



University Hearing Board Procedures

Revised August 6, 2012

Purpose

When a student at the University of Richmond is charged with a serious violation of the policies of the University, including, but not limited to sexual misconduct, the University Hearing Board is charged with conducting a fair and impartial evidentiary hearing, making a determination regarding whether the accused student is responsible for a violation of University policy, and, if the student is found responsible, determining the appropriate sanction. The University Hearing Board seeks to ensure a fair and impartial hearing of the facts, but it is not bound by the rules of criminal or civil procedures that govern judicial proceedings in a court of law.

This document sets forth the procedures that will be followed for all matters coming before the University Hearing Board. This document is a supplement to the Standards of Student Conduct, which is the overarching document that governs student conduct at the University of Richmond. All definitions in this document are consistent with Article I of the Standards of Student Conduct. These procedures are not a contract and may be modified or amended by the University at any time, in its sole discretion.

I. Hearing Board and Complainant for the University

- A. If an accused student chooses to exercise his/her right to a hearing, and the hearing is assigned to the University Hearing Board, the appropriate College dean shall convene the Hearing Board.
- B. The Hearing Board shall consist of the student's College dean or his/her designee serving as non-voting chair and three voting members chosen from the University Hearing Board Pool.
 1. The University Hearing Board Pool shall consist of ten staff /administrators appointed annually by the Vice President for Student Development and who have received training and education regarding these Hearing Board Procedures.
- C. Any person selected to serve on the Hearing Board must disqualify himself or herself for any conflict of interest; e.g., if he or she is related to the accused or the accuser, involved with the incident, or possesses prior knowledge of the case. He or she may disqualify himself or herself for other reasons.
- D. The original Conduct Officer will serve as the complainant for the University ("Complainant"). The Complainant shall prepare and present the case to the board, and may call upon witnesses and present appropriate reports and other documentation to assist in this effort.

II. General Procedures for University Hearing Board

The University Hearing Board shall follow the procedures outlined in Article VI of the Standards of Student Conduct.

II. Pre-hearing Procedures.

- A. Pursuant with Article V (A)(7) of the Standards of Student Conduct, if a student elects to proceed with a hearing, the chair of the hearing board shall prepare and deliver to the accused student notice of hearing.
 1. Such notice and statements may be delivered to the accused student in person, by electronic mail, U.S. Mail, or campus mail.
 2. The date of the hearing shall not be less than five (5) or more than fifteen (15) days from the date of such notice. The time frame for conducting the hearing may be extended by the Chair of the Hearing Board, for good cause.
- B. The chair will include a copy of Article V of the Standards of Student Conduct with the notice of hearing.
- C. The chair will include a copy of the University Hearing Board Procedures with the notice of hearing.

III. General Hearing Rules.

(See **Section IV**, below, for special rules applicable to hearings involving allegations of Sexual Misconduct).

- A. The chair shall preside over and conduct the hearing and is specifically empowered to:
 1. Appoint a recording secretary and other staff as needed by the hearing board;
 2. Control the admission of persons to the hearing. The chair may order any person in attendance that does not conduct him or herself in an orderly and respectful manner to leave. Obstructive, contemptuous, disruptive or noisy conduct in the presence of the hearing board by any person, including the accused, may be charged with violation of University policy;

- 3 Control the conduct of the complainant and the conduct of the accused student or the accused student's advisor to protect witnesses from improper questions, insulting treatment and unnecessary inquiry into their private affairs;
 - 4 Exclude witnesses from the hearing room except when they are testifying; and
 - 5 Rule on all procedural and other matters, such as the admission of evidence.
- B. All members of the Hearing Board must be present throughout the hearing. If a voting member disqualifies him or herself or for good cause must withdraw from the hearing, the chair shall select a replacement from the University Hearing Board Pool. The chair shall, after consultation with the accused student and complainant, in open session, provide the replacement with a summary of all prior proceedings.
 - C. The accused student, the accused student's advisor and the complainant have a right to be present during the entire hearing with the exception of the deliberation portion of the hearing.
 - D. No person shall address the Hearing Board without first being recognized by the chair.
 - E. The burden of proof shall be preponderance of evidence, meaning that in order to find the accused student responsible, the Hearing Board must find, based on the evidence presented at the hearing, that it is more likely than not that the accused student is responsible for the violation charged.
 - F. The voting members of the Hearing Board shall deliberate in private on the findings and possible sanctions. The chair is present during deliberation and the determination of sanction, but only to maintain proceedings. The chair may not contribute to the discussion during deliberation or determination of sanctions.
 - G. The taking of photographs in the hearing room, the broadcasting from the hearing room of the proceedings by radio or television, or the recording of the proceedings for non-official use, or for later release or broadcast to the general public, shall not be permitted.

IV. Hearing Rules Specific to Cases Involving Sexual Misconduct.

In addition to the rules set forth in Section III above, the following rules shall apply to hearings involving allegations of Sexual Misconduct, as defined by the University's Sexual Misconduct Policy. In the event of a conflict between the rules set forth in this Section IV and the other procedures set forth in this document, the rules set forth in this Section IV shall govern.

A. Preliminary Hearing.

The accusing student shall be afforded the opportunity to meet (in person or by telephone or videoconference) with the Dean of the College or his/her designee prior to a hearing before the Hearing Board. The purpose of this meeting is to advise the accusing student of the hearing procedures and his/her rights in connection with the hearing.

B. Pre-Hearing Procedures.

1. Pursuant with Article V (B)(6) of the Standards of Student Conduct, the chair of the hearing board shall prepare and deliver to the accusing student a notice of hearing. Such notice shall be sent at the same time as the notice furnished to the accused student pursuant to Article V (A)(7) of the Standards of Student Conduct.
2. The chair will include a copy of Article V of the Standards of Student Conduct with the notice of hearing.
3. The chair will include a copy of the University Hearing Board Procedures with the notice of hearing.
4. The complainant shall provide the accusing student with copies of all witness statements that the complainant or the accused student intends to introduce at the hearing at least forty-eight hours prior to the hearing.

C. Hearing Rules.

1. The accused student shall not be permitted to question the accusing student directly. The accused student must direct questions to the chair, who will then repeat the question to the accusing student.
 - a. In the event that the accusing student participates via videoconference, the chair will request that the accused student write questions in advance of the entrance of the accusing student into the hearing room.
2. The results of any police investigation pertaining specifically to the case may be considered by the Hearing Board.
3. The accusing student may request an opportunity to review the recording of the hearing, but will not be given a copy of the recording.

V. Order of Hearing

- A. The chair shall read the charge(s) to the accused, and the accused shall enter a plea of “responsible” or “not responsible” for each charge. In the absence of a plea, the chair shall enter a plea of “not responsible” for the accused.
- B. The complainant may make an opening statement.
- C. The accused student may make an opening statement.
- D. If the accused student pleads “not responsible” for a charge, evidence and/or witnesses shall be presented that will support or refute the charge. If the accused student pleads “responsible” for a charge, evidence and/or witnesses shall be presented that will assist the hearing board in assigning an appropriate sanction.
- E. All parties are reminded that the burden of proof shall be *preponderance of evidence*, meaning that in order to find the accused student responsible, the Hearing Board must find, based on the evidence presented at the hearing, that it is more likely than not that the accused student is responsible for the violation charged. .
- F. The complainant presents evidence and/or witnesses.
 1. When possible, witnesses shall appear and testify under oath or affirmation before the Hearing Board.
 2. The accused student may cross-examine each witness after the complainant has completed questioning that witness.
 3. Members of the Hearing Board may then question each witness.
 4. The complainant has the final opportunity to question each witness.
- G. The accused student presents evidence and/or witnesses.
 1. When possible, witnesses shall appear and testify under oath or affirmation before the Hearing Board.
 2. The complainant may cross-examine each witness after the accused student has completed questioning that witness.
 3. Members of the Hearing Board may then question each witness.
 4. The accused student has the final opportunity to question each witness.
- H. Members of the board have a final opportunity to ask questions of the complainant and accused student.
- I. When the submission of evidence has been concluded, the complainant and the accused student may then argue the case to the board, with the complainant arguing first, followed by the accused student, and the complainant shall have a final opportunity to address the Hearing Board.
- J. The voting members of the Hearing Board shall then deliberate in private.

VI. Decision of the Hearing Board.

- A. The voting members of the Hearing Board shall deliberate in private and reach a decision based only upon the evidence introduced at the hearing. The chair is present during the deliberation, but does not participate in the determination of sanctions, as s/he is a non-voting member. The Hearing Board may take the matter under advisement and recess, but a decision must be made within forty-eight hours of completion of the presentation of the evidence and argument, unless there are extenuating circumstances and the chair establishes a different deadline.
- B. The Hearing Board shall not make any finding of fact that is not supported by the evidence presented at the hearing.
- C. The accused student may not be found responsible except on a finding of *preponderance of evidence*, meaning that in order to find the accused student responsible, the Hearing Board must find, based on the evidence presented at the hearing, that it is more likely than not that the accused student is responsible for the violation charged.
- D. If two or more Hearing Board members find the accused responsible for a charge, the student is “responsible” for that charge.
- E. If the accused student is found responsible, the recommended sanction shall be chosen generally from those listed in the appropriate University of Richmond Student Handbook.
- F. Immediately after reaching a decision on whether the accused is responsible, and any appropriate sanction(s), the Hearing Board shall orally render its findings to the accused.
- G. Immediately thereafter the chair shall inform both the Complainant and the accused student (or the accusing student in the case of sexual misconduct) of their right to appeal the decision.
- H. For the record, the Hearing Board’s sanction(s) and a brief statement of the reasons for the decision shall be put in writing, signed by the members of the Hearing Board, and filed with the chair within forty-eight hours after a decision is reached.
- I. The chair shall deliver a copy of the decision, sanctions, and statement of reasons to the accused.

- J. Upon written request directed to the Vice President for Student Development, the University will disclose to the victim of any crime of violence or a nonforcible sex offense, the results of any judicial proceeding by the University against the student who is accused of such crime or offense. If the alleged victim of such crime or offense is deceased as a result of the crime or offense, the next of kin may request such disclosure. All requests for disclosure must be made within one (1) year of the conclusion of the judicial process. The Vice President for Student Development will respond to such requests in no more than thirty (30) days.

For purposes of this disclosure requirement, a crime of violence includes any prohibited conduct that involves the use, attempted use, or threatened use of physical force against a person or property of another or, by its nature, involves a substantial risk that physical force may be used.

VII. Procedures for Appeal of a University Hearing Board Decision.

- A. Appeals of a University Hearing Board Decision shall be administered following Article VIII of the Standards of Student Conduct.
- B. The Vice President for Student Development is the Appellate Administrator for all University Hearing Board hearings.
- C. Pursuant to Article VIII (D)(3)(a) in the Standards of Student Conduct, if the appealing party's right to a fair hearing was violated at the first hearing, the Vice President will remand the case to a new hearing board, appointing a college/school dean other than the original dean to serve as chair.
- D. The Vice President for Student Development, at his/her discretion, may seek the advice and counsel of a Review Board. The review board shall consist of two members of the University Hearing Board who were not involved in the original hearing.
 - 1. The review board does not hold a new hearing. If the review board determines that an appeal is upheld, the case shall be remanded as prescribed in Article VIII (D) of the Standards of Student Conduct.
 - 2. The final decision rests with the Vice President for Student Development.