University Conduct Process

**Summary/Purpose:** To describe the University’s conduct process from notice of charge through the appellate process.

Below is the outline for the complete University conduct process.

1. **Notice of Charge**
   When a charge is initiated against a student, or recognized student organization the Office of Conflict Resolution and Student Conduct or Department of Student Housing sends the involved student(s) or organization written notification in the form of an email or letter to meet with a representative of that department for a prehearing. This notice will inform the student of the specific policy, rule, or regulation that the student or organization is charged with having violated; the date, time, and place of the prehearing; and any other information deemed pertinent to the specific case.

2. **Prehearing**
   At the prehearing, a representative of the Office of Conflict Resolution and Student Conduct or Student Housing will discuss the charges with the affected student(s). With the consent of all parties involved, the case may be immediately heard before an administrative hearing officer (a representative of the Office of Conflict Resolution and Student Conduct or Student Housing), referred for alternative dispute resolution, or referred to the appropriate governing body for the student organization. If the parties do not so agree, the case shall be forwarded to a hearing body.

   If the parties agree for the case to be heard by an administrative hearing officer, the charged student or student organization waive all right to appeal; any decision rendered and sanction assigned by the administrative hearing officer is final.

3. **Notice of Hearing**
   If a student will participate in a hearing before a panel of the University Judicial Council, the student will be provided written notice of the charges and the date, time, and place of the hearing along with a copy of this policy.

4. **Hearing Process**
   Below are hearing procedures used within the University Judicial Council; similar procedures would be followed for all hearing bodies within the University conduct system. These procedures assume a prehearing has taken place or that the Office of Conflict Resolution and Student conduct or other conduct officer has determined that the case should immediately be forwarded to a panel for hearing.

   a. Student disciplinary hearings are not intended to be adversarial but educational, conducted in an atmosphere of informality and fairness. Formal rules of process,
procedure, and/or technical rules of evidence such as those applied in criminal or civil court are not used in the University conduct process.

b. The chair of the hearing panel will preside over the hearing. The chair, with the aid of the Office of Office of Conflict Resolution and Student Conduct, or other hearing officer, shall notify all interested parties of the hearing and their rights at the hearing distribute copies of all relevant materials to the parties and members of the hearing body before the hearing, and at the beginning of the hearing, explain the process that will be followed.

c. During the course of the hearing, the chair of the panel shall make all procedural and evidentiary determinations, which are final.

d. In determining whether the charged party is responsible for violations of University policy, the University conduct system may consider information upon which institutions normally make academic and business judgments, including but not limited to pertinent records, exhibits, and oral and written statements.

e. If the University charges a student based upon the student’s criminal conviction by any trial court of competent jurisdiction, the criminal conviction may be accepted as a final factual determination that the student has violated applicable University policy. The function of the University’s conduct process shall be limited to determining the appropriate University sanction under this and other University policies.

f. The parties shall have the right to present information for the panel’s consideration to include identification of witnesses.

g. The accused student(s) or organization and victim when applicable, has the right for an advisor or counselor of their choosing to attend the hearing, but any advisor or counselor accompanying a party will not be permitted to speak or participate directly in the hearing but will be limited to speaking only to the party for which they are advising. The student or organization, and victim may request to have one additional advisor or counselor at the hearing. This request should be submitted in writing to the Office of Conflict Resolution and Student Conduct.

h. As the parties present information for the panel’s consideration, members of the hearing panel, including the chair, the accused, and victim when applicable, may ask questions of the parties and other witnesses concerning the information presented or other information pertinent to the charge.

i. Refusal to respond to questions posed during a hearing may lead to an adverse inference by the hearing panel concerning the subject matter of the question posed, and this adverse inference, if applicable, may be one factor considered by the hearing panel in making its decision.
j. In a case in which the student or organization has admitted the wrongful conduct, the hearing panel may elect to proceed directly into deliberation concerning appropriate sanctions rather than hear evidence of the misconduct. The accused student or organization and victim when applicable, will have the opportunity to make a final statement prior to deliberations.

k. At the conclusion of all evidence, the hearing panel will deliberate in private and will determine by majority vote whether it is more likely than not that the student or organization being charged violated University policy, and if so, will determine an appropriate sanction.

l. In cases involving harm to another member of the University community, the victim will have the opportunity to provide a written, victim impact statement. This statement will be considered in determining sanctions only after a determination of responsibility is made.

m. The hearing will be closed to the public.

n. Hearings involving several students or organizations may be consolidated if, in the opinion of the Office of Conflict Resolution and Student Conduct or other hearing officer, the issues involved arise from a common nucleus of facts and circumstances.

o. The hearing will be recorded in some fashion.

5. **Failure to Appear**
   If a student fails to attend a prehearing, an administrative hearing, or a hearing before a student conduct body, the hearing may be held in the student’s absence, which may lead to further charges for disregard of University authority.

6. **Appeal**
   If the decision of a University hearing body may be appealed, the student (whether victim or accused) or student organization must submit a written appeal to the Office of Conflict Resolution and Student Conduct within five (5) business days of the decision being appealed unless a longer period of time is specified in writing.

   a. **Basis for Appeal**
      The first determination that needs to be made is whether or not the appeal has merit and should move forward for review by the Appellate Consideration Board. The initial determination of merit is made by the chair of the Appellate Consideration Board based upon the written request for appellate consideration and the hearing record to include information presented to the University hearing body and any audio or visual recording of the hearing. In determining whether or not an appeal has merit, the chair of the Appellate Consideration Board will not substitute his or her judgment for the decision of the University hearing body. Rather, determination of merit will be based on the following:
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i. whether prescribed University disciplinary procedures were followed, including whether the alleged misconduct falls within the jurisdiction of the University conduct system;

ii. whether the decision reached by the University hearing body was arbitrary and capricious (that is, the decision was not based on substantial evidence);

iii. whether the sanction(s) imposed by the hearing body were appropriate for the violation that the student or organization was found to have committed; and

iv. whether new evidence exists sufficient to alter the original decision that was not considered at the original hearing and was not known by the charged party at the time of the hearing.

b. Appellate Process
Cases involving violations of University policy heard by any University hearing body, including the University Judicial Council and the Department of Student Housing Hearing Board, may be submitted for appellate review. The Chancellor has delegated final authority of review to the Appellate Consideration Board for cases it convenes. Once the Appellate Consideration Board has made a decision, the student or student organization and victim when applicable will be notified in writing of the appellate ruling.

c. Appellate Decisions
After reviewing the appeal and documents pertaining to a particular case, a panel of the Appellate Consideration Board may:

i. request additional information from the appealing party, the hearing panel, victim; or individual that initiated the original complaint;

ii. remand the case back to the original hearing panel for reconsideration;

iii. uphold the decision of the hearing panel in part or in total;

iv. modify by changing the imposed sanctions; or

v. reverse the decision of the hearing panel in part or in total.

7. Victim Notification
The Office of Conflict Resolution and Student Conduct will disclose to the victim the results of any disciplinary proceeding conducted by the institution. If the victim is deceased as a result of the crime or offense, the information shall be provided, upon request, to the next of kin of the alleged victim.

8. Actions Including Student Holds
If a student fails to appear in response to a notice of a prehearing, a notice of hearing, or a notice to appear before any University hearing body or officer under another University conduct process, and/or if a student receives sanctions based on a finding that he or she was in violation of a University policy and has neglected to complete those sanctions, a hold may be placed on the student’s account. A hold restricts a student’s ability to conduct the following nonexclusive list of activities: register for classes, drop or add classes, , and other administrative privileges. It is within the discretion of the office which places the hold to determine under what circumstances a hold may or may not be released.
9. **Sexual Misconduct**
For additional procedures involving cases of sexual misconduct please reference policy DSA.SC.200.075.

10. **Students with Disabilities**
University policy calls for reasonable accommodations to be provided to students with disabilities on an individualized and flexible basis as mandated in Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Students with disabilities who require an accommodation in order to complete any of the appeal or judiciary proceedings noted above should contact the University department handling the appeal or judiciary proceedings. Students may also contact the Office of Student Disability Services for assistance and referral. More information regarding the Office of Student Disability Services can be found at [www.olemiss.edu/depts/sds/](http://www.olemiss.edu/depts/sds/) or by visiting the Office of Student Disability Services located at 334 Martindale Student Services Center.