is given the opportunity to accept responsibility.

When the student calls to schedule:

- If the Respondent accepts responsibility, they will schedule a *Sanction Hearing* with OSC
- If the Respondent does not accept responsibility, they will schedule a *Hearing Panel* with OSC.

Sanction & Hearing Panels - Student given one week to schedule, if they do not, hearing will be scheduled by OSC





Sanction Hearing

- Present: One Hearing Officer, Respondent(s) (and Conduct Advisor), and one Student Conduct Convener
- Complainants (police, residence hall staff, security, etc.) do not attend Sanction Hearings
- Hearing Officer asks the Respondent(s) 'getting to know you' questions first, then the specifics of the case
- Deliberation – decide the sanction
- Reads the Report of Finding





Hearing Panel conducted

- Present are: Hearing Officers (3), Respondent (and Conduct Advisor / Witnesses), Complainant(s), and Student Conduct Convener
 - Student Conduct Convener explains process & introductions
 - Hearing Officer asks Respondent & Complainant (if a student & present) 'getting to know you' questions, then the specifics of the case
-
- Hearing Officer allows for Witness information
 - Complainant follows with their account of the incident and past discipline
 - All Complainants and Respondents (and/or their respective advisors) and Investigators may ask questions of each other as deemed appropriate by the Student Conduct Convener / decision-maker(s)
 - Hearing Officers leave room for deliberation with Student Conduct Convener





Administrative Hearing

- Present: One Hearing Officer, Respondent(s) (and Conduct Advisor), and one Student Conduct Convener
- Complainants (police, residence hall staff, security, etc.) do not attend Sanction Hearings
- Hearing Officer asks the Respondent(s) 'getting to know you' questions first, then the specifics of the case
- Deliberation – decide the sanction
- Reads the Report of Finding





How OSC Hearings are scheduled

- Sanction Hearings are scheduled for 1 hour
- Most Hearing Panels will be scheduled for **1½ hours**
→ *Student Org, Title IX, potentially complex, and multiple student cases will be scheduled for 2 hours, but may vary in length.*
- OSC USES MICROSOFT OUTLOOK calendar invitations!! Please make sure you do not ignore these invitations. This is the only way of notifying you that you have a scheduled hearing.



Do not decline invitations! Call or e-mail OSC





How OSC Hearings are scheduled

- Accept Outlook invites!
- If you believe you may have a conflict of interest with a specific student, or the day / time, please let me know ASAP and I will make the necessary adjustments.
- OSC holds hearing for violations of sensitive issues. If you are not comfortable being a hearing officer for sensitive issues, let me know and I will exclude you for those hearings.
- Remember: ***Do not decline invitations!***
Call or e-mail OSC



How OSC Hearings are scheduled

Hearing Officers

Respondent

The screenshot shows a meeting invitation form with the following fields and annotations:

- Send**: A button with a paper plane icon, pointed to by a red arrow from the label "Respondent".
- Title**: "1:30PM: HP- N Hutchinson, M McKendry, S Evans".
- Required**: A text field containing "Natasha Hutchinson <nhutchi3@kent.edu>; McNulty, Brenton; Evans, Stephanie; McKendry, Margaret". A red arrow from the label "Hearing Officers" points to this field.
- Optional**: A text field containing "Kamenash, Todd".
- Start time**: A date field set to "Wed 3/18/2020" and a time dropdown set to "1:30 PM".
- End time**: A date field set to "Wed 3/18/2020" and a time dropdown set to "3:00 PM".
- Location**: A text field containing "JOHN DOE".
- Footer**: A text line "John Doe called OSC to schedule. McNulty convening (VS)". A red arrow from the label "Who scheduled the hearing" points to this line.

Other UI elements include an information icon and the text "You haven't sent this meeting invitation yet." at the top left, a "Blue category" label, and checkboxes for "All day" and "Time zones" near the time fields. A "Make Recurring" link is also present.

Who scheduled the hearing



File Information

- (1) Incident Report
- (2) All Advocate information and communication between OSC and student:
- (3) Original notification to OSC of incident
- (4) Notice of incident & requirement to contact OSC
- (5) Confirmation of hearing

NOTE: Additional materials may be present if provided by a complainant, respondent, investigator, witness(es), character reference(s), etc. in advance of the hearing





Incident

Incident Report (IR) – Written and/or technological file provided from a Complainant to the Office of Student Conduct

This report details WHO potentially violated WHICH prohibited conduct violation and WHEN/WHERE it occurred.

Commonly, IR referrals are supplied by:

- Residence Services / Security
- KSU Police
- Kent Police
- OSC office
- Students directly
- Title IX / Office of Compliance





Wednesday, November 25, 2019 | 9:30 am
User: Brenton McNulty, Staff

Incident Report

Incident Report # 54321-001-2018

Reported On
November 19, 2018 2:22 PM

Reported By Karen Carr

Date/Time of Incident
November 19, 2018 2:00 pm

On/Off Campus On-Campus

Other Location
Beall Hall

Incident Classification
Judicial Referral

Type of Violation
Conduct

Conduct Offense Type
Reasonable Request

Students Involved
DOE, JOHN (Beall Hall - 0204) (867530999)

Staff Involved
KSUPD, Security Aids, RAs, ETC

Was RHD/ARHD called?
Yes

Was KSUPD called?
Yes

KSUPD Report # 00-0001

Please describe the incident in detail.
Resident John Doe is currently on Behavioral Contract with Residence Services and is being referred to the Office of Student Conduct for Reasonable Request. The incidents being collectively referred are cited below.

IR: 00001-2018

On November 12, 2018 at 12:50pm, Security Aid, Suzie Snowshoe, was on rounds at Beall Hall on the second floor when she smelled the odor of marijuana. SA Snowshoe and Security Aid, Sammi Smith, separately pin-pointed room 204 Beall Hall for the odor of marijuana.

SAs Snowshoe and Smith knocked on the door several times, but there was no answers. Snowshoe and Smith heard movement within the room and the sound of something being sprayed. SA Smith knocked on the door, but there was no response. Both residents of the room, John Doe and Danny Boy, were documented for the odor of marijuana and reasonable request.

IR: 00115-2018





“Lead” Hearing Officer

- No added authority, but runs the flow of the hearing
- Begins questioning (after getting-to-know-you Q's)
- Segues from Respondent to Witness[es]
- Segues from Respondent to Complainant (and Witness[es])
- Segues from Complainant to Investigator[s]
- Segues to Direct or Indirect Questioning
- Confirms that the Panel is ready to deliberate and cues the Convener
- Reads the Report of Finding (decision letter)





Student Hearing Officer

- Do not participate in Sanction Hearings
- In Hearing Panels – asks the “getting to know you” questions
- Continues to participate / ask questions throughout the hearing
- Student views and perceptions are important!
- Must be enrolled in KSU classes
- May also be staff as long as they are currently enrolled in KSU classes





Student Organizations

- Student organizations follow the student conduct hearing panel process, with specific leaders serving as representatives of the student organization (rather than every student member of an organization appearing for a hearing)
- Individual accusations may result from a student conduct hearing for a student organization, which would result in a separate hearing
- Cases involving student organizations may take multiple sessions depending on availability of complainants, respondents, investigators, witness(s), etc., and/or information acquired during each session
- The same hearing officers should be present for all sessions of a case involving a student organization



Questioning



Goals of a Deliberation:

- What do you know and how do you know it?
- The accusations for THIS case are...
- Can you express the rationale for your finding of responsible/not responsible?
- If a student is responsible, how is each sanction applied restorative?
- Plan how you will verbalize your decision to a student





Introductions & Questioning

- Direct, specific questions
- LISTEN TO THE STUDENT!
- Avoid long / rambling questions
- Focus questions towards the goal of obtaining data
- You do not necessarily need to know everything!





Questioning during a hearing

- *Write out important questions prior to the start of the hearing*
- Target questions to determine who did what, when, and (sometimes) why
- Think about deliberation – what will you need to know to make a decision?
- “Then what...”
- Avoid compound & “why” questions





WHY?	ALTERNATIVES
Why didn't you listen to security who told you to stop?	<i>Did you hear security telling you to stop? Did something prevent you from stopping?</i>
Why didn't you just leave when you saw them pull out the weed?	<i>How did you get to the place? Were you able to reasonably leave?</i>
Why were you even there if you knew what they were going to do?	<i>Were you aware of what they were planning? What role does this activity play in your life?</i>
Why aren't you telling me the truth about what happened?	<i>I'm hearing some conflicting versions. Can you help me understand the differences?</i>



Questioning during a hearing

- Be aware of the boundaries between useful and unnecessary
- Critically think about avoiding 'shoulda / woulda / coulda' situations before deliberation
- Maintain composure and avoid attacking and accusatory questions
- When possible, ask same/similar questions of respondent **and** complainant





Concluding questions for complainants

- Kent State Police Department
 - Do you have concern(s) of harm, health, or safety if this student remains a member of the Kent State Community?
- Residence Services
 - Do you have any concerns for this student living on campus, and why?
 - Do you have any restorative recommendations?





Credibility

- Informational sources: direct / indirect / second-hand
- Investigator's conclusions
- Degree of inconsistency
 - For example, exaggerated GPA is ignorance or purposeful?
- Does it make sense?

NOTE:

- *Not being credible does not necessarily mean a rule was broken*
- *Being credible could still mean a rule was broken*



Deliberation



Goals of a Deliberation:

- What do you know and how do you know it?
- The accusations for THIS case are...
- Can you express the rationale for your finding of responsible/not responsible?
- If a student is responsible, how is each sanction applied restorative?
- Plan how you will verbalize your decision to a student





Deliberation

Hearing Panel

Review EVERY accusation and answer, “is it more likely than not this rule was violated?”

If, by a simple majority vote, there are not violations, there is a finding of Not Responsible

If, by a simple majority vote, there ARE violations, there is a finding of Responsible

Sanction
Hearing

If any of the accusations result in a violation, determine sanctioning





Finding Responsible / Not Responsible

- Information specifically pertaining to accusation(s)
- Credibility
- Lacking knowledge that a rule was violated is not an acceptable rationale
- Severity of actions
- On the fence = not responsible

"Hear the case before you decide it."

Alfred P. Murrah, (Chief Judge of the U.S. Court of Appeals for the Tenth Circuit and Director of the Federal Judicial Center).





Finding of Not Responsible

- Report of Finding is still supplied
- Eliminate the \$50 appearance fee
- Both complainant & respondent may still appeal
- Disciplinary record (including folder) is destroyed after appeal period expires (if applicable)
- May not be used as background in the event of future student conduct case(s), even if it shows up in Advocate history

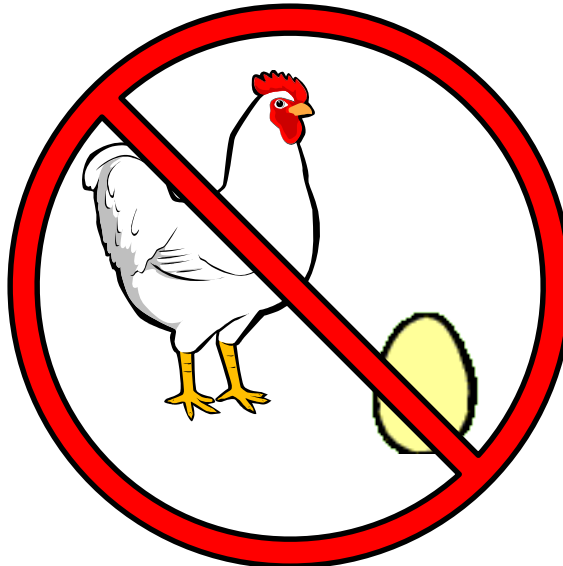


Sanctioning



Responsible vs. Not Responsible

- Apply sanctions only when a student is found responsible
- *DO NOT* find a student responsible because you have a good sanction to impose!





Sanctions

- Sanctions decided by a simple majority (not required to be unanimous)
- Conveners may suggest hearing officer(s) sanctions if the appropriate context is present, but hearing officers have the final decision





Factors to consider when assigning sanctions:

- **Only requirement is that one status sanction is assigned. No other specific required sanctions**
- The nature, intentionality, and severity of the actions
- The disciplinary history of the student
- The developmental needs of the student
- The level of accountability and responsibility taken by the student
- The level of cooperation from the student
- The interests of the community and those impacted by the conduct
- Sanction should be relatable to the behavior





Appropriate Sanctions

- Sanctions must be in accordance with the seriousness of the violation and the circumstances surrounding the conduct violated
- Focus on what will help the student and keep the community safe
- Select at least 1 Status sanction and as many Corrective / Educational sanctions as appropriate





Use of information from previous referrals/sanctions:

- Previous violations & sanctions should be taken into consideration to determine the current sanction
→ Pattern of behavior?
- Were Residence Services completed?
→ If not, requiring student to complete them may be appropriate
- ***STRONGLY CONSIDER Police and Residence Services Safety Recommendation***





Status Sanctions

- Warning – acknowledgment of wrongdoing for a minor behavioral issue; no specific timeframe necessary
- Disciplinary probation – more serious action that means further violations may result in escalated sanctions; specific timeframe necessary
- Disciplinary Suspension – separation from KSU for a specific timeframe; may include requirements to return; persona non grata status during suspension
- Disciplinary Dismissal – separation from KSU indefinitely; person non grata status for 5 years





Corrective Sanctions

- No Contact Order – no direct or indirect contact (through another person, social media platforms)
- PNG / Campus Access Restriction – Persona Non Grata; if physically present in a banned area, may be arrested for criminal trespass
- Restitution – specific payment for damage. Examples: broken tablet; damaged security door
- Monetary Penalty – max \$200. Be able to express why this is a helpful learning tool before using





Educational Sanctions

- Workshops
- Reflection papers
- Counseling
- Academic Referrals
- Community Service
- Other / Creative





Campus-based Workshops

Managed through DeWeese Health Center

- Alcohol Education Workshop
- Drug Education Workshop
- Stress Management Workshop
- Substance Use Counseling

Managed through the Office of Student Conduct

- SIRCA





Campus-based Workshops Cont.

Managed through the Center for Undergraduate Excellence

- Success Coaching
- Academic Success Center Workshops

Managed through the Gender Equity Compliance Officer

- Title IX Workshop

Managed through the Diversity, Equity, and Inclusion

- Cultural Competency





Reflection Papers

- Clarify the specific things you want the student to get out of this assignment. Due date of 2-3 weeks.
- Example 1:
 - Speak with 3 people who do choose not to drink alcohol
 - How do those people spend their time outside of class?
 - Do you have any common recreational activities with those people?
- Example 2:
 - Share at least three ways you could have avoided the incident.
 - How did your decision impact the community?
 - How did your decision fit with your values?





Journaling & Interviews

- Due date of 2-3 weeks.
- Journal example:
 - For one calendar week, type an itinerary for what you did each day. Minimally include:
 - Wake up time, class schedule, job schedule, eating, studying, choice / leisure activities, bed time
 - Can you identify any trends or priorities you've made through your schedule?
- Interview example:
 - Set up and complete an interview with a City of Kent police officer
 - Minimally ask: why did you become a police officer?; how is your safety compromised in large crowds?; what are some de-escalation techniques you use?...





Community Service

- Community Service is currently working through Community Engaged Learning
- Reasonable to expect max of 20 hours per month
- Minimum of 5 hours
- Average community service sanction over the last two years was 15 hours





Creative / Other Sanctions

- Creative / Other
 - Must be reasonable to complete
 - Must be reasonable for OSC to track & approve
 - Must fit the accusation & student learning needs
- Examples
 - Student Mediation Services
 - Student Success Coaching
 - Meditation / Yoga





Sanctions for Student Organizations

- All OSC sanctions may be applied
- Considering when to (and not to) suspend or dismiss recognition:
 - Severe or Pervasive?
 - Correctable measures
 - Reasonable chance for success





Due Dates for Sanctions

- Case-by-case basis
- Workshops will be due within days after the workshop is assigned (based on the student's academic availability)
- Most reflection assignments will be given 2-3 weeks to complete
- A community service due date will be based on averaging 10 hours in a month



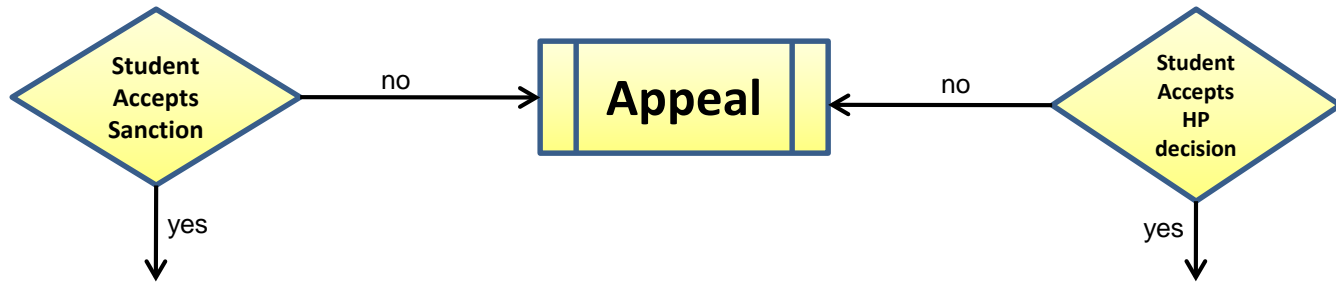


Explaining “Why”

- In order for the student to understand the purpose of sanctioning, an explanation of why certain sanctions are being imposed can be helpful in many cases
- Discussing why the behavior was inappropriate or disruptive, how the behavior affected others, and what skills the student is being encouraged to develop are very helpful



Appeals



- All hearing appeals are decided by the Vice President for Student Affairs through an APPEAL PANEL
- Basis for Appeal:
 - Not in accordance with the evidence presented
 - Procedural error
 - New information available which may alter the decision
 - Sanctions imposed were not appropriate (*ONLY for suspension / dismissal*)

Hearing Officers will be offered a chance to supply
information/responses





Hearing Officer Appeal Response

- **Appeals are not re-hearings**
- Reply within 2 days (**even if you have no additional comments**).
- Response should directly relate to the basis of the appeal
- Review (substance and grammar) prior to replying
- Keep responses simple
- *Note that your reply will become part of the disciplinary file*





Questions & Answers

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