

# Conduct Procedures

## Conduct Procedures

The purpose of the University conduct proceeding is to determine if a student violated the Student Conduct Code, and if so, to determine appropriate sanctions. In cases where one student (the "reporting party") files a complaint against another student (the "responding student"), the University may proceed with the case on the basis of other evidence and testimony, even if the reporting party does not wish to participate or continue in the process.

## Evidentiary Standard

**Preponderance of the Evidence Standard** is the information that would lead a reasonable person to conclude it is "more likely than not" that a Respondent violated this Student Conduct Code. In this context, the Respondent will be found to be responsible for the alleged violations if the Conduct Officer or the Conduct Committee concludes that the University has shown that such conduct more likely than not (i.e., preponderance of the evidence) occurred based on careful review of all information presented. This is different than the standard used in criminal complaints, which is considered the highest standard of evidence, "beyond a reasonable doubt."

## Case Adjudication and Jurisdiction

Code violations occurring on campus and off-campus (subject to the jurisdictional guidelines for the University as outlined in Section II) are adjudicated by Student Conduct.

## Procedures for Adjudicating General Misconduct Cases

1. **Referral:** A referral is made to the Office of Student Conduct, or designated official, regarding an alleged violation by a student of the Student Conduct Code. Occasionally, the Office of Student Conduct, may also pursue cases resulting from police reports, media reports, and other referral sources from outside the University. The Hearing Officer begins a preliminary investigation into the allegations.
2. **Informal Resolution by the Hearing Officer**
  - a. **Initial Notification:** The Student Conduct official sends an initial notification via UAB email to the student (the "responding party") that includes the following:
    - i. Notification that an allegation of a violation of the Conduct Code has been brought forth
    - ii. A brief description of the alleged incident
    - iii. A list of potential charges from the Standards of Student Conduct based on the preliminary information
    - iv. Notification of the right to be accompanied by a support person or an attorney throughout any element of the conduct proceeding
    - v. A request to schedule a date and time for a Preliminary Meeting to discuss the incident
  - b. **Investigation:** The Student Conduct official or a designee, including an outside independent investigator, will investigate the incident and

determines the facts through interviews, reports, and other evidence. Elements of the investigation may occur before, during, and after the Preliminary Meeting, the Findings Meeting, and any appeal proceeding.

- c. **Preliminary Meeting:** The Student Conduct official or a designee holds an initial meeting with the respondent to: (a) inform the student of the charges and ensure they are understood, (b) inform the student of the Student Conduct Code procedures for adjudicating conduct cases, and (c) ensure the student has access to a copy of the Student Conduct Code. In the Preliminary Meeting the respondent may choose to begin discussing the facts of the case if desired, but it is not required. The purpose of the Preliminary Meeting is to inform the student of the case, the potential charges, and the conduct procedures under the Code.
  - d. **Moving directly into the Findings Meeting:** If, during the Preliminary Meeting, the respondent has come to a decision about whether or not the student wishes to accept responsibility for violating the Student Conduct Code, the respondent may elect to move directly into the Findings Meeting (description below). However, if the respondent wishes to schedule a separate time to return for a Findings Meeting, or if the Office of Student Conduct official determines that more time is needed to gather additional information, a future time for the Findings Meeting may be set.
3. **Findings Meeting:**
    - a. The Findings Meeting must occur within five (5) working days of the Preliminary Meeting unless alternate arrangements are made that are agreeable to all parties. Extenuating circumstances could require the process to extend beyond the time frames described above, and the University will determine in its discretion if such circumstances exist and will notify the parties in writing of the delay and the reason for the delay. Potential reasons for requiring additional time for resolution of the process include, but are not limited to, the complexity of the investigation, the severity and extent of the alleged conduct, University closings, breaks, holidays, summer terms, lack of access to witnesses, and factors outside the University's control.
    - b. In the Findings Meeting, the Student Conduct official will present relevant evidence and the responding party will have an opportunity to respond to the evidence and potential charge(s) and present additional evidence and/or witnesses. Both parties may ask questions of each other and seek clarification.
    - c. Based on the evidence, the Student Conduct official makes an impartial decision and informs the responding party of the findings.
      - i. If the responding party is found in violation of the Student Conduct Code, the student is also informed of the recommended sanctions.
    - d. The Student Conduct official summarizes the findings and recommended sanctions (if applicable) in a

**Case Adjudication Letter** to the student. This letter includes findings for each individual charge, a statement of evidence that informed the decision, and a list of recommended sanctions.

- e. If the responding party does not appear for a Findings Meeting, the charges are accepted as outlined in the Initial Notification and the Student Conduct official will impose the conduct sanctions appropriate to the violation if the preponderance of evidence standard is met. The responding party is notified of the findings and the sanctions (if applicable) and loses the right to further appeal.
  - f. Except for interim action(s) that may be taken by the University (Section VI. D.), conduct sanctions are not imposed until the final resolution of the charges or until the deadline for a final appeal has passed.
- 4. Responding Party's Options in Response to the Findings and/or Sanction(s)**
- a. The responding party has two options in response to the Case Adjudication Letter: (1) to accept the findings and the sanctions, (2) to not accept the findings and/or sanctions. The responding party has five (5) working days to appeal any outcome of the Case Adjudication.
    - i. If the responding party accepts the outcome of the Case Adjudication, the next steps are to comply with any sanctions outlined. If the responding party chooses not to respond to the Case Adjudication Letter within the five (5) days, the findings and sanctions are adopted and the student forfeits the right to appeal.
    - ii. If the responding party does not accept the findings and/or the sanctions, an appeal may be requested. The responding party may appeal to the Director of Student Conduct (or designee). See next section, "Appeal."
- 5. Appeal to the Office of Student Advocacy, Rights and Conduct**
- a. **The Student Submits an Appeal Letter:** If the student does not accept the findings and/or sanctions and wishes to appeal, the student must submit a written letter discussing the reasons for the appeal within five (5) working days to the Office of Student Conduct.
  - b. **The Case is Reviewed by the staff in the Office of Student Advocacy, Rights and Conduct:** Upon receipt of the student's appeal letter, the Office of Student Conduct will review the electronic file.
  - c. **Appeal Meeting is Scheduled:** Upon receipt of the appeal materials, the Office of Student Conduct will contact the student to arrange a meeting to hear the appeal (the "Appeal Meeting"). This meeting must occur within five (5) working days of the date the student is contacted, unless a different arrangement is made that is agreeable to all parties.
    - i. If the student intends to be accompanied by an attorney or support person, the student must provide notification at least three (3) working days in advance of the scheduled meeting.
- 6. Appeal Meeting**

- a. The purpose of the Appeal Meeting is to provide a final opportunity for informal resolution of the charges and the case.
  - i. The Director of Student Conduct will meet with the student, consider the reasons for the appeal, review additional information as necessary, and make an impartial determination as to whether the original finding(s) and/or sanction(s) are upheld, overturned, or modified.
  - ii. The findings from the Appeal Meeting are summarized for the student in an **Appeal Findings Letter**. This letter includes the original charges in the case, the findings and sanctions of the original Hearing Officer, and the findings and sanctions of Director of Student Conduct.
  - iii. If the student fails to appear for an Appeal Meeting, the original findings and sanctions are upheld. The student is notified that the decisions about findings and sanctions are final and the student forfeits the right to further appeal.
  - iv. Except for interim action that may be taken by the University (Section VI. D.) conduct sanctions are not imposed until the final resolution of the charges or until the deadline for a final appeal has passed.

**7. Responding Party's Options in Response to the Appeal Findings Letter**

- a. The responding party has three options in response to the Appeal Findings Letter: (1) to accept the findings and the sanctions, (2) to not accept the findings and/or the sanctions, or (3) to not respond at all. If responding party chooses to report, the student has five (5) working days to do so after the Appeal Finding Letter is sent to the student.
  - i. If the responding party accepts the Appeal Findings Letter, then the next steps are to complete any outlined sanction(s). If the student chooses to not respond to the Appeal Findings Letter within the five (5) days, the findings and sanctions are accepted and the student forfeits the right to appeal the case further.
  - ii. If the responding party does not accept the findings and/or the sanctions resulting from the Appeal Meeting, the student may request that the case be transferred to University Conduct Board (see next section).