



# University Conduct Board

**Decision Writing Workshop**

Required Training for all UCB Members

*Lunch & Learn Series*

*Spring 2022*



## Training Note

*This training was created for University Conduct Board members at East Stroudsburg University in Pennsylvania. Training materials are provided on the Student Conduct and Community Standards website to adhere to the Title IX Federal Regulations of 2020.*

*Note that written decisions following a Formal Hearing involving alleged violations of the Sexual Misconduct (Title IX) Policy have additional considerations. Faculty and Staff members of the UCB are required to participate in separate training sessions to review additional considerations for written decisions for Title IX-related Formal Hearings.*

*Questions about training materials can be directed to SCCS.*

# Learning Outcomes

1. Participants will outline the key points to effective rationale writing.
2. Participants will write decisions/rationale statements based on sample scenarios.
3. Participants will review and assign educational sanctions based on their rationale statements and determinations.

# A Quick Review of Relevant Information (Part 1)

## What is the Standard of Proof for Student Conduct Incidents?

- The standard of proof is always preponderance of the evidence, no matter what violations are involved in a Formal Hearing process
- *Ask yourself:* Is it more likely than not that this violation occurred, based on the evidence presented and the information provided?

## Who has the Burden of Proof in the Student Conduct process?

- The burden of proof falls on the University, students are not expected to “prove” their involvement or lack thereof but do have the opportunity to be heard through the conduct process
- The University is responsible for gathering enough information to make a determination about an alleged violation – this is why questions are so important to the Formal Hearing process!

# A Quick Review of Relevant Information (Part 2)

## What is an Outcome Letter, and what does that mean for UCB members in a Formal Hearing?

- The Outcome Letter is an official communication of:
  1. A determination of *Responsible* or *Not Responsible* for each alleged violation, based on the facts and information in the Formal Hearing;
  2. A Rationale Statement to support each individual finding (one statement per finding); and,
  3. Appropriate Educational Sanctions (if there are any findings of Responsibility)
- UCB members may use the “Formal Hearing Decision Worksheet” as a guide while deliberating
- UCB members must use the “Formal Hearing Outcome” document to articulate the official Outcome of the Formal Hearing to SCCS

# A Quick Review of Relevant Information (Part 3)

## Wait, what is a rationale statement exactly?

- A rationale statement is a brief, written summary that supports your determination related to an alleged violation
- This is included in the Outcome Letter to help the student understand the information that supports your determination
- Each alleged violation will have a rationale statement – sometimes rationale statements will be similar, but in most cases the rationale statements will be unique for each finding

***Remember:*** While this information is primarily used to inform the referred student, but it may be viewed by others (such as, in the appeals process or in a lawsuit). All rationale statements must be sufficient enough to be defensible in a courtroom, if needed.

# Tools to Use When Writing Decisions

## Review of Tools Provided to the UCB:

- Formal Hearing Decision Worksheet
- Formal Hearing Outcome

## Remember:

- Keep in mind the intended and potential audience for the rationale statement(s).
  - Is the statement clearly articulated?
  - Is the statement sufficient to hold up in a courtroom?
- These documents are scanned and added to the case file for this student conduct incident.
  - Please write legibly!
  - Be professional while working on all documents.

# A Few Considerations for Effective Decision Writing...

## Use Your Critical Thinking Skills Before the Formal Hearing

- Take time to develop questions in advance of the hearing, to make sure you are fully prepared to serve as a decision maker
- Consider the elements of the alleged violations – make sure your questions will help address the elements

## Be an Active and Attentive Listener During the Formal Hearing

- Take notes as needed to help with deliberations
- Is the participant effectively answering a posed question? If not (or if the answer is too vague) consider if rephrasing/using a different type of question would help get more specific and clear information.



# ...And a Few More

## Considerations for Post Hearing Deliberations

- Did the student accept or reject responsibility for the alleged violation?
- Was there a specific statement made that supports an element of the alleged violation? Are there any elements of a violation that are not supported by any of the information available?
- Did any witnesses observe the alleged violation first-hand? In full, or in part? Is there any additional information available to support the witness' account?
- Does there need to be a credibility determination made between conflicting pieces of information? If so, what facts and information is known? How much weight will that information be given when determining if a student is or is not responsible for an alleged violation?
- What new information came up during the Formal Hearing, if anything? Does this new information conflict with any previous information/statements from the referral(s)? What information do we have about this disconnect in the information?

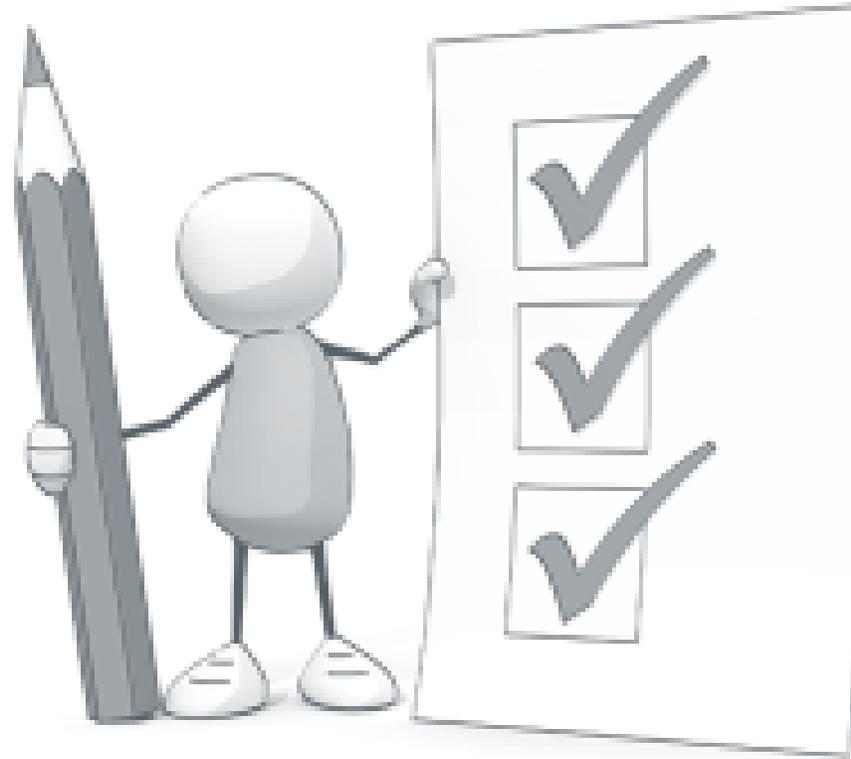


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# Remember: Less is More!

- Keep rationale statements brief, relevant, and individualized for each violation of community standards.
- Review, revise, and refine as needed – most rationale statements only need to be brief a sentence or two.
- *(It's repetitive, but seriously)* Less is more! Make sure to consider each and every word in your rationale statement. When you have your completed rationale statement make sure to include it on the Outcome Worksheet provided for the hearing.

***Faculty and Staff Members:*** Remember that there are specific additions to rationale statements and outcome letters when serving as a Decision Maker in cases related to alleged violations of the Sexual Misconduct (Title IX) Policy. Be sure to review the information from other required trainings when needed to be prepared for the live hearings.



Let's Apply Our New Knowledge

# Guiding Information for Sample Scenarios

## General Questions for Each Scenario:

- What are the essential elements of the alleged violation(s) of community standards?
- Which pieces of information are available to use in the decisions making process?
  - *Remember: Hearsay evidence cannot be used to establish a determination.*
- What information supports a determination of “Responsible”?
- What information supports a determination of “Not Responsible”?



## Based on the Preponderance of the Evidence – what is your determination?

- Once you have your decision, take a minute to articulate your finding in a rationale statement.

## If there are any findings of responsibility, what educational sanction(s) would you consider?

- Remember, educational sanctions should connect to an identified learning outcome

# Putting Our Skills Into Practice: Scenario #1

## Alleged Violation of Community Standards

- **Academic Misconduct – a:** During a test or examination, using anything, such as, but not limited to, any device, document, person or other resource not authorized by the instructor.

## In the Formal Hearing...

- **Participants:**
  - Professor
  - Referred Student
  - One witness for the Referred Student
- **Additional Information Reviewed:**
  - Incident Referral
  - Exam Papers
  - Pictures of the Water Bottle Label

# Scenario #1: Information from the Professor

- The professor teaches a math class for primarily first-year students at ESU. On March 2, 2022 the Professor administered a mid-term exam for the Calculus class. Professor stated that students were allowed to use a calculator, but no other resources (notes, books, etc.) were permitted.
- During the exam the professor monitored the room. The professor noticed the referred student taking numerous, quick sips of water from their water bottle around the mid-point of the exam. Referred student turned in the exam with about 10 minutes left in the class period.
- After the exam the professor tidied up the room to prepare it for the next class. The professor found a water bottle with common equations and graphs on the inside of the water bottle label. The professor stated that this water bottle was at the referred student's desk and appeared to be the same one they drank out of during the exam.
- The professor included pictures of the water bottle and a picture of the removed label (with equations and formulas) in the referral. The water bottle was from the brand Fiji. This brand has a label wrapped around most of the water bottle.
- **Questions from the UCB:** The UCB asked if the calculations written on the water bottle label were related to the exam material. The professor said that there were four major content areas on the mid-term exam, and three of these areas were referenced on the water bottle label. The UCB asked about how many students were in the class, and how everyone was seated during the exam. The professor provided a copy of the seating chart for the classroom. This chart shows the referred student sat at the desk where the water bottle was found. The professor also stated that only one student was absent during the midterm, so a seat on the other side of the room was empty.

## Scenario #1: Information from the Referred Student

- The referred student denied using any kind of material to cheat on the exam. The student stated that they knew the material and had been getting help from a tutor on campus.
- Referred student stated that they spent more time than usual reviewing the practice short answer questions provided in the textbook study guide. The student also brought a witness, their fellow classmate, who has been helping to tutor the student.
- Referred student states that the professor “doesn’t like me” and “wants to get back at me from when I reported the ineffective teaching style to the department chair”. Referred student explained that this situation has been emotionally troubling and that they have had trouble keeping up with other class work while they deal with this situation.
- ***Questions from the UCB:*** The UCB asked the referred student to describe the items that they brought to the midterm. The referred student stated that they brought their jacket, a backpack with their books for the next class, a few pens and pencils, their cell phone (which was silenced), and a scientific calculator. The UCB further asked if the referred student if they brought any drinks into the classroom. The referred student confirmed bringing their water bottle, but stated “I only drink Dasani water, I don’t like the water other bottled water tastes” and denied ever using a Fiji water bottle.

# Scenario #1: Information from the Referred Student's Witness

- The witness for the referred student is also in this class, but had taken advanced classes in high school and felt prepared enough to tutor the referred student.
- The witness explained that they met with the referred student for about an hour two or three times a week during the semester. They worked on homework together and would study for exams together.
- The witness stated that before the midterm they spent about 4 hours over the course of two days to study all of the major mathematical concepts.
- ***Questions from the UCB:*** The UCB asked if the witness was present on the day of the exam. The witness stated that they were absent during the exam because they started experiencing some severe stomach issues and ended up going into the local hospital for tests, which turned out to be a gallbladder issue. The witness stated that they took a make-up exam the following week.

# Considerations for Sample Scenario #1

## General Questions:

- What are the essential elements of the alleged violation(s) of community standards?
- Which pieces of information are available to use in the decisions making process?
  - *Remember: Hearsay evidence cannot be used to establish a determination.*
- What information supports a determination of “Responsible”?
- What information supports a determination of “Not Responsible”?

## Based on the Preponderance of the Evidence – what is your determination?

- Once you have your decision, take a minute to articulate your finding in a rationale statement.

## If there are any findings of responsibility, what educational sanction(s) would you consider?

- Remember, educational sanctions should connect to an identified learning outcome

# Common Educational Sanctions (if needed for Scenario #1)

- Official Warning
- Disciplinary Probation
- Follow Up Meeting with SCCS
- Deferred Suspension
- Immediate Suspension
- Expulsion
- Removal from Housing
- Restitution (Damaged Property and/or Repayment)
- Parental Notification
- ScreenU
- Alcohol Edu for Sanctions
- BASICS
- Alcohol & Drug Evaluation and Assessment
- Fire Safety Video(s) & Reflection Paper
- Marijuana 101
- CASICS
- Academic Integrity Seminar
- Academic Integrity Research & Reflection Paper
- COVID-19 Information/Reflection
- Ethics Workshop
- Civility Workshop
- Meeting with ESU Case Manager
- Meeting with CAPS
- Anger/Emotion Management Assessment

# Putting Our Skills Into Practice: Scenario #2

## Alleged Violation of Community Standards

- **Misuse of Alcohol – c:** Possession or consumption of alcoholic beverages by persons not of legal age
- **Misuse of Property:** Deliberate destruction damaging public or private property. The unauthorized access or entry into University property, buildings, structures, facilities, residence facilities or property of any member of the University community.
- **Policy or Law:** Violations of University Policy and/or federal, state or local law.

## In the Formal Hearing...

- **Participants:**
  - Resident Advisor
  - University Police Officer
  - Referred Student
- **Additional Information Reviewed:**
  - Incident Referral from RA
  - Incident Referral from University Police
  - Picture of Identification Card

## Scenario #2: Information from the Resident Advisor (RA)

- The RA completed their assigned rounds in Hemlock Suites, beginning around 10:00pm on Sunday, January 10. At approximately 10:15pm the RA walked into the 1st floor lounge and observed a female student leaning across a table.
- The RA approached the student and asked if they were okay. The female student did not respond, but appeared to nod. The RA asked again, “Are you sure you’re okay? It looks like you are tired.” The female student responded with “I’m fine, leave me alone.”. The RA stated that it was difficult to understand the female student due to their speech being slurred.
- The RA called University Police because they did not recognize the student and were concerned for the student’s well-being. University Police responded to the situation a few minutes later (approximately 10:30pm). The RA stayed nearby, mostly observing during this portion of the incident.
- Around 10:50pm, the RA witnessed the female student move to a nearby lounge chair. The RA stated that the female student tried to stand up and walk away, but bumped the right-side of her body into a support column, then sat down on the floor. The RA noticed that there was a large dent in the column that they hadn’t observed earlier. The RA overheard the female student say, “This is taking too long, now my arm hurts” and watched the student hold their right arm. The RA also heard the student say “You are really doing the most right now. Can’t I just get a ride back to my room?”.
- **Questions from the UCB:** The UCB asked if there was any other information that the RA observed in this situation. The RA stated that the female student had glassy eyes. The RA stated they remembered this because the student kept rubbing their eyes, and the RA thought that maybe eye shadow or glitter got in the student’s eyes. When the RA mentioned this, the student responded with “No, glitter is terrible. This is all from the Schnapps.”

## Scenario #2: Information from the University Police Officer

- At 10:27pm on Sunday, January 10 the Officer responded to a call for a situation in the 1st floor lounge in Hemlock Suites. Officer arrive on scene and observed one student (the RA) standing near a table and looking at another individual (the referred student).
- The referred student was laying on their stomach on top of their table. The referred student appeared to be humming a song. The Officer asked questions to determine the student's name, age, and assess their level of alertness. The Officer stated that the student was quick and clear in some responses, but took time for other questions. The student verbally provided their name, stated that they are 20-years-old, and stated that they live in Laurel Hall.
- The Officer asked for an identification card. The student provided a Driver's License from another state with a different name than what had been provided. The Officer asked if the student had any other identification. The referred student provided a PA License and ESU ID Card with corresponding information.
- As the Officer was discussing the process of a citation, the referred student stood up and walked toward the lounge doors. The Officer heard the student say "You can keep my ID card, I'll just get another one". The referred student's head was turned to their left-shoulder and the Officer saw the student walk into one of the columns in the middle of the lounge.
- The Officer called for medical assistance, after the student said "Ow, my arm!!!" and started to hold their right arm close to their stomach. Medical assistance arrived around 11:00pm to assess the referred student. They medically cleared the referred student and the Officer walked the student back to their room in Laurel Hall.
- **Questions from the UCB:** The UCB asked if the officer issued any citations. The Officer stated that they issued a citation for the false identification card. They stated the student verbally admitted to having the false identification to gain entry into a local night club. The UCB also asked if the Officer used a breathalyzer on the student. The Officer attempted to use a breathalyzer, but the student started waving their left arm and the breathalyzer fell to the ground.

## Scenario #2: Information from the Referred Student

- In the Formal Hearing, the referred student admitted to drinking approximately three shots of liquor in someone's room on-campus. The referred student does not really know the person that provided the alcohol, and just knows it was somewhere in Hemlock.
- The referred student stated that they don't drink often, and only had the fake ID card to get into a nightclub downtown. The referred student stated that people over 21 only pay \$5 to enter while people under 21 are charged \$30. The student stated that they have to all their own bills and cannot afford to go dance each weekend when it costs \$30.
- The referred student stated that they did not really remember what had happened on January 10. They further stated that only had two, or maybe three, shots of liquor that night because they were trying to impress a new friend from Hemlock. The referred student explained that they realized while sitting in the lounge that the people they thought were friends were not good people to be around.
- ***Questions from the UCB:*** The UCB asked the referred student what they remembered, if anything, about walking into the column in the lounge. The referred student stated that they remembered trying to get out of the lounge because the Officer and RA "were getting annoying" and then ended up sitting on the floor. The referred student stated that they did remember making a sarcastic comment about the Fake ID card after listening to the witnesses in the Formal Hearing. The referred student stated that they would not intentionally damage university property, especially because they have a lot of bills and a campus job that only pays minimum wage.

# Considerations for Sample Scenario #2

## General Questions:

- What are the essential elements of the alleged violation(s) of community standards?
- Which pieces of information are available to use in the decisions making process?
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- What information supports a determination of “Not Responsible”?

## Based on the Preponderance of the Evidence – what is your determination?

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## Common Educational Sanctions (if needed for Scenario #2)

- Official Warning
- Disciplinary Probation
- Follow Up Meeting with SCCS
- Deferred Suspension
- Immediate Suspension
- Expulsion
- Removal from Housing
- Restitution (Damaged Property and/or Repayment)
- Parental Notification
- ScreenU
- Alcohol Edu for Sanctions
- BASICS
- Alcohol & Drug Evaluation and Assessment
- Fire Safety Video(s) & Reflection Paper
- Marijuana 101
- CASICS
- Academic Integrity Seminar
- Academic Integrity Research & Reflection Paper
- COVID-19 Information/Reflection
- Ethics Workshop
- Civility Workshop
- Meeting with ESU Case Manager
- Meeting with CAPS
- Anger/Emotion Management Assessment

# Final Reminders

- Prepare Before the Formal Hearing
  - Effective Preparation is key to a successful and fair hearing
- Stay Engaged During the Formal Hearing
  - New information may come up, and you will need to actively listen and pivot questions as appropriate
- Use the tools available to help write decisions
- If there is a procedural question – just ask!
- **Remember:** When it comes to Rationale Statements, less is more! Think about each word in the rationale statement.



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# Thank You!



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*Thank you for your participation! Please complete the anonymous survey on your screen.*

*We appreciate your commitment to East Stroudsburg University, the Office of Student Conduct and Community Standards, and our students.*

*Please remember to contact SCCS with any questions about this training and/or any trainings related to the University Conduct Board.*

# References

- ESU Student Code of Conduct
  - Available on the [SCCS Website](#)
- University Conduct Board Training Manual
  - Available on the [UCB Training Website](#)

***Please Note:*** *The scenarios used herein were created for the specific purpose of training for the UCB. These are hypothetical and are not actual student conduct cases.*