

Decision Writing Workshop

University Conduct Board Training

Training Note

This information has been provided to members of the University Conduct Board (UCB) to assist in writing rationale statements after a Formal Hearing.

Note that written decisions following a Formal Hearing involving alleged violations of the Sexual Misconduct (Title IX) Policy will 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 this document can be directed to the Office of Student Conduct and Community Standards.

A Quick Review of Information

What is the Standard of Proof?

- Preponderance of the Evidence meaning “more likely so than not”. Remember, this is known colloquially as “50% plus a feather”. We are an educational process and the standard of proof aligns with this process.
- 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?

- The burden of proof falls on the University – this means that the University must provide adequate information to make a decision. The University is responsible for demonstrating there is or is not responsibility for an alleged violation, which is why questions are so important to the Formal Hearing process.
- Students are not expected to “prove” their involvement, or lack thereof, in incidents but the information presented by students and witnesses should be considered.
- In most student conduct cases moving to a Formal Hearing, a representative of SCCS will discuss the incident referral and share information that relates to the alleged violations as part of the University’s presentation at the Formal Hearing.
- In a Title IX-related Formal Hearing, the Final Investigative Report is the summary of information gathered by Title IX Investigator(s), the representative(s) of the Title IX Office. This document provides specific information from the investigation and is used by the decision makers.

Wait, what is a rationale statement exactly?

- A rationale statement is a brief, written summary that supports your finding for an alleged violation. It is a statement shared with the referred student in the Outcome Letter which helps them understand what evidence supports your finding.
- Each alleged violation will have a rationale statement. Sometimes rationale statements will be similar for violations, but in most cases the rationale statements will be unique for each finding.
- Though the intended audience for this rationale statement is primarily the referred student, this information may be viewed by others (such as, in the appeals process or in a lawsuit). The rationale statement must be sufficient enough to be defensible in a courtroom, if needed.

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. Educational Sanctions (only if there is any finding of Responsibility)
- UCB members make a determination for the alleged violation(s) of community standards and will document this decision in a Formal Hearing Outcome Worksheet. SCCS will send the outcome letter on behalf of the UCB using the information in the Formal Hearing Outcome Worksheet.

The Keys to Effective Decision Writing

- Use critical thinking as you review information available pre-hearing.
 - Look for gaps in the incident description, missing or incomplete information, or conflicting information to help develop your list of questions to ask during the Formal Hearing
 - Consider the elements of the alleged violation(s) of community standards and make sure that your questions will help address those elements
- Active and attentive listening during the entire Formal Hearing is essential.
 - Remember to take notes during the hearing when needed to help as you process the information.
 - Is the participant (referred student, witness, etc.) effectively answering the 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.
- Considerations for post-hearing deliberations:
 - Did the student accept responsibility for the alleged violation? Did the student reject responsibility?

- 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?
- 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 Formal Hearing Outcome Worksheet.

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.

Putting Our Skills Into Practice

Questions to consider for sample scenarios:

- 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.