



# SAN DIEGO STATE UNIVERSITY

## **Section III, Article B: Student Organization Conduct Process**

### **Investigation**

Whenever it appears that a student organization has violated the Student Organization Code of Conduct, a report should be directed to the Office of Student Life & Leadership. Reports can be submitted via the [Student Organization Incident Report Form](#). Concerns may also be submitted by calling Student Life & Leadership at 619-594-5221 or by emailing [deanofstudents@sdsu.edu](mailto:deanofstudents@sdsu.edu).

The Vice President for Student Affairs or designee shall select a Student Life & Leadership staff member to facilitate the judicial process. ("Facilitator"). The Facilitator shall conduct or coordinate a preliminary investigation into any alleged violations and determine whether to initiate disciplinary action.

In cases where individual students are alleged to have violated the Student Code of Conduct, an investigation will be conducted by the Center for Student Rights & Responsibilities. If that investigation concludes that a student organization appears to have violated the Student Organization Code of Conduct, the findings will be referred to the Office of Student Life & Leadership for disciplinary action regarding the organization.

### **Interim Sanction**

The Vice President for Student Affairs or designee may immediately impose an interim sanction where there is reasonable cause to believe that such an action is required to protect the safety and well-being of members of the community, to protect University property, or to ensure the maintenance of order. This may include, but is not limited to, cases involving hazing, incidents involving injury or violence, illegal drug activity, or a pattern of serious violations. The interim sanction may include a temporary suspension of official recognition and/or restrictions on specific activities including, but not limited to, participation in campus events, hosting activities, conducting meetings and recruiting members.

Whenever an interim sanction is imposed, a disciplinary proceeding shall be convened at the earliest possible time, pending normal process requirements. The interim sanction may remain in effect until a final decision has been reached, including any appropriate appeals process, at the discretion of the Vice President for Student Affairs or designee.

### **Informal Conference**

If the Facilitator determines a violation may have occurred, the Facilitator shall provide written or electronic notice of the allegations to the student organization's president or chair. This electronic document is called a "Notice to Appear."

The Facilitator shall conduct an informal conference with the organization president and representatives of the designated student organization governing council. A student organization's faculty/staff advisor and, if applicable, alumni/community advisor and an additional officer/representative of the organization may accompany the organization president to the conference. Attorneys are not permitted. The Facilitator may

invite other persons with information about the alleged violation to participate in the informal conference.

The purpose of the informal conference is to gather facts, assess the possibility of immediate solutions, determine whether there is evidence of a violation of the Student Organization Code of Conduct or whether further investigation is necessary, and to discuss potential sanctions if a violation occurred.

If a student organization fails to appear at an Informal Conference, the Facilitator will determine if the absence was for good cause, in which case the Informal Conference will be rescheduled. Otherwise, the Facilitator will review the information available and make a determination of responsibility.

### **Decision Letter & Settlement Agreement**

Following the Informal Conference, the Facilitator will render a decision and send it to the organization electronically. The decision letter will include the findings of the investigation, level of responsibility of the organization, and sanctions/stipulations if a level of responsibility is found.

If the Facilitator finds evidence that a violation did occur, the Facilitator will send the organization a settlement agreement, which is a document that states that the organization agrees to the terms of the decision. The president of the organization must sign the document or submit a letter of appeal within ten (10) business days of receipt of the letter.

The decision letter and settlement agreement are subject to the prior approval of the Dean of Students. If the sanction includes revocation or suspension of campus recognition, the decision letter and settlement agreement shall be reviewed and approved by the Office of the Vice President for Student Affairs prior to being sent to the organization.

### **Evidence and Standard of Proof**

The University bears the burden of proving that the student organization engaged in misconduct by a preponderance of the evidence.

A “preponderance of evidence” means that quantity and quality of evidence which, when fairly considered, produces the stronger impression, and has the greater weight, and is more convincing as to its truth than the evidence in opposition – or in other words, the facts as determined by the Facilitator or Student Organization Hearing Panel indicate that it is more likely than not that the student organization violated the Student Organization Code of Conduct.

Formal rules of evidence applied in courtroom proceedings do not apply to student organization hearings. Evidence relevant to a case, by the Facilitator or Student Organization Hearing Panel Chair, is admissible at a hearing. This may include direct evidence, circumstantial evidence, documentary evidence, hearsay evidence, and signed statements. This does not imply that all evidence admitted is equivalent in weight. Unduly repetitive information may be excluded.

### **Appeal Process**

If the organization does not accept the terms of the decision and settlement agreement, the organization has the right to appeal.

Grounds for an appeal include:

- the decision was not based on substantial evidence
- there is significant new evidence not available at the time of the hearing
- the applicable policy was not properly interpreted
- the sanction is unreasonable for the offense

- the organization was not afforded due process

To initiate the appeal process, the president of the organization must submit a letter (electronically) within ten (10) business days to the Facilitator and Dean of Students. The letter should detail which part(s) of the decision that the organization is appealing and why the organization believes the appeal is justified.

If the Facilitator rendered the original decision, the appeal is heard by the Dean of Students.

In cases where the decision is made directly by the Dean of Students due to an interim sanction, the appeal would be heard by the Associate Vice President of Student Affairs for Campus Life in the Office of the Vice President for Student Affairs.

During the appeal process, the Dean of Students or Associate Vice President of Student Affairs will review the case file of the organization, including all information presented during the course of the investigation.

Upon reviewing the case file, an appeal meeting will be convened with organization representatives, the Facilitator, the Dean of Students and when appropriate, the Associate Vice President of Student Affairs. The president, faculty/staff advisor(s), alumni/ae advisor(s) and an additional officer/representative are invited to the appeal meeting.

The administrator hearing the appeal, including the Dean of Students or Associate Vice President for Student Affairs, may:

- Sustain the original decision
- Modify the original decision in a specified way
- Revoke the original decision
- Refer the organization to a formal hearing

The decision of the administrator hearing the appeal is final and will be communicated through an electronic letter to the organization, Facilitator, Dean of Students and Associate Vice President. Additionally, the letter may be sent to the faculty/staff advisor, alumni/ae advisor(s) (when applicable), the president and individual responsible for judicial matters in a governing council and executive office/headquarters personnel (when appropriate).

If an organization appeals a decision, the sanctions shall not become effective until the appellate process is completed. Decisions by the Office of the Vice President for Student Affairs are final.

### **Formal Hearing**

Formal hearings are held before the Student Organization Hearing Panel. The Student Organization Hearing Panel has jurisdiction to hear allegations of misconduct by student organizations recognized by Student Life & Leadership at San Diego State University. Allegations of individual student misconduct shall be referred to the Center for Student Rights & Responsibilities.

The Office of the Vice President for Student Affairs may determine that a case shall be heard by the Student Organization Hearing Panel, rather than the Facilitator, where the allegations of misconduct against the organization include, without limitation, hazing, incidents involving injury, alcohol or drug violations, sexual misconduct, theft, or assault. The Office of the Vice President for Student Affairs may also select the Student Organization Hearing Panel to hear cases of misconduct involving organizations with lengthy histories of violations

If the Facilitator determines that a violation likely occurred, the Facilitator shall have the discretion to refer the

case for a formal hearing without offering the organization a decision.

If the Facilitator is unsure whether a violation has occurred, the Facilitator may refer the matter for a formal hearing.

If the Facilitator identifies a pattern of alleged or confirmed behavior through review of the recent conduct record of the organization, the Facilitator may refer the matter for a formal hearing.

If the organization accepts responsibility for a violation but no agreement can be reached on an acceptable sanction, the matter may be referred for a hearing for the sole purpose of determining the sanction. In this case, the organization must submit a written statement prior to the hearing, signed by the president or chair, stipulating that the organization does not contest the charges.

A student organization may file a written request to waive its right to a hearing before the Facilitator and instead have the hearing before the Student Organization Hearing Panel.

A student organization may waive the right to a formal hearing and accept sanctions from the Office of Student Life & Leadership or the Office of the Vice President for Student Affairs. (Note: This option may be utilized when the University collaborates with the national or parent organization to jointly review and propose sanctions for alleged violations.)

Where more than one student organization is charged arising out of a single occurrence, or related multiple occurrences, the Dean of Students or the Office of the Vice President for Student Affairs may decide to consolidate the cases into a single hearing.

Student organization disciplinary hearings are independent of other proceedings, including hearings for individual student members, civil or criminal court cases, and actions taken by the organization's parent organization. The University may proceed with a student organization disciplinary hearing before, simultaneously with, or after any other proceeding.

## **Jurisdiction and Composition of the Student Organization Hearing Panel**

### **Jurisdiction**

The Student Organization Hearing Panel has jurisdiction to hear allegations of misconduct by student organizations recognized by San Diego State University – Student Life & Leadership. Allegations of individual student misconduct shall be referred to the Center for Student Rights & Responsibilities.

Formal hearings may be held before the Student Organization Hearing Panel. The Office of the Vice President for Student Affairs may determine that a case shall be heard by the Student Organization Hearing Panel, where the allegations of misconduct against the organization include, without limitation, hazing, incidents involving injury, alcohol or drug violations, sexual misconduct, theft, and assault. The Office of the Vice President for Student Affairs may also determine that the Student Organization Hearing Panel hear cases of misconduct involving organizations with lengthy histories of violations.

### **Panel Composition**

For each case, the Office of the Vice President for Student Affairs shall appoint three Student Organization Hearing Panel voting members. A Student Affairs administrator shall chair the panel. The other two panelists shall be comprised of a faculty/staff member and a student member.

For fraternity and sorority cases, the student panel member may be the judicial director or other executive board member of one of the four fraternity/sorority councils. For other student organizations, the student panel

member may be an executive officer in a Recognized Student Organization. A Student Life & Leadership staff member may be designated by the Dean of Students to serve as a non-voting consultant member of the Student Organization Hearing Panel.

## **Formal Hearing Procedures**

### **Pre-Hearing**

If after an Informal Conference the alleged violation of the Student Organization Code of Conduct is not resolved, the Facilitator may refer a case for a formal hearing.

If the Facilitator refers a case for a formal hearing, the Facilitator shall prepare a referral for the Student Organization Hearing Panel. This referral shall include an investigation report which may include but is not limited to:

- a background description of the incident involving alleged misconduct, including date, time and place
- the organization and members allegedly involved
- potential witnesses
- summary of interviews of witnesses and/or organization members
- estimated damage to property or injury to persons
- the probable cause of the incident
- a summary of all evidence
- specific portions of the Student Organization Code of Conduct that the organization is alleged to have violated
- the disciplinary history of the organization
- a copy of the settlement agreement offered, if applicable
- supporting documentation

University Police materials cannot be distributed in advance of the hearing and must be collected at the end of the hearing.

The Facilitator shall provide the investigation report to the organization charged with misconduct and their advisor(s), the Dean of Students, other appropriate University officials, and regional and/or national officials of the student organization's parent organization (if applicable).

### **Notice**

If the Facilitator has determined that a formal hearing is appropriate, the Facilitator issues a notice of hearing. The Facilitator may issue notice to the student organization in the following manner:

- Electronically to the charged organization's email address, or
- Personal delivery to the organization's president or chair.

The Facilitator shall send a copy of the notice to the organization's faculty or staff advisor, and if appropriate to the alumni or community advisor, and regional and/or national officials of the student organization's umbrella organization/council (if applicable).

The Facilitator shall send notice of the hearing to the student organization at least five business days before the hearing, unless the five business day period has been waived by the organization.

The notice of hearing shall include:

- the section(s) of the Student Organization Code of Conduct the student organization is alleged to have violated
- a factual description of the student organizations conduct that forms the basis for the charge(s)
- a list of possible sanctions

- the date, time and location of the hearing
- the investigation report and supporting documentation
- a list of organization members required to appear as witnesses
- information about the hearing process
- notification that the student organization may be accompanied at the hearing by up to two advisors of the organization's choice, who may not act on its behalf, and who may not be an attorney
- notification that the student organization charged may elect to waive the right to a hearing by accepting the settlement agreement, if one was offered

The student organization is required to provide the Facilitator with a list of witnesses who will be testifying on behalf of the organization at least 24 hours prior to the hearing, with an indication of their relationship to the case.

### **Hearing Participants**

The following are the only individuals allowed to attend official hearings:

- the Student Organization Hearing Panel
- the Facilitator
- the student organization president or designee, and no more than two advisors (e.g., faculty or staff advisor, alumni or community advisor, or regional or national official)
- any witnesses testifying (during their testimony only)
- The president and judicial officer from the respective student organization governing council
- appropriate University officials with the consent of the Facilitator

No attorneys are permitted to participate.

An advisor may not present evidence, question witnesses, or address the Board. However, advisors may answer questions posed by the hearing panel and will have an opportunity to speak during the organization's closing statement.

If the student organization president, chair or designee fails to appear at a hearing, without notice and good cause as determined by the hearing panel chair, the hearing will continue as scheduled, the evidence in support of the charges shall be presented, considered and adjudicated.

Abusive or disrespectful behavior shall not be tolerated and may be cause for ejection from the hearing by the hearing panel chair.

### **Hearing Panel Responsibilities**

Hearings are intended to be educational rather than adversarial.

The respective chair from the Student Organization Hearing Panel shall preside over the hearing.

The hearing panel shall make findings of fact as to whether the organization has violated the Student Organization Code of Conduct and if so, recommend appropriate sanction(s).

The panel shall determine whether the student organization violated the Student Organization Code of Conduct by a majority vote. The panel shall base its determinations on factual evidence and not on guesswork, conjecture, speculation or feelings. The panel shall not allow sympathy, bias, prejudice, and favoritism to influence its determinations.

For formal hearings before the Student Organization Hearing Panel, the Facilitator shall make or cause to be

made and official audio recording and inform the witnesses that their testimony is being recorded. No other recording device may be permitted in either hearing.

Panel members shall exercise care to protect the confidentiality of the hearing by not discussing the investigation report, testimony of witnesses and the deliberations of the panel outside the hearing room.

### **Settlement Agreements**

With the consent of the Dean of Students, at any time during the hearing, the organization can decide to waive the right to a hearing and accept an offered settlement agreement.

The president or chair of the organization must make this waiver in writing.

### **Hearing Agenda**

The outline of the hearing shall be as follows:

- Introductions of those present at the hearing
- Summary of the hearing process and an admonition that there shall be orderly behavior during the hearing
- Explanation of the charges against the student organization
- Facilitator's opening statements, which should include the alleged violation(s), followed by the student organization's opening statements
- Facilitator presents evidence and witnesses after which the student organization presents evidence and witnesses
  - members of the hearing panel may ask factually-based questions of witnesses and those presenting evidence
  - the member of the hearing panel asking the question must be recognized by the presiding authority before asking questions
  - the student organization president, chair or designee shall have the opportunity to ask factually-based questions of all witnesses
- Facilitator makes concluding statements followed by the student organization's (the organization president, chair or designee) concluding statements
- Student organization is dismissed

### **Post-Hearing**

After the hearing the panel shall make findings of fact and conclusions about whether the facts demonstrate that the organization violated the Student Organization Code of Conduct.

The hearing panel deliberates in a closed session with only the hearing panel present (the Facilitator is available for consultation but only voting members are present during voting on the final decision).

If the organization is found to have violated the Student Organization Code of Conduct the panel shall recommend an appropriate sanction(s) and stipulation(s).

The chair of the panel shall send the panel's recommendations as to whether the student organization violated the Student Organization Code of Conduct to the Dean of Students and Associate Vice President for Student Affairs. The recommendation shall include findings of fact and recommended sanction(s) and stipulation(s) if the organization is found responsible. The recommendation of the panel is confidential and not shared with the organization.

The Office of the Vice President for Student Affairs shall issue a decision from a formal hearing. If the decision is that the student organization violated the Student Organization Code of Conduct, the decision shall include

the sanction(s) and stipulation(s) to be imposed. Decisions will normally be issued within ten business days of the hearing.

The decision letter is sent electronically to the organization president.

Decisions by the Office of the Vice President for Student Affairs are final.

### **Sanctions & Stipulations**

Student organizations that violate the Student Organization Code of Conduct are subject to sanctions. Sanctions may include, but are not limited to, one or more of the following:

**Expulsion and withdrawal of recognition** – includes but is not limited to the student organization being denied, use of University facilities, use of the University name, and use of Associated Student facilities and services. Withdrawal of recognition may be indefinite or for a specified time.

**Suspension** – suspends all privileges granted to the student organization, including campus recognition, for a specific time.

**Suspension in abeyance** – places the organization on suspension, but the University does not implement the suspension. The organization retains privileges, but must meet specified conditions. If the organization does not meet the conditions, the suspension immediately takes effect.

**Probation** – places the organization on probation for a period of time during which the organization is expected to demonstrate exemplary compliance with University policies. Probation may include conditions that the organization must meet to be removed from probation. The probationary conditions may specify the sanctions to be imposed should the organization not comply of the term(s) of probation.

**Warning** – states that the student organization's actions were inappropriate and a warning that future infractions shall not occur.

In addition to an overarching sanction, the student organization is subject to stipulations if found to be in violation of the Student Code of Conduct. Stipulations are developmental tools designed to address the specific behaviors, violations and concerns involving the organization. A few examples of common sanctions include (but are not limited to):

**Educational and developmental sanctions** – orders attendance at education seminars by organization members or requires the organization to prepare presentation(s) to educate others.

**Social restrictions** – prohibits the student organization from holding social events for a specific period.

**Alcohol restrictions** – prohibits the student organization from having alcoholic beverages present at organization-related activities and/or at organization-related facilities for a specific period.

**Restitution** – orders compensation for loss, damages, or injury that may include service, monetary or material replacement.

**Constructive requirement appropriate for the offense** – These sanctions shall be determined by the Facilitator or Student Organization Hearing Panel.

**Restriction of privileges of their respective governing councils** – suspends privileges of the organization granted by the respective governing council for a specific period.

## **Recognition Reinstatement**

Student organizations that have their recognition suspended or removed must make a formal request for to be reinstated to the Dean of Students before they can be considered to return to campus. This includes organizations whose national organization or affiliation removed their recognition or approval of the local organization. Once a formal request has been made, a review of the student life community will be conducted and a decision to return will be based on feasibility of the organization in the campus community. This process supersedes all letters issued prior to an organization leaving or being removed from campus and this process must be adhered to prior to re-chartering.

Additionally, organizations within Fraternity & Sorority life must also follow the appropriate process for the council in which the organization is governed.

## **Judicial Records**

All student organization judicial records shall be maintained for at least seven years in the Office of Student Life & Leadership. Any materials used in a case become part of the judicial record and shall include, but are not limited to:

- the original report of alleged misconduct by the student organization
- the investigation report
- informal conference/hearing notices
- informal conference/ hearing evidentiary documents, minutes and audio recording
- decision letters
- appeal letter and appellate decision (if applicable)

The judicial records are confidential. The University may release a general description of the charges against a student organization (with names and personally identifiable information redacted), whether the organization was found responsible, and any sanctions imposed.

Access to student organization judicial records shall be limited to the Student Organization Hearing Panel, the student organization involved and its advisor(s) and parent organization officials (if applicable), and appropriate Student Affairs staff members. Panel members shall return hearing materials to the Facilitator at the conclusion of the hearing.

## **Accountability of Organization Officers**

Although all members are personally responsible for their own behavior, a specific organization officer may be held personally accountable for the misconduct of organization members during organized organization activities. Circumstances which might warrant this personal accountability include but are not limited to:

- Inappropriate and/or unacceptable activities which are sanctioned by the organization by means of discussion and/or planning at an organization meeting, officers' meeting, or committee meeting.
- An officer's participation in such an activity.
- An officer's failure to act appropriately upon witnessing such an activity.
- An officer's failure to act appropriately in preventing such an activity when the officer had prior knowledge.
- An officer's failure to act appropriately in taking corrective action after learning of such an activity.
- An officer's negligence in informing the organization members of established laws, regulations, policies, directives, and procedures.
- An officer's failure to cooperate fully with law enforcement personnel or with University officials, including failure to identify organization members known by the officer to be involved in an incident.

Allegations of individual student misconduct shall be referred to the Center for Student Rights &

Responsibilities.