

Preparing for a Formal Hearing

Steps for Administrative Hearing Officers and University Conduct Board Members

Training Note

This information has been provided to members of the University Conduct Board (UCB) to assist in preparing for a Formal Hearing. Note that Formal Hearings involving alleged violations of the Sexual Misconduct (Title IX) Policy will have additional steps of preparation and additional considerations for involved parties. Questions about this document can be directed to the Office of Student Conduct and Community Standards.

General Information on the Formal Hearing Process

Formal Hearings are an important part of the student conduct process. A referred student may request to participate in a Formal Hearing following an initial review of the incident referral with Student Conduct and Community Standards (SCCS). A Formal Hearing will then be scheduled by SCCS Staff. In addition, SCCS may bring an incident referral to a Formal Hearing if the referred student has not participated in the conduct conference and there is enough information contained in the referral to continue the conduct process.

The Formal Hearing provides the referred student another forum to review the incident and share their experience as it relates to the alleged violations of community standards. This process also provides the referred student an opportunity to appeal the outcome (in adherence with the process detailed in the Student Code of Conduct). Formal Hearings will be coordinated through SCCS with either:

- an Administrative Hearing Officer (one trained faculty or staff member from the UCB); or,
- the University Conduct Board (a combination of trained faculty, staff, and student members from the UCB group).

The Hearing Officer is responsible for reviewing the incident information, listening to statements, weighing evidence, and ultimately determining an outcome for the alleged violation(s) of community standards. The student conduct process uses the preponderance of the evidence standard, meaning that a determination of responsibility is based on whether it is more likely than not that the alleged violation occurred.

The University has the burden of proof in student conduct cases. During the Formal Hearing, a representative from the University will provide information related to the alleged violations. The referred student and involved parties (reporting party, witnesses, etc.) will also provide information related to the incident. The Administrative Hearing Officer or the University Conduct Board will review all information and make determinations based on the facts of the incident.

Hearing Officers complete annual trainings in order to participate in this process. Hearing Officers can review these trainings as needed to prepare for the formal hearing process, and are encouraged to contact SCCS with questions about the hearing process. Information on trainings for University Conduct Board members can be reviewed through the [SCCS Website](#).

Prior to the Formal Hearing

Individuals selected to serve as a Hearing Officer will be provided advance notice of the date, time and location for the Formal Hearing. This information is provided through Guardian (the case management system used by SCCS) with a Formal Hearing Notice. This notice will also include the name(s) of the referred student(s) and all witnesses identified by the University. If a Hearing Officer has a conflict of

interest with a specific referred student an alternate Hearing Officer may be used. Hearing Officers should directly discuss concerns with the SCCS Director as soon as possible.

Advance preparation is key to a successful Formal Hearing. Hearing Officers will complete the following steps to effectively serve in a hearing:

- Login to the Guardian portal and click on “Case Associations” to see limited information about the Formal Hearing. In this portal you will be able to review the date, time and location of the alleged incident and the name(s) of the referred student(s).
 - *Note: Contact SCCS immediately if there may be a conflict of interest in an assigned case to discuss the concern.*
- If a pre-determined review time has not been designated, contact SCCS to arrange a time to review the hearing materials. This is necessary to effectively prepare for serving as a Hearing Officer and should be completed as soon as possible.
- Visit the Office of Student Conduct and Community Standards for a supervised review of the formal hearing materials, including the following:
 - The Formal Hearing Cover Sheet including names of participants and the alleged Code of Conduct violations
 - The Incident Referral(s)
 - Any attachments (such as photos, videos, emails, etc.) that were included by the reporting party, if applicable
 - Additional evidence collected and entered into the Formal Hearing by the University and/or the Referred Student(s), if applicable
- Review the hearing materials again. Review the alleged violation(s) of community standards again. Take notes on a piece of paper and draft questions/topic areas to review in the Formal Hearing. Leave these notes with the hearing materials which will be secured in the SCCS Office until the hearing.
- Make arrangements to be fully present on the day of the Formal Hearing. If a Formal Hearing is cancelled or postponed for any reason notice will be provided to all involved participants.
- Review documents related to the Formal Hearing process, such as the Formal Hearing script and the UCB Training Manual, to adequately prepare.

Note that Formal Hearings involving alleged violations of the Sexual Misconduct (Title IX) Policy will require additional preparations. This list may not be exhaustive and Hearing Officers should review their annual trainings as needed to effectively serve.

During the Formal Hearing

Hearing Officers are asked to arrive to the Formal Hearing location approximately thirty-minutes prior to the listed start time to review the case information/notes from their pre-hearing review. If an emergency occurs the Hearing Officer must contact SCCS immediately to discuss the concern.

If a University Conduct Board panel is serving on the Formal Hearing, the selected Chairperson is responsible for conducting the hearing process. All panel members will actively participate by listening to the information presented, asking questions, and taking adequate notes for post-hearing deliberations. When the hearing involves only an Administrative Hearing Officer, this person will be responsible for individually reviewing the case, listening to the presented information and asking questions. Active and attentive listening is essential for the hearing process.

For most cases, a representative from SCCS will be available to answer procedural questions or address technological issues. Hearing Officers will need to use situational judgement throughout the hearing process.

After a Formal Hearing

At the conclusion of the Formal Hearing the referred student(s), witness(es) and University representative will be excused from the hearing. The Hearing Officers must provide the recording device to SCCS staff for processing and record-keeping. Materials from the Formal Hearing are not permitted outside the hearing room.

The Administrative Hearing Officer or University Conduct Board will have three (3) business days to review all evidence and prepare the outcome. Depending on the complexity of the case, the Hearing Officers may meet immediately to review the case or they may take initial notes on the finding and reconvene within the next business day(s) for further review.

The Administrative Hearing Officer (or the Chairperson for a University Conduct Board) is required to submit an outcome for the Formal Hearing. The outcome consists of a determination of either “Not Responsible” or “Responsible” for each alleged violation of community standards. Determinations for alleged violations are made independently and will be based on the facts presented in the case. A rationale statement will be required for each determination and should reference specific facts or evidence used to reach that determination. This statement will be included in the referred student’s outcome letter and must be clearly articulated.

Determinations and rationale statements must be completed in full before moving into the next step. Depending on the outcome, there are two possible actions:

- If a finding of “Not Responsible” is reached for all of the alleged violations, no further review is needed. The outcome will be provided to the SCCS Secretary for case processing.
- If a finding of “Responsible” is reached for any of the alleged violations, then appropriate educational sanctions will need to be assigned for the referred student. At this time the Administrative Hearing Officer/Chairperson will notify SCCS and will be permitted access to prior conduct history for the referred student (if any). Hearing Officers will assess appropriate educational sanctions based on identified learning goals for the referred student. Educational sanctions should relate to the alleged violations and should align with the severity of the referred student’s behavior in the incident. The outcome and assigned educational sanctions will be provided to the SCCS Secretary for case processing.

The Formal Hearing Outcome Letter will be sent on behalf of the Hearing Officers by Student Conduct and Community Standards. Referred students have five (5) days from the date of the Outcome Letter to submit an appeal, as detailed in the Student Code of Conduct. Hearing Officers will continue to respect the privacy of student conduct information and should contact SCCS if the referred student tries to talk with them about the hearing outcome.