

PROCESS FOR ALLEGED BEHAVIORAL MISCONDUCT

Allegations against any student for a violation of the ESF Code of Student Conduct must be made in writing by any ESF or SU faculty member, staff member, or student. ESF University Police, SU Public Safety, and/or city, state, or federal police officers may also submit allegations. The SUNY ESF Incident Report Form may be used to submit an official report of behavioral misconduct. The process described in this section does not apply to cases involving alleged violations as described in the Title IX Grievance Policy or Sexual Harassment, Assault, and Violence Prevention Policy. Title IX grievances follow the process as documented in said policy. Cases involving sexual harassment, sexual assault, domestic/dating violence, or stalking that do not meet the threshold of Title IX will follow the Process for Alleged Sexual and Interpersonal Violence.

Complainants are permitted to withdraw a complaint after filing if the Dean of Students (or designee) is satisfied that the complainant's decision has not been influenced by pressure or intimidation. In the event that the complainant has been influenced by pressure or intimidation, or in other extenuating circumstances, or where the College's interests would be served by continuation of the case, the Dean of Students (or designee) may proceed with the case, providing all pertinent information to the complainant.

Upon receipt of an initial evaluation of the contents of a report, the Office of the Dean of Students will send electronic notice of alleged violations of the Code of Student Conduct to a respondent via their College (@syr.edu) email address utilizing the Maxient student conduct management system. The College uses email as the official means of communication with students. The notice of allegations will also include the date, time, and location of a student conduct conference with a Division of Student Affairs student conduct officer to review ESF's student conduct process and to discuss the specific allegations. Every effort will be made to schedule the student conduct conference as soon as is practical following receipt of the alleged violation(s), while also providing a respondent with adequate notice to prepare for the student conduct conference. A respondent charged with a violation just prior to the termination of a semester or during the summer or other College breaks shall be provided a student conduct conference as soon as is reasonably feasible. The College may utilize a virtual meeting service to allow for a student conduct conference to occur remotely. A respondent who leaves the Syracuse area is responsible for transportation and other expenses related to the respondent's right to be present at a student conduct conference in person as scheduled. Any request for a virtual student conduct conference must be made at least 24 hours in advance of the scheduled meeting.

Recording

All student conduct-related meetings and Board hearings will be audio recorded (excluding the deliberation phase of a Conduct Board Hearing) for the purpose of retaining a verbatim record of the hearing in the event of an appeal. This record shall be the exclusive property of the College and will be retained for a period of up to 7 years. No other recording of hearings by any other party is permitted.

The Division of Student Affairs will give the complainant and/or respondent reasonable access to listen to the recording of the hearing in the presence of a Student Affairs staff member for the purpose of preparing an appeal. The College does not maintain a written transcript of hearings. If a party wishes to have their own transcript of a hearing made, the following terms apply:

- The party requesting the transcript may choose any licensed court reporter in Onondaga County or an adjoining county.

- The party requesting the transcript is solely responsible for all associated costs, payable in advance.
- The court reporter must contact the Division of Student Affairs to come to the College within a reasonable timeframe to make the transcript of the hearing on site at the College.
- To ensure accuracy, the reporter will provide two copies to the College (only), one of which will be delivered to the party requesting the transcript by the Division of Student Affairs staff when the court reporter confirms receipt of payment from the requesting party.

Student Conduct Conference

The student conduct conference is an opportunity for the respondent to discuss the student conduct process and review the allegations with a student conduct officer.

In addition to a review of information related to the case, a respondent will also be offered the opportunity to provide relevant information as it pertains to the case. A respondent shall be afforded a full opportunity for explanation, contradiction, or defense of the allegations. Please note that complainants and witnesses will not be present at a student conduct conference and the respondent will not have an opportunity to ask questions of those parties. Should a respondent wish to ask questions of a complainant or witnesses, or present witnesses on their own behalf, the case will be referred to a College Hearing Board for further adjudication as described below. Following an accounting of information relevant to the case, a respondent may choose to accept responsibility for any/all of the allegations outlined in the charge letter and the sanctioning phase will be conducted by the student conduct officer.

If the respondent elects for the case to be referred to the College Hearing Board rather than attend the student conduct conference or the student and the student conduct officer are unable to reach resolution of the charges, the case will be referred to the College Hearing Board for adjudication. A student conduct officer, in consultation with the Dean of Students (or designee), may also refer the case directly to a College Hearing Board.

College Hearing Board

The Dean of Students (or designee) appoints members of the College's faculty/staff and student body to the College Hearing Board (the Board). Board members receive annual training relative to the student conduct process. For cases involving sexual assault, domestic violence, dating violence, and stalking, a select group of Board members receive further training on federal/state laws, the effects of trauma, and other issues related to allegations of sexual violence.

The Coordinator of Community Standards, in consultation with the Dean of Students (or designee), will determine the composition of a respective Board, by selecting from the pool of trained Board members. Each individual hearing Board is comprised of three (3) voting members, one of which may be a student at the same level of study as the respondent (i.e., undergraduate or graduate.) The Board will not include individuals with a conflict of interest, as determined by Board member disclosure or recusal and with the consent of the respective parties.

The Coordinator of Community Standards (or designee) serves as the Administrative Hearing Officer and will preside at each meeting of the Board to ensure that all College policies and processes are followed. The Administrative Hearing Officer does not contribute to the Board's deliberations, other than to ensure process is followed and to share any prior violations if a respondent is found responsible for a violation in the case before the Board.

The members of the Board will have the opportunity to thoroughly review all documentation submitted by the complainant, respondent, and any other involved parties in advance of the hearing.

Hearing Procedures

The format of the hearing will generally be conducted as follows:

- Introduction of Board, Complainant and Respondent
- Complainant statement
- Witness(es) presented by the Complainant
- Respondent statement
- Witness(es) presented by the Respondent
- Questions by the Board
- Complainant closing statement
- Respondent closing statement

Hearings shall be conducted by the Board according to the following guidelines:

- All student conduct-related meetings and Board hearings are closed proceedings. Only those who have a direct role in the meeting/hearing (the complainant, the respondent, their respective advisors, witnesses (when called), the members of the Board, and the Administrative Hearing Officer) are permitted in the room while the hearing is in session. Admission of any person to the hearing shall be at the discretion of the Board in consultation with the Administrative Hearing Officer.
- If the case involves more than one respondent, the Board may permit the hearings to be conducted separately for each respondent.
- Complainants and respondents are responsible for presenting their case and will be asked to identify and present any witnesses or witness statements prior to the hearing. The College is not authorized to compel the appearance of any witness at a College student conduct process proceeding. Similarly, neither complainants and respondents, nor their representatives, are authorized to compel or attempt to compel the appearance of any person at a College student conduct process proceeding. Parties should submit the names of witnesses at least 24 hours prior to a hearing.
- Board members reserve the right to ask questions at any point throughout the hearing.
- The parties may ask questions indirectly through the Board subject to reasonableness and relevance, as determined by the Board, in consultation with the Administrative Hearing Officer.
- Pertinent witnesses, records, exhibits, and/or written statements may be accepted as evidence for consideration by a Board at the discretion of the Board. The Board may determine the relevance of, and may place restrictions on, any witnesses or information presented.
- A hearing shall not be bound by technical rules of evidence, and the Board may hear and receive any testimony or evidence which is relevant to the issues presented by the charge(s) and which will contribute to a full and fair disposition of the charge(s). All members of the Board must be present during the hearing and at all deliberations.
- The respondent may provide the Board with character statements, though character witnesses are not permitted in person at the hearing. The Board will not generally accept statements aimed at defaming the character of any party involved in the hearing. The Board may also set limits regarding the number of character statements it will consider.
- Procedural questions are subject to the final decision of the Board, in consultation with the Administrative Hearing Officer.

- The Board may impose time limits on any stage of the hearing including, but not limited to, the duration of breaks.
- If any party repeatedly disrupts a hearing (including, but not limited to, shouting, repeatedly interrupting others, or verbally or physically threatening individuals involved in the hearing), the Administrative Hearing Officer has the right to remove the disruptive individual(s) from the hearing after they fail to heed a warning from the Administrative Hearing Officer. The hearing shall continue in the absence of any removed disruptive party.
- In cases where the complainant and/or respondent choose not to participate in the hearing, the hearing will proceed as scheduled and the Board will hear from the party who has chosen to participate in the process, if applicable. The respondent will be assumed to have entered a claim of Not Responsible to each allegation. The party not in attendance will forfeit their ability to present information on their behalf. Findings and sanctions (if applicable) will be based on the evidence and not upon any party's failure to appear.
- The complainant and the respondent have the right to submit an impact statement for consideration by the Board during the sanctioning phase. The impact statement(s) should be submitted in writing to the Coordinator of Community Standards within 48 hours of the hearing conclusion. The impact statement(s) will only be viewed by the Board in the event that the respondent is determined to be responsible.

Board Findings:

At the conclusion of the hearing, the Board will convene for closed deliberation to determine the outcome. Based on the information contained in the incident report (or other documentation), any written statements, witness information provided to the Board, and information received during the Board hearing, the Board will determine using the preponderance of the evidence standard whether it is more likely than not that the respondent violated ESF's Code of Student Conduct. Decisions of the Board are made by a majority vote of the members.

The Board will render a decision on all alleged violations of the ESF Code of Student Conduct listed in the charge letter and will draft a disposition letter to include the findings of the Board, rationale for the Board's decision, the sanction(s) (if applicable), and sanction rationale within five (5) business days of confirmation of the Board's decision. The Dean of Students (or designee) will simultaneously notify the respondent and the complainant of the outcome with the disposition letter emailed to the official College email address. The disposition letter will also include pertinent information regarding the appeals process. A copy of the disposition letter shall be kept on file in the Division of Student Affairs. The file may be used as a disciplinary record in any future proceedings involving the respondent.