

The Cleveland State University (“University”) student conduct process is used to investigate and resolve alleged violations of the Student Code of Conduct (“Code”).

## **Section 1: Introduction**

The CSU Code and procedures connected to that Code are intended to promote a campus culture of safety, respect, accountability, and belonging. This process outlines what members of the university community can expect when interacting with the Office of Community Standards & Compliance, participating in any Code-related proceeding, and explains generally how the Code is interpreted and applied when there is concern over a University student’s behavior. This process is intended to be fair, and allow for due process. University students, student organizations, and student groups are responsible for reviewing this process and are invited to ask questions and seek clarity regarding the Code and this process by connecting with the Office of Community Standards or Dean of Students Office.

## **Definitions**

- VP – Vice President for Student Belonging and Success, also referred to as the Vice President (or VP)
- CSO – Community Standards Officer (or CSO) refers to staff who oversee the Community Standards & Compliance process and adheres to the Code
- Conduct Administrator – Individual tasked with overseeing a specific conduct process or action.
- Conduct Board – Group of individuals charged with determining an outcome to a case, after completing significant training
- Appellate Officer – Individual who is positioned to oversee an appeal process
- Complainant – Individual or entity bringing concern forward, may be the charging party; the University may act in this role as necessary or for anonymous complaints
- Respondent – Individual or entity alleged of a policy violation
- Advisor – Individual selected by the Complainant or Respondent to serve as a support person through a conduct process

## **Section 2: Resolution Option**

In certain instances, informal resolutions may be possible. The informal resolution process is a voluntary, structured interaction between involved parties (complainant and respondent) to resolve the allegations following the filing of a report and prior to a resolution. Informal resolutions are overseen by the CSO or designee, must be voluntary for all parties, and occur within a reasonable timeframe from the initial report. Informal resolutions are not available once a Notice of Hearing is sent.

## **Section 3: Advisors**

The Complainant and Respondent may have an advisor present during all proceedings pursuant to these procedures. The advisor or may not, however, act in place of either the Complainant or the Respondent, speak for the Complainant or Respondent, or otherwise participate in the process. Students must grant permission, through a signed FERPA waiver in order to have an advisor present.

The student does not need to sign a FERPA release if the advisor is a CSU employee. CSU will make reasonable efforts to schedule with the advisors availability in mind, but may have to continue without the advisor, or encourage the student to identify a new person if scheduling does not align.

#### **Section 4: Conflicts of Interest**

Complainants and respondents will have the opportunity to share whether they believe there is a conflict of interest between themselves and those involved in the process. Additionally, CSO, AH, and BH members may also recuse themselves if they believe there is a conflict of interest. If a conflict of interest is present, the VP, AVP, or designee will work to address the conflict by finding alternates to complete tasks outlined by this procedure. This may require additional training for alternates and may increase the time between report and resolution of the case.

#### **Section 5: Interim Actions**

Prior to a full investigation or resolution process, in circumstances involving a significant risk of substantial harm to persons or property or serious disruption of the educational process, interim actions may be imposed. These imposed interim actions are eligible for appeal. In such instances, a High-Risk Group (HRG) may be convened to review the circumstances and make recommendations. HRGs are held in instances of threats, weapons, or other significant, high risk situations. The Associate Vice President for Campus Engagement / Dean of Students (AVP/DOS) or designee chairs the HRG. Additional information about HRG may be found in the CARE protocol.

In such circumstances, the AVP/DOS or designee may impose an interim action, including interim suspension of the student, student organization, or student group interim removal of access to campus, residential facilities, and/or other measures deemed appropriate to aid in the safety of the CSU community.

Within one business day of such interim action, or as soon as possible subsequent to such action, the AVP or designee shall send notice of the measure, explaining why the interim measure cannot await the completion of an investigation or resolution process. The notice shall be delivered via email to CSU email address or in person when necessary to the last known address of the student, student organization, or student group. The student, student organization, or student group will be given one business day from the date the letter was sent to submit a written response to the notice to the VP or designee as an appeal to interim measures. Within one business day (excluding University recognized holidays and closures ) of receipt of the response, the VP or designee will review the facts and the reasons for the action, any written material submitted by the Respondent and shall make a determination as to whether or not the interim action under this provision should remain in effect prior to the final resolution of the case. The Respondent will be notified of the outcome in writing via email to their CSU email account. The VP or designee may determine whether different interim actions are necessary. If the interim measure is revoked, the measure is immediately removed. If the interim measure is upheld or modified, it will remain in place until the outcome of a conduct process.

Notifications of an interim measure will include the Respondent, VP or designee, Provost's Office, Registrar, CSU PD, CARE, Community Standards & Compliance, and other staff members as necessary. The Complainant may also be notified.

## **Section 6: Investigation and Resolution Process**

**6.1 Reported Violation** The University, through the Community Standards Officer, evaluates reported violations received in writing from any source, including, but not limited to, a student, employee, law enforcement agency, or a non-affiliated impacted party. The CSO may also initiate the student conduct process in the absence of written allegations when the Dean of Students or designee becomes aware of alleged misconduct through other means.

Individuals may report alleged violations on the Concerned Vikes Website: <https://www.csuohio.edu/report-a-concern/report-a-concern>

**6.2 Initial Evaluation** Upon receipt of a reported violation, the CSO, evaluates allegations. The CSO determines whether the allegations in the report fall within the jurisdiction of the Code, and whether the alleged conduct, if true, may violate the Standards of Conduct. If the CSO determines the report is not a violation of the Code, the CSO may close the report without further action.

If the University does not have jurisdiction over the alleged conduct, the CSO may refer the report to the appropriate process including to other institutions of higher education and close the matter without initiating the student conduct process at CSU.

The CSO will notify the reporter or Complainant (if known) of the basis for closing the matter. The formal closure of a matter does not prohibit the CSO from having an educational or developmental discussion with any individual, student, student organization, student group, or reviewing processes for updates.

**6.3 Notice of Allegations** If, after the initial evaluation, it is determined that the University has jurisdiction over the Respondent and the conduct in question, a Notice of Allegations is sent to the Respondent. The Notice of Allegations includes:

- The Standard of Conduct allegedly violated;
- The date, time, and location of the alleged violation;
- A copy of the Code;
- A copy of the Student Conduct Process;
- Notice of the right to an advisor; and
- The date and time of a scheduled Investigative and Informational Meeting.

Depending on the nature of the report and timing of the report, a Notice of Allegations may be sent via CSU campus email to a Respondent prior to meeting with or speaking to the Respondent. This notice can serve as the initial notification of the incident and investigation.

**6.4 Resolution Agreement: Acceptance of Responsibility and Sanctions** During the student conduct process, a Respondent may resolve allegations of misconduct by signing a Resolution Agreement proposed by the CSO. By signing a Resolution Agreement, the Respondent:

- Accepts responsibility for violating the Standards of Conduct; and
- Agrees to the imposition of the sanction(s); and
- Waives all rights the Respondent may have to resolve the allegations through a Administrative Hearing (AH) or a Board Hearing (BH). A Resolution Agreement is not valid until it is signed by both the Respondent and the CSO. Digital communications accepting the terms of the resolution agreement may suffice.

The Respondent may not revoke or appeal a Resolution Agreement.

The CSO will offer a Resolution Agreement after conducting an investigation and outline a reasonable time frame for the Respondent to consider this option. Once that timeline has passed, the Respondent cannot later request a Resolution Agreement. The CSO also has the discretion to deem the Respondent to have accepted responsibility for the misconduct if they fail to respond to the Resolution Agreement by the stated deadline, and may impose appropriate sanctions.

**6.5 Informational Meeting** The Informational Meeting is a meeting between the Community Standards Officer (CSO) and the Respondent in which the following generally occurs:

- The CSO verbally explains the conduct process, the Respondent's rights, and the Respondent's options.
- The CSO verbally informs the Respondent about the allegations.
- The CSO provides the Respondent with an opportunity to respond to the allegations including but not limited to:
  - An opportunity to present information to the CSO related to the allegations
  - An opportunity to identify witnesses who can provide information and insight related to the report. Character witnesses are not relevant or allowed in this process
  - An opportunity to seek clarifying information
  - An opportunity to respond to questions by the CSO
  - An opportunity to discuss and ask questions regarding the process including about recommended sanctions
  - An opportunity to accept responsibility and sanctions (if applicable, see Section 5.4)
- Anonymous reports – To the extent possible, all information received in connection with the filing, investigation, and resolution of allegations will be treated as confidential except to the extent it is necessary to disclose particulars in the course of the investigation or when compelled to do so by law. All individuals involved in the process should observe the same standard of discretion and respect for the reputation of everyone involved in the process. Truly anonymous reports, which come in through Ethics Point, Report a Concern, or another means, will be reviewed and investigated as is possible by the amount of information shared. Anonymous reports may not be able to receive a full investigation or resolution due to limited information. The University will make every good faith effort to investigate with the information provided by the source.

**6.6 Investigation** The CSO or designee will investigate the allegations against the Respondent by interviewing relevant witnesses and obtaining other information including, but not limited to police information, video footage, relevant documents, and electronic information. If the CSO investigates allegations against a Respondent, the CSO or designee will:

- Ensure that the burden of proof of gathering evidence rests on the University and not on the parties;
- Provide an equal opportunity for the parties to identify and present relevant witnesses for interview, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence (not including character witnesses); and
- Provide written notice of the date, time, location, and purpose of all investigative interviews and other meetings, with sufficient time to prepare to participate.

The CSO is not obligated to interview a witness identified by the Respondent or the Complainant if the CSO believes the witness is not likely to possess relevant information, is not likely to lead the CSO to the discovery of relevant information, or the information the witness is likely to possess is cumulative of other information gathered by the CSO. Witnesses not interviewed by the CSO or who fail to respond or refuse to cooperate will be noted in the investigation.

The CSO may interview and re-interview the Complainant, the Respondent, witness(es), and/or any other person at any time during the investigation in order to obtain additional and/or clarifying information. Investigations conducted by the CSO will be prompt, thorough, and equitable. In conducting an investigation, the CSO will act as a fair and impartial party rather than a representative of the person, office, unit, organization, or entity that submitted the allegations to the CSO. At the conclusion of the investigation, the CSO will prepare a written investigative report of the findings of the investigation. The investigative report may include an assessment of the credibility of persons interviewed during the investigation and an assessment of whether it is more likely than not that the Respondent violated the Standards of Conduct. Full investigative reports are not required for all investigations however case notes are maintained in an electronic case management system.

**6.7 Notice of Hearing** If the Respondent requests a Hearing and the matter is not resolved through a Resolution Agreement or Informal Resolution, then the CSO will send the Respondent and the Complainant (if any) a Notice of Hearing no more than seven (7) business days in advance of the date of the hearing excluding University recognized holidays and closures.

The Notice of Hearing generally will contain, or be accompanied by, the following information:

- The date, time and place of the Hearing;
- A copy of the Notice of Allegations and/or the Resolution Agreement;
- The names of all witnesses through whom the CSO is likely to solicit information during the Hearing;

- A notice of the right to an advisor during the hearing;
- A description of all tangible or electronic information that the CSO or designee is likely to present at the Hearing, such as an investigative report, police report, incident report, witness statements, video or audio recordings, photographs, text messages, or phone records; and
- The name of the Conduct Administrator or the names of the Conduct Board panelists.

Hearings will be scheduled as promptly as possible with recognition of conflicts related to faculty/staff contracts, academic commitments, etc. Once the Notice of Hearing has been sent, any changes to the date or time must be made in writing (via CSU email) within 24 hours to the CSO. The CSO will determine whether or not a request to reschedule a hearing is reasonable.

The CSO may reschedule the Hearing for good cause and issue a revised Notice of Hearing.

Should a Respondent or Complainant fail to attend a scheduled hearing, the hearing process will continue without their participation and findings may be determined and sanctions may be assigned.

**6.7.1 Consolidation** The CSO has the discretion to consolidate multiple violations by a single respondent or one situation involving multiple respondents into the same hearing.

## **6.8 Types of Hearing**

**6.8.1 Administrative Hearing (AH)** An AH is a hearing before a Conduct Administrator or CSO. The Conduct Administrator and CSO are University employees designated and trained to conduct a hearing consistent with the procedures outlined for AH hearings. In conducting a AH, a Conduct Administrator or CSO are the decision makers concerning whether the Respondent violated the Standards of Conduct, and, if so, what sanction(s) to impose. The determination of the Administrative Hearing may be appealed to the Appellate Officer using procedures outlined for appeals.

Unless the recommended sanction for the Respondent is suspension, expulsion, withholding of a degree or revocation or suspension of a student group's or student organization's University registration, a AH is the only hearing type available. However, Respondents facing one of the aforementioned sanctions may waive their right to a Board Hearing (BH) and request an Administrative Hearing instead.

**6.8.2 Board Hearing (BH)** A BH is a hearing before a Conduct Board. The Conduct Board is a panel composed of three University community members (employees/students as available) designated and trained to conduct a hearing consistent with the procedures outlined for BH hearings. In conducting a BH, the panel is the decision maker (majority vote) concerning whether the Respondent violated the Code, and, if so, what sanction(s) to impose. The determination of the BH may be appealed to the Appellate Officer using procedures outlined for appeals.

One of the BH panelists is designated as the chairperson and is responsible for making relevancy determinations, asking questions provided by parties or other panelists, and shall inform the CSO of their decision.

A respondent has a right to a BH when one or more of the following sanctions is recommended by the CSO:

- Suspension;
- Expulsion;
- Withholding of degree; or
- Revocation or suspension of the student organization's University registration

A Respondent may waive the right to a BH and instead request a AH.

**6.9 Recording** The University shall be responsible for making a verbatim record of a hearing. The record of the Hearing shall be the property of the University. The Complainant and the Respondent may take notes during a Hearing, which shall be their own property, but neither the Complainant (if any) nor the respondent may record the hearing using any other method of recording. However, the University will provide a copy of the verbatim record to the Complainant and the Respondent upon request.

**6.10 Hearing Procedures** The following procedures are applicable for both a AH and BH.

**6.10.0 Statement of the Case** The CSO is invited to make an opening statement once the Hearing is called to order. The Opening Statement is an opportunity for the CSO or designee to present an overview of their investigation and findings. The CSO may offer recommended sanctions at this time.

**6.10.1 Questioning Parties and Witnesses** The CSO, the Respondent, the Complainant, and witnesses may provide information to the AH or BH and answer questions from the Conduct Administrator or BH panelists. The Conduct Administrator or BH panelists may ask questions and/or submit a request for additional information to the Respondent, the Complainant, the CSO, and/or witnesses. The CSO, the Respondent, the Complainant, and/or the witnesses shall not directly ask questions to each other.

The Respondent and the Complainant may propose questions for the Conduct Administrator or BH panelists to ask witnesses/parties. This will be done by submitting the proposed questions to the Conduct Administrator or BH panelists in writing during the hearing or via electronic means as necessary (e.g. via Zoom). The Conduct Administrator or BH panelists has the discretion whether to ask a witness/party a question proposed by Respondent, or the Complainant. The Conduct Administrator or BH panelists will acknowledge why a question is not being asked or may ask for a question to be rephrased.

**6.10.2 Closing Statements** At the close of the Hearing, the Conduct Administrator or Chairperson may allow the Complainant and the Respondent equal opportunities to make statements summarizing the information presented to the AH or BH and/or advocating the decision that the AH or BH should reach. Statements are limited to 5 minutes for each party unless otherwise outlined. Parties will have the same amount of time available, but may choose to use less time.

**6.10.3 Determination of Responsibility** After the Conduct Administrator or Chairperson determines that all relevant information has been received by the AH or BH, the Conduct Administrator or Conduct Board will deliberate in private and decide, for each Standard of Conduct alleged in the Notice of Allegations, whether it is more likely than not that the Respondent violated the Standard of Conduct. The Conduct Administrator or Conduct Board will decide whether the Respondent violated the Code. The Conduct Administrator or Conduct Board shall base its decision solely on information prepared for the hearing and information presented during the Hearing. Deliberations may occur after the hearing and respondents may not receive notice of outcome on the same day as the hearing.

**6.10.4 Determination of Sanctions** If the Conduct Administrator or Conduct Board decides that the respondent violated the Code, then the Conduct Administrator or Conduct Board will decide the appropriate sanctions by majority vote. During the sanctioning phase, the Conduct Administrator or Conduct Board may also consider a statement provided by the CSO about the Respondent's conduct history if any.

**6.10.5 Notice of Determination** The Conduct Administrator or Chairperson shall inform the CSO of their decision. The CSO will then draft the Notice of Determination based on information shared. The following information shall be included in the Notice of Determination for each Code allegation identified in the Notice of Allegations, the decision by the AH or BH concerning whether it is more likely than not that the Respondent violated the Standard of Conduct the rationale for the decision, and the sanction(s), if any, that the AH or BH has imposed on the respondent.

The CSO or designee shall create and transmit the Notice of Determination to the Respondent and the AH or BH. This notice will include the Respondent's options to appeal the decision.



The CSO will also inform the Complainant of the outcome, but not of any specific sanctions if applicable, unless the sanctions involve the Complainant in some way (e.g. restitution).

**6.10.6 Effective Date of Sanction** The sanction(s) imposed by the AH or BH shall not be effective during the period in which an appeal may be submitted, or, if a procedurally valid appeal has been submitted, until a Notice of Final Decision is issued by the Appellate Decision-Maker whichever is later.

**6.11 Appeals** The respondent may appeal the decision of the AH or BH on the following grounds:

- **Procedural Error:** A procedural error occurred prior to or during the hearing, and the procedural error reasonably could have had a material impact on the AH or BH to alter its decision. Neither the failure of the respondent or the complainant to secure the attendance of an advisor or witness, nor the failure of an advisor or witness to attend or otherwise participate in any phase of the student conduct process constitutes a material procedural error.
- **New Information:** New information has been discovered, the information reasonably could have had a substantial impact on the AH or BH decision, and the respondent did not know and reasonably could not have known about the information at the time of the hearing.
- **Personal prejudice or bias of the Conduct Administrator or a Conduct Board Member:** The Conduct Administrator or the Conduct Board Member had a personal prejudice or bias that precluded them from fairly and impartially hearing the case. The fact that the Conduct Administrator or Conduct Board Member voted to find a respondent responsible or not responsible for violating a Standard of Conduct does not, by itself, demonstrate that the Conduct Administrator or Conduct Board Member had a personal prejudice or bias for or against the respondent, the complainant, or the University.

The Respondent may submit the appeal to the assigned Appellate Officer in writing, no more than three business days after the issuance of Notice of Determination.

**6.11.1 Review by Appellate Officer** The Appellate Officer's final decision shall be based on their review of the record.

- The Notice of Allegations;
- The Notice of Formal Hearing;
- The Notice of Determination;
- The recording and the transcript, if any, of the hearing, and all other information submitted to the AH or BH during the hearing
- Materials submitted by the Respondent for the appeal.

**6.11.2 Potential Decisions by the Appellate Officer** The Appellate Officer shall reach one of the following decisions if the appeal is determined to be procedurally valid:

- Affirm both the finding and the sanction imposed.
- Remand the case for a new hearing to be conducted by a new AH or BH due to procedural error. The Appellate Officer should recommend to how to correct the procedural error.
- Remand the case to the same AH or BH for the limited purpose of hearing the new information and reconsidering its decision based on the new information.
- Remand the case for a new hearing to be conducted by a new AH or BH due to bias or prejudice.

**6.11.3 Notice of Final Determination** The Notice of Final Determination shall be sent to the CSO, the Respondent, the Conduct Administrator or Chairperson of the BH. The decision of the Appellate Board is final and is not subject to appeal.