

**BY-LAWS OF THE STUDENT JUDICIAL HEARING BOARD SYSTEM
GEORGETOWN UNIVERSITY
WASHINGTON, D.C.**

Revised Fall 2007

CONTENTS

| <u>Section</u> | <u>Page</u> |
|---|-------------|
| I. INTRODUCTION | 4 |
| II. COMPOSITION OF HEARING BOARDS | 4 |
| A. Assignment and Notification of Hearing Board Members | |
| B. Distribution of Case file to Board Members | |
| III. PROCESSING OF NOTICES | 4 |
| A. Notification Process | |
| 1. Notification Time Line | |
| 2. Notification Process | |
| 3. Distribution of Case File | |
| B. Request for a Continuance of Hearing | 5 |
| IV. THE HEARING | 5 |
| A. Rules Governing Hearing Procedures | |
| 1. Role of the Office of Student Conduct | |
| 2. Arrival of Hearing Board Members | |
| 3. Illness of Board Member or Failure to Appear | |
| 4. Hearing Board Member Impartiality | |
| 5. Objection to a Board Member | |
| 6. Opening Statement | |
| 7. Open Hearing | |
| 8. Recording of Hearing | |
| 9. Hearing Transcript Requests | |
| 10. Evidence | |
| 11. Appropriate Statements | |
| 12. Witnesses | |
| 13. Failure of Parties and Witnesses to Appear | |
| 14. Advisor Presence | |
| 15. Order of Presentation | |
| 16. Role of Complainant | |
| 17. Burden of Proof | |
| 18. Role of Respondent | |
| 19. Dialogue Between Parties | |
| 20. False Statements | |
| 21. Extension of a Hearing | |
| 22. Other | |
| B. Board Member Confidentiality | |

CONTENTS

| <u>Section</u> | <u>Page</u> |
|--|-------------|
| V. DELIBERATIONS | 9 |
| A. Guidelines for Deliberations | |
| 1. Status | |
| 2. Procedure: Role of the Judicial Coordinator | |
| 3. Prior Records | |
| 4. Majority Vote | |
| 5. Sanctions: Case Precedent | |
| 6. Decision Time Limit | |
| VI. ADMINISTRATIVE FOLLOW-UP AFTER THE HEARING | 10 |
| A. Decision and Notification | |
| B. Notification of Decision | |
| C. Distribution of the Decision | |
| D. Record Keeping | |
| 1. Files | |
| 2. Sanctions | |
| VII. ADDITIONAL POLICIES AND PROCEDURES | 11 |
| A. Communication with the University Community | |
| 1. General | |
| 2. Preparation for Hearings | |
| B. Policy on Campus Press | |

I. INTRODUCTION (HEARING BOARD CASES)

The By-Laws of the Student Judicial System are a supplement to the description of the disciplinary system in the Code of Student Conduct. They serve to formalize the procedure for processing cases involving alleged violations as outlined in the Code of Student Conduct and to standardize the internal operation of the system.

II. COMPOSITION OF HEARING BOARDS

The Hearing Board is composed of students (3) and faculty/staff administrator (2) voting members. The Judicial Coordinator is charged with the responsibility of selecting a chairperson for the hearing from among the five (5) appointed Board Members. The chairperson is charged with the responsibility, in conjunction with Judicial Coordinator or his/her designate for ensuring the orderly administration and completion of the hearing.

A. Assignment and Notification of Hearing Board Members. The Office of Student Conduct will assign individuals to each Hearing Board on a random basis. This random assignment helps to ensure impartiality. The composition of the board will take into consideration the specifics of the case.(i.e. race, gender, religious issues) The Judicial Coordinator will contact the two faculty/administrators and three students from the pool of members and inform them of the time, date, and location of the hearing and the names of the individuals appearing before the Board.

B. Distribution of Case File to Board Members. Faculty/administrator board members hearing a case will receive the Case File containing all documents relevant prior to the Hearing. Student members hearing a case will be expected to make arrangements with Judicial Coordinator to read the case file in the confines of the Office of Student Conduct.

III. PROCESSING OF NOTICES

A. When an Initiation of Judicial Proceedings is filed:

- 1. Notification Time Line.** The Complainant(s) and Respondent (s) will be notified of the time and place of the hearing at least seven (7) days (including weekends) in advance of the hearing.
- 2. Notification Process.** The Notice of Hearing will be mailed to or picked up by the Complainant(s) and the Respondent(s). If more than one person is named in the Initiation Of Judicial Proceedings Form as a responding party, each person will receive a copy of the Notice of Hearing.
- 3. Distribution of Case File.** The Complainant(s) and the Respondent(s) will receive a copy of the case file with the Notice of Hearing. **The Case File contains confidential information and cannot be shared with others without the express consent of the Office of Student Conduct.** Case files must be returned to the Judicial Coordinator at the conclusion of the Hearing.

NOTE: Witnesses will NOT receive a copy of the Notice of Hearing by the Office of Student Conduct.

B. Request for a Continuance of Hearing. Parties may request that the Judicial Coordinator grant a continuance of a Hearing in instances where compelling reasons exist. Under normal circumstances the Judicial Coordinator has the responsibility for determining whether a continuance will be granted. At the discretion of the Judicial Coordinator a request for a continuance may be presented for Hearing Board's consideration. Please note that disciplinary matters are of the utmost concern to the Georgetown community, and continuance will not be granted for class or work-related activities where alternate arrangements can be made by the student. In addition, continuance will not be granted in instances where a party has not been properly diligent in preparing their case. Continuances, when granted, are usually for one (1) week. The Judicial Coordinator is charged with the final responsibility for determining whether or not to grant a continuance.

IV. THE HEARING

Since the purpose of disciplinary hearings is to educate, hearings are to be conducted in an informal, but orderly manner according to the following regulations and guidelines.

A. Rules Governing Hearing Procedures

17. Role of the Office of Student Conduct.

- a) The Judicial Coordinator and/or his/her designate will attend all Hearings. The Judicial Coordinator will have present at all Hearings the Code of Student Conduct and the appropriate By-Laws of the Student Discipline System. The Judicial Coordinator will also have present at all Hearings any additional documents, files, and records appropriate to conducting Hearings and deliberations in a manner consistent with the policies of the Student Discipline System.

It is the duty of the Judicial Coordinator to see that the Hearings are conducted in an efficient and orderly fashion. The Judicial Coordinator will interject in the case of clear procedural error, as well as answer questions of the Board regarding procedures. All communication between the Coordinator and the Board will take place either on the record or in closed session with the parties having been excused.

- b) The Director of Student Conduct and/or his/her designate will attend all Hearings. Unless acting as the Complainant, his or her role will typically be one of observer until called upon to provide the Board with information concerning investigation of the case.

In instances where the information being presented to the Hearing Board is significantly contrary to information which has been presented to the Director of Student Conduct, it is the role of the Director of Student Conduct to bring this matter to the attention of the Hearing Board.

- 18. Arrival of Hearing Board Members.** All Board members should arrive at least fifteen (15) minutes before the scheduled Hearing time.

- 3. Illness of Board Member or Failure to Appear.** If one member of the Board fails to appear or becomes ill the Hearing Board will entertain an agreement by the parties to hear the

case with less than the requisite number of Board members. Note that an agreement of this nature will NOT constitute grounds for appeal. However, if there are fewer than four (4) board members the hearing will be rescheduled.

NOTE: Other situations that may arise will be dealt with at the discretion of the Judicial Coordinator.

- 4. Hearing Board Member Impartiality.** It is the task of all Hearing Board members to remain impartial in considering the statements of all parties involved in the Hearing. If a Board member is acquainted with any of the parties in a case, or feels that he or she may be biased in any way toward the case and/or parties involved, the Board member will alert the Judicial Coordinator, who will consult with the Board member in order to determine whether the Board member should remove him/herself from the case.
- 5. Objection to a Board Member.** Where any party objects to a member or members of the Board, the other members of the Board will entertain the following options:
 - a.** Overrule the objection and proceed with the case.
 - b.** Entertain an agreement by the parties to hear the case with less than the requisite number of board members. Note that an agreement of this nature will NOT constitute grounds for appeal.
 - c.** Postpone the Hearing.
 - d.** When disagreement occurs among the Board Members on this issue, the Judicial Coordinator makes the final decision regarding objections to Board members.
- 6. Opening Statement.** The Judicial Coordinator or Chair will briefly explain the Hearing as an educational process and explain the procedures. He or she will introduce the Board members. All witnesses are to be present in the Hearing Room during the opening statement. Upon completion of the statement, the witnesses must leave the Hearing Room until such time that they are called by the Judicial Coordinator.
- 7. Open Hearing.** If all parties are in agreement, the Board may petition the Director of Student Conduct for an open hearing. The decision to open the hearing is with in the sole discretion of the Director of Student Conduct.
- 8. Recording of Hearing.** Hearings are recorded only by the Judicial Coordinator or a third party designated by the Office of Student Conduct solely for use in deliberations or for purposes of appeal. No other recordings of the Hearing are permitted.
 - a.** If a student plans to appeal a Hearing Board decision and he/she desires a transcript of the Hearing, he/she must submit a written **Notice of Intent to Appeal and** a request for a copy of the Transcript within two (2) calendar days from the date on the Hearing Board Decision Letter. In such circumstances, the student's **Statement of Appeal** must be submitted within seven (7) calendar days from the student's receipt of notice from the Office of Student Conduct that the transcript of the Hearing is available for pick up.
 - b.** Transcript Requests: Only transcripts of the entire hearing will be produced. The Office of Student Conduct will select the transcription service. The cost of the transcript is the

responsibility of the appellant. The transcript and all copies of the transcript must be returned to the Office of Student Conduct at the conclusion of the appeal process.

9. **Hearing Transcript Requests.** If a student files a written appeal, a transcript of the hearing will be provided, upon written request by the student. Requests for transcripts must be submitted in writing within five (5) calendar days from the date on the Notice of Decision Form which indicates the finding of the Hearing Board. The student must pay for the cost of the transcription service.
10. **Evidence.** The Board has the option of admitting as evidence whatever reasonable persons would accept as having some relevance to the case. The Judicial Coordinator may also render an advisory decision about the admissibility of evidence. Note that formal rules of evidence are NOT applied.
11. **Appropriate Statements.** Pointlessly redundant statements will be discontinued at the discretion of the Board.
12. **Witnesses.**
 - a. Factual witness (as opposed to character witness) must provide written statements outlining the content of their testimony. Every factual witness must provide a summary outlining his/her testimony by **no later than noon 2 business days prior to the Hearing.** At the time this summary is submitted to the Office of Student Conduct, it must either be 1) notarized, or 2) witnessed and signed by a member of the Office of Student Conduct, or 3) submitted through the Department of Public Safety as a result of a formal witness interview. Failure to do so may jeopardize the admissibility of the testimony of your witness at the hearing.
 - b. Each party's complete list of witnesses must be submitted to the Judicial Coordinator **no later than noon two (2) business days** prior to the Hearing. The combined list of witnesses will be provided to the Hearing Board and each opposing party. Additional witnesses may be called only with the consent of the Board. The Board may elect not to hear witnesses whose only purpose is to offer redundant or insubstantial statements. This decision will be made by the Board, in consultation with the Judicial Coordinator.
 - c. Witnesses must remain in the immediate vicinity of the Hearing Room. Upon completion of their statements, the Board may either release the witness, or the Board may request that the witness remain nearby for possible further statements. **Once the proceeding has begun, all participants (excluding members of the Board) are strictly prohibited from sharing the contents of their testimony with any other participant.**
13. **Failure of Parties and Witnesses to Appear.** When the parties fail to appear for a scheduled case, the Judicial Coordinator will determine the status of the case under the following general procedures:
 - a. Where the **Respondent(s) fails to appear** for a Hearing for which due notice was given, the Hearing will be conducted according to normal procedures, and a denial of responsibility will be entered on behalf of the respondent. In this instance, the Respondent waives the ability to present information and/or witnesses on his or her

behalf. If the respondent is then found Responsible for the charge(s), the Judicial Coordinator will then conduct a follow-up investigation to determine whether or not the respondent had a legitimate reason to miss the Hearing, and whether or not another Hearing should be granted. The Judicial Coordinator will make the final determination of whether or not to grant a new Hearing.

NOTE: No decision for the imposition of sanctions will be based upon the failure of the responding party(s) to answer charges or to appear at the Hearing. The evidence in support of the charges will be presented and considered on its own merits.

- b. Where the **Complainant(s) fails to appear**, the Board will postpone the hearing pending a follow-up by the Judicial Coordinator. If the Judicial Coordinator determines that the party's failure to appear was for an unjustifiable or insubstantial reason, then the case will be dismissed and the parties will be informed. Otherwise, the hearing is to be rescheduled.
- c. Where a **witness whose statements are held to be crucial** to the final decision in a case does not appear, the Hearing Board will determine whether or not a postponement is necessary. This decision is made by the Hearing Board in consultation with the Judicial Coordinator. In cases where a Notice of Appearance is issued, a failure to appear may result in disciplinary action against the witness.

- 14. **Advisor Presence.** Complainants and Respondents are permitted to have one Advisor accompany him/her in a hearing. Please see page 6 of the Code of Student Conduct for guidelines for Advisors. The University reserves the right to have an attorney in attendance at hearings.
- 15. **Order of Presentation.** In hearings of original jurisdiction, the complaining party will proceed first.
- 16. **Role of Complainant.** The Complainant bears the burden of proof. In attempting to establish responsibility, the Complainant may present information, evidence, and witnesses in support of the charges against the Respondent. In addition, the complainant may hear and question all statements which the Respondent presents.

NOTE: When deemed appropriate by the Director of Student Conduct, the University reserves the right to act as the Complainant.

- 17. **Burden of Proof.** The burden of proof rests on the complainant who must establish that it is more likely than not (*greater than 50% probability*) that the respondent is responsible.
- 18. **Role of Respondent.** The Respondent may hear and address all allegations which have been made against him or her, to present statements and/or evidence (including witnesses), or may remain silent. If the Respondent chooses to remain silent the board can not draw negative inferences from the respondent's decision to exercise this right. In addition, the Respondent may hear and question all witness statements, or object to any member of the Hearing Board.

19. **Dialogue Between Parties.** The Complainant(s) and the Respondent(s) may address each other. At the discretion of the Chair of the Hearing Board and the Judicial Coordinator parties may be required to direct questions of each other and witnesses through the Board.

Example: Complainant asks: “Did the Respondent (or name of the Respondent) see me walking down the street?” The Chair directs Respondent to answer.

20. **False Statements.** Presentation of any false statements is comparable to falsification of University records and will be dealt with severely by the Hearing Board. In circumstances where false statements are suspected during the Hearing, the Board will convene in closed session to determine, in consultation with the Judicial Coordinator, how to proceed. In situations where false statements were discovered after the Hearing, the Judicial Coordinator will file a Statement of Complaint against the party in question, on behalf of the Hearing Board.
21. **Extension of a Hearing.** In instances where a Hearing lasts past the hour of midnight, the Judicial Coordinator may suspend the Hearing and schedule a time at which the remainder of the case will be heard by the same members of the Hearing Board. In instances where the Judicial Coordinator determines before the Hearing that additional time may be needed, he or she may declare that the hearing be divided into two parts, with each being heard by the same Hearing Board members.
22. **Other.** Supplemental procedural rules may be determined by the Board as necessary. These rules must be consistent with the rules established in this document, and must be made in consultation with the Judicial Coordinator.

B. Board Member Confidentiality. All Hearings and deliberations are of a confidential nature. Board members will not discuss these proceedings with anyone other than members of the Hearing Board who served during the same Hearing, the Judicial Coordinator and/or the Director of Student Conduct. Hearing Board members are prohibited from informing participants (including primary participants) of the final outcome of a hearing. In addition, Hearing Board members are restricted from discussing cases which they will be hearing in the future. This restriction includes, but is not limited to: a) that names of the individuals involved, b) the nature of the Hearing, c) the charges under consideration. Failure to comply with this policy will be grounds for dismissal from the Board.

V. DELIBERATIONS

A. Guidelines for Deliberations:

1. **Status.** Deliberations of the Board will be closed to all other parties except the Judicial Coordinator. Deliberations shall not be tape-recorded.
2. **Procedure: Role of the Judicial Coordinator.** Deliberations will be conducted unhurriedly. All points of view should be expressed and considered. The Judicial Coordinator may not express opinions during deliberations but may supplement the

discussion with pertinent information or interject, with the Board's approval, any points of view that may have been overlooked in the deliberation.

3. **Prior Records.** Prior records are introduced by the Judicial Coordinator only after a finding of "responsible." Prior records are used by the Board in determining an appropriate sanction.
4. **Majority Vote.** Board members will attempt to reach consensus on their decision. If this is impossible, the decision will be made by majority vote. In the event that there are four (4) board members a minimum of three (3) votes is required for a finding of responsibility.
5. **Sanctions: Case Precedent.** The Judicial Coordinator will advise the board as to whether or not its preliminary decision is consistent with those decisions handed down in cases similar in level or nature of the offense(s), or the student's prior record.
6. **Decision Time Limit.** Every reasonable effort will be made for the Hearing Board to reach its decision within twenty-four (24) hours after the Hearing.

VI. ADMINISTRATIVE FOLLOW-UP AFTER THE HEARING

A. Decision and Notification. The decision of the Board will be entered with the Judicial Coordinator within 24 hours after reaching its decision. On the following business day of receipt of the Hearing Board's decision, the **Respondent(s)** will be informed of the decision in a mandatory personal conference held with the Judicial Coordinator. A Notice of Decision is also provided to the Respondent at that time. A Letter of Explanation will follow within 10 business days of the Hearing Board's decision. Pursuant to the Disclosure of Adjudication Outcomes Policy, the **Complainant(s)** will, in certain circumstances, be informed of the Board's decision. Such notification will occur after the Respondent(s) is/are and within two (2) business days of the Hearing Board's decision. (See Disclosure of Adjudication Outcome Policy in the Code of Student Conduct p. 24). The conference may be postponed at the valid request of either party, at the discretion of the Judicial Coordinator.

B. Notification of Decision will include the following:

1. Judicial Board Findings for each alleged violation(s)
2. Sanction(s), if any
3. Appeal Rights

C. Distribution of the Decision. Copies of the decision should be sent to other appropriate persons (i.e., Residence Life personnel for residential suspension or probation, the student's parent(s), academic dean and all other University officials as deemed appropriate by the Office of Student Conduct).

D. Record Keeping. All records are to be secured in the Office of Student Conduct.

1. **Files.** Copies of the Board's decision will be placed in the alphabetical file under the name of the alleged violator, with all documents relevant to the case.
2. **Sanctions.** When sanctions are imposed, the Judicial Coordinator will maintain accurate records to ensure compliance.

VII. ADDITIONAL POLICIES AND PROCEDURES

The Director of Student Conduct, Judicial Coordinator, and Board Members have been selected to undertake a very important and sensitive responsibility in the University. Their adherence to University Regulations and policies is of the utmost importance. Further, they have an obligation not to indiscriminately discuss any cases heard before the Board.

A. Communication with the University Community:

1. **General.** The Director of Student Conduct and Judicial Coordinator are responsible for making the University community aware of the scope, policies and procedures of the Student Judicial System. This entails meeting with students, staff and administrators of Georgetown University when appropriate.
2. **Preparation for Hearings.** The Director of Student Conduct and the Judicial Coordinator have a responsibility to explain the system clearly and thoroughly to all parties scheduled to appear before the Hearing Board. When requested, these parties will aid the responding party in understanding the disciplinary process without advising the student on strategy.

B. Policy on Campus Press. The Office of Student Conduct cannot release specific information regarding individual disciplinary cases. Parties to the deliberations of the Board are under an absolute obligation not to discuss the case.