

2.8 INVESTIGATION AND HEARING PROCEDURES

2.8.1 Complaints and Jurisdiction

The Director of Student Responsibility and Community Standards, or designee, will serve as the coordinator for all Complaints arising under the policies contained in the Community Standards.

The Title IX Coordinator, or designee, will serve as the coordinator for all Complaints arising under Title IX Sexual Harassment Grievance Process.

Any Member of the University community may file a Complaint against any Student or Student Organization for misconduct or a violation of the Community Standards or any other University Policy. All Complaints should be submitted as soon as possible after the date of the alleged violation, preferably within one (1) year and filed with the Office of Student Responsibility and Community Standards by completing an Incident Report Form (<https://www.slu.edu/life-at-slu/community-standards/>).

2.8.2 Investigation Processes for Allegations of Community Standards Violations

Upon receipt of an Incident Report (IR), or other materials and reports, the Office of Student Responsibility and Community Standards (Office) may conduct an investigation to determine relevant facts and identify resolutions through a hearing process. Generally speaking, the Office will determine the appropriate information gathering process for investigation. The Director of Student Responsibility and Community Standards or designee, shall have the discretion to deviate from these procedures when warranted based on the unique circumstances of a situation. The following information gathering processes may be utilized prior to the case being assigned to a hearing officer:

An **Administrative Review** is when the IR provides sufficient information to move forward with the hearing procedures as outlined in Section 2.8 of the Community Standards.

An **Informal Inquiry** can be utilized to gather more information about a specific report, but does not constitute a full and formal investigation. An Informal Inquiry may involve meeting with the Reporting Party, witness(es), or other involved individuals to gather more information, or gathering other evidence as necessary (eg. video). An investigative report may be written when appropriate.

The **Informal Inquiry** can also include educational, restorative, and/or discretionary opportunities with students who are alleged to have violated the Community Standards but where a Formal Investigation and/or Hearing Process has been declined by the Reporting Party, and/or when the Director of Student Responsibility and Community Standards, or designee, determines that the discretionary outcomes will aid the individual student or the University community in maintaining a safe, inclusive, and educational environment.

A **Formal Investigation** may be utilized when an individual student alleges interpersonal violence or prohibited conduct by another student(s), when the preliminary information suggests that, if found responsible, the alleged Community Standards violations could result in suspension or expulsion from the University. A Formal Investigation

may also be utilized when the Director of Student Responsibility and Community Standards, or designee, determines a Formal Investigation is the appropriate investigative strategy for resolving an allegation of Community Standards violations. A Formal Investigation may also be requested by a Complainant through submission of a written complaint made to the Office of Student Responsibility and Community Standards. The Director of Student Responsibility and Community Standards, or their designee, will determine whether a request for a Formal Investigation is accepted.

At the outset of a Formal Investigation, the Director of Student Responsibility and Community Standards, or designee, along with the Investigating Officer will outline an investigative strategy. An advisor can be appointed to assist the Complainant and the Respondent navigate the Process.

The Director of Student Responsibility and Community Standards, or designee will also work with the student(s) involved to provide any interim or supportive measures as needed and requested.

The components to a Formal Investigation may include but are not limited to:

- an intake meeting with the Complainant and the Investigating Officer,
- the gathering of relevant evidence by the Investigating Officer from all parties involved,
- an investigative meeting with the Respondent and the Investigating Officer,
- investigative meetings with witnesses and gathering witness statements (if applicable) by the Investigating Officer,
- confirmation of statement accuracy from participants, and
- the preparation of an Investigative Report.

At the conclusion of the investigation, the investigator will prepare a written report, an Investigative Report, that summarizes the information gathered during the investigation and identifies the potential policy violations. Before the report is finalized, both parties, as well as their advisors, may be given the opportunity to review a preliminary investigative report. Information collected during the investigation that is directly related to the allegations, regardless of whether it was included in the Investigative Report, may be shared with parties and their advisors, as well. Both parties may submit any additional comment or information to the investigator within ten (10) days of the opportunity to review the report. Upon receipt of any comment, or after the ten (10) day comment period has lapsed without comment, the investigator will finalize the report. This finalized report, which will include appropriate comments submitted by either party, will be given to the Hearing Officer.

The University's Title IX Grievance Procedures, outlined in Section 1.26 of the Student Handbook, supersede any of the above investigation processes in cases under the jurisdiction of the University's Title IX Sexual Harassment Policy.

2.8.3 Hearing Procedures for Community Standards Violations

The Director of the Office of Student Responsibility and Community Standards, or designee, will determine whether a case will be resolved via a Suspendable process or a Non-Suspendable process.

A. Non-Suspendable Violations

The following outlines the process for a Student that has allegedly committed a non-suspendable offense.

The Director of the Office of Student Responsibility and Community Standards, or designee, will investigate the violation.

Cases will be assigned to Housing and Residence Life or the Office of Student Responsibility and Community Standards for further action taking into consideration such things as whether the incident occurred in a residence hall and/or whether the Student(s) involved resides in a residence hall/apartment, and/or University-owned/managed housing.

A Hearing Officer will be assigned to meet with the Student.

Hearing Officer will determine meeting time and place. The meeting time will be scheduled using the Student's academic schedule. If there is a conflict with the academic schedule, the Student must reach out to find an agreeable time with the Hearing Officer.

A hearing notification letter will be sent by the Hearing Officer to the Accused Student containing the alleged violation(s) and hearing details (time, day, location, etc.).

The Hearing Officer will meet with the Accused Student to discuss their rights as a Student, the incident, and review the alleged violations. A Student may take responsibility, be found responsible, or be found not responsible for violating the Community Standards.

If a Student takes responsibility or is found responsible, the Hearing Officer will assign appropriate outcomes, sanctions, and/or restorative actions. In determining whether a Student is responsible, a Hearing Officer will apply the preponderance of the evidence standard (which is whether it is more likely than not that the violation occurred).

With the exception of suspension and expulsion, the Hearing Officer may impose any outcomes, sanctions, and/or restorative actions deemed appropriate under the circumstances and consistent with University Policy. In determining the appropriate sanction(s), the Hearing Officer may consider the following factors:

- The nature and violence of the conduct at issue;
- The impact of the conduct on the Reporting Party;
- Impact or implications of the conduct on the community or the University;
- Prior misconduct by the Accused Party, including the Accused Party's relevant prior discipline history;
- Whether the Accused Party has accepted responsibility for the conduct;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the University community; and,
- Any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Students will be notified of the outcome of the hearing via their SLU email address. If their SLU email address is inactive, they will receive notification via their email address on file upon application to the University or via permanent or local address on file with the University. The outcome letter will include:

- The finding(s) (responsible/not-responsible)
- Outcomes/Sanctions/Restorative Actions, if appropriate
- The appeal process

The grounds for appeal may only be based upon the following:

1. There was a material deviation from the procedures set forth in the Community Standards that would significantly impact the outcome of the case or may have resulted in a different finding;
2. New or relevant information, not available at the time of the hearing, has arisen that would significantly impact the outcome of the case.

As a general rule, neither the sanctions resulting from a disciplinary decision nor any change in the status of a Student will be enforced until the appeal has been fully considered. However, each matter will be considered on a case-by-case basis, taking into account, among other things, the health and safety of individual community members and/or the community as a whole.

All appeals must be submitted within three (3) business days from the date on the outcome letter using the **Community Standards Appeal Form** (<https://cm.maxient.com/reporting.php?SaintLouisUniv>). If an appeal is not received within three (3) business days, the Hearing Officer's determination is final.

Appeals for violations considered to be "non-suspendable" will be heard by the Community Standards Appeal Board (see *Definitions* Section 2.1.7), unless school is not in session, in which case, the appeal may be heard by the University Appeal Board, comprised of staff and/or faculty and/or Students. The decision by the University Appeal Board is the final decision in the case. The decision by the appeal board is the final decision in the case. In general, and only in cases when the outcomes are modified by an appeal board to be more restrictive or increase with severity, these outcomes will become recommendations upon the approval of the Vice President for Student Development, or designee.

B. Suspendable Violations

The following outlines the process for a Student, when the preliminary information suggests that, if found responsible, the alleged Community Standards violations could result in suspension or expulsion from the University.

The Director of the Office of Student Responsibility and Community Standards, or designee, will investigate the violation. The investigative process may follow the Administrative Review, Informal Inquiry, or Formal Investigation procedures. The involved Parties will be apprised of the procedures.

The Director, or designee, will be assigned as the Hearing Officer for the case.

Throughout the process, a Reporting Party or Accused Party shall have an advisor provided by the University or an advisor of their choice present at any meeting related to the investigation or disciplinary proceeding. An advisor of choice may include an attorney of their choosing at the Party's own expense. An advisor provided by the University will be trained in regard to University policies, procedures, and resources. Any person who serves as an advisor should plan to make themselves available for meetings throughout the process. Advisors can participate in the resolution process in an advisory capacity, but they may not take part directly in the hearing itself and must demonstrate appropriate behavior. The University has the right at all times to determine what constitutes appropriate behavior on the part of an advisor. If a party wishes to speak

privately with their advisor during the hearing, they may request a brief recess from the meeting or proceeding. The advisor may not be a fact witness or otherwise have any conflicting role in the process.

A hearing notification letter will be sent by the Hearing Officer to the Accused Student containing the alleged violation(s) and hearing details (time, day, location, etc.).

The Hearing Officer will meet with the Student to discuss their rights as a Student, the incident, and review the violations/charges. A Student may take responsibility, be found responsible, or be found not responsible for violating the Community Standards.

If a Student takes responsibility or is found responsible, the Hearing Officer Maker will assign appropriate outcomes, sanctions, and/or restorative actions and outline the Appeal Process. In determining whether a Student is responsible, the Hearing Officer will apply the preponderance of the evidence standard (which is whether it is more likely than not that the violation occurred).

The Hearing Officer may impose any outcomes, sanctions, and/or restorative actions deemed appropriate under the circumstances and consistent with University Policy. In determining the appropriate sanction(s), the Hearing Officer may consider the following factors:

- The nature and violence of the conduct at issue;
- The impact of the conduct on the Reporting Party;
- The impact or implications of the conduct on the community or the University;
- Prior misconduct by the Accused Party, including the Accused Party's relevant prior discipline history;
- Whether the Accused Party has accepted responsibility for the conduct;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the University community; and,
- Any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Barring extenuating circumstances, Students will be notified of the outcome of the hearing via email within fourteen (14) business days. The outcome letter will include:

- The finding(s) (responsible/not-responsible);
- Outcomes/Sanctions/Restorative Actions, if appropriate; and
- The appeal process.

The grounds for appeal may only be based upon the following

1. There was a material deviation from the procedures set forth in the Community Standards that would significantly impact the outcome of the case or may have resulted in a different finding
2. New or relevant information, not available at the time of the hearing, has arisen that would significantly impact the outcome of the case.

Dissatisfaction with the outcome of the investigation, and failure of a Party or witness to attend or participate in the investigation or hearing process, are not grounds for appeal.

As a general rule, neither the outcomes/sanctions/restorative actions resulting from a disciplinary decision nor any change in the status of a Student will be enforced until the appeal has been fully considered.

However, each matter will be considered on a case-by-case basis, taking into account, among other things, the health and safety of individual community members and/or the community as a whole.

Appeals must be submitted within three (3) business days from the date on the outcome letter using the **Community Standards Appeal Form** (<https://cm.maxient.com/reporting.php?SaintLouisUniv>). If an appeal is not received within three (3) business days, the Hearing Officer's determination is final.

Appeals under this section will be heard by the University Appeal Board (see *Definitions* Section 2.1.21). The decision by the University Appeal Board is the final decision in the case. In general, and only in cases when the outcomes are modified by the University Appeal Board to be more restrictive or increase with severity, these outcomes will become recommendations upon the approval of the Vice President for Student Development, or designee.

C. Student Organizations

All hearing procedures applicable to Accused Parties are also applicable to Student Organizations. Organizations that are not formally recognized by the University, but operate as a Student organization, will be held accountable for violations of University Policies and Community Standards and are subject to any and all sanctions that may be imposed.

2.8.4 Procedures for Alleged Misconduct Not Applicable to the University's Title IX Sexual Harassment Policy

Overview

Saint Louis University's process for resolving Student reports of sexual misconduct that fall outside the scope of the Title IX Sexual Harassment Policy will be prompt and equitable and conducted with the oversight of the Director of Student Responsibility and Community Standards. When the University receives reports involving allegations, it will follow the grievance procedures outlined below.

Throughout the process, a Complainant and a Respondent may have an advisor provided by the University or an advisor of their choice present at any meeting related to the investigation or disciplinary proceeding. An advisor of choice may include an attorney retained by a Party at their own expense. An advisor provided by the University will be trained in regard to University policies, procedures, and resources. Any person who serves as an advisor should plan to make themselves available for meetings throughout the process. Advisors may participate in University processes in an advisory capacity, but they may not take part directly in the investigation, the hearing, or appeal. If a party wishes to speak privately with their Advisor at any time, they may request a brief recess from the meeting or proceeding. The University has the right at all times to determine what constitutes appropriate behavior on the part of an advisor. The advisor may not be a fact witness or otherwise have any conflicting role in the process.

Consent

What is Effective Consent:

- Effective Consent is an affirmative, knowing and voluntary decision – clearly communicated through mutually understandable words (e.g., saying “yes”) and/or actions – to willingly engage in mutually acceptable sexual activity (e.g., to do the same thing, at the same time, in the same way, with another individual(s)).

- Effective Consent must be given freely, willingly, consciously and knowingly by each participant to any desired sexual contact.
- Consent may be withdrawn by any consenting party at any time during the sexual activity. Withdrawal of consent must be demonstrated by words and/or actions that indicate a desire to end sexual activity. Once an individual has communicated withdrawal of consent, all sexual activity must end.

What is NOT Effective Consent:

- Conduct will be considered “without consent” if no clear consent, verbal or nonverbal, is given.
- Effective Consent cannot be given by someone who is Incapacitated.
- Effective Consent cannot be gained through force, threat, intimidation or coercion.
- A current or previous dating or sexual relationship, by itself, does not constitute Effective Consent. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity. Effective Consent cannot be assumed based on prior sexual contact or subsequent sexual contact.
- Effective Consent cannot be inferred from silence, passivity or lack of resistance. Without outward communication or action, Effective Consent does not exist.
- Effective Consent cannot be inferred from an individual’s attire or physical appearance.
- Effective Consent cannot be inferred from an individual’s offer, acceptance, or participation in any form of non-physical sexual activity (e.g. social media forums, date/activity, consumption of alcohol, or invitation to a dorm room or private area).
- A verbal “no,” even if perceived to be indecisive constitutes a lack of consent.

The expectations of our community regarding Consent include, but are not limited to, the following:

- It is the responsibility of the person initiating the sexual activity to obtain the other party’s Effective Consent. It is not the responsibility of the intended recipient of such sexual contact to affirmatively deny such consent.
- All parties must have Effective Consent throughout the duration of the sexual activity.
- Effective Consent can be given by words and/or actions. Relying solely upon non-verbal communication, however, can lead to misunderstanding and as a result a potential violation of this Policy.
- Effective Consent to one form of sexual activity is not, by itself consent to other forms of sexual activity

Incapacitation, Alcohol and/or Drugs, Force and Coercion

Incapacitation: A person violates this Section if they have sexual contact with someone they know, or should know, to be mentally incapacitated or to have reached the degree of intoxication that results in incapacitation.

An individual who is incapacitated cannot communicate Effective Consent to sexual activity. Incapacitation is the inability, temporarily or permanently, to give consent or communicate unwillingness, because an individual is mentally and/ or physically helpless, unconscious, asleep or unaware that the sexual activity is occurring.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual’s: decision-making ability; awareness of consequences; ability to make informed judgments; capacity to appreciate the nature and the quality of the act; or level of consciousness.

A person is considered incapacitated, or unable to give consent, if they cannot understand the when, where, why, how or who of the sexual encounter. Where alcohol or other drugs are involved, incapacitation may result from rapid or excessive consumption (voluntarily or involuntarily).

The impact of alcohol and other drugs varies from person to person. Warning signs that a person may be so impaired by alcohol and/or drugs that they no longer have the capacity to give Effective Consent may include, but is not limited to:

- Difficulty walking, stumbling or falling down;
- Being unable to stand or walk without assistance;
- Slurred speech or an inability to communicate clearly;
- Inability to focus or confusion about what is happening;
- Urinating, defecating or vomiting; or
- Combateness, emotional volatility or other marked change in demeanor.

The test of whether an individual should know about another’s incapacitation is whether a reasonable, sober person in the same position would know or should have been aware of the Complainant’s incapacitation. An Respondent cannot rebut a charge of Prohibited Conduct merely by asserting that they were drunk or otherwise impaired and, as a result did not know that the other person was incapacitated. Alcohol, drugs or other intoxicants do not negate or diminish the responsibility of an individual to obtain Effective Consent.

Force/Coercion: In some situations, an individual’s ability to freely, willingly, and knowingly give Effective Consent is taken away by another person or circumstance. Examples include, but are not limited to:

- When an individual is physically forced to participate. Force is the use or threat of physical violence and/or imposing on someone physically in order to gain sexual access. There is no requirement that a party resists the sexual advance or request, but resistance is a clear demonstration of non-consent. Any sexual activity that is forced is by definition without Effective Consent.
- When an individual is intimidated, threatened – even a perceived threat – isolated, or confined. Such intimidation could involve the use or threat of a weapon.
- When an individual is coerced or unreasonably pressured to participate in sexual activity. When someone makes clear that they do not want to engage in sexual activity, that they want something to stop, or that they do not want to go past a certain point of sexual interaction – continued pressure past that point can be coercive behavior. When evaluating coercive behavior, factors such as the frequency, duration, location (isolation of recipient of unwanted contact), and intensity of coercive behaviors will be considered. A person’s words or conduct are sufficient to constitute coercion if they wrongfully impair another individual’s freedom of will and ability to choose whether or not to engage in sexual activity.

Timeframe and Complaint Intake

Upon receiving allegations of sexual misconduct that does not fall within the scope of Title IX, the Director, or their designee, will contact the Complainant to discuss the availability of supportive measures (including

informing the Complainant that supportive measures are available with or without filing a complaint) and to discuss avenues for their resolution.

Following the initial outreach to the Complainant as set forth above, the Complainant may file a Complaint by submitting an Incident Report or completing a statement to the Office of Student Responsibility and Community Standards providing sufficient information for the University to investigate the allegations contained therein (including but not limited to the name of the Respondent and date, location, and nature of the alleged misconduct).

Understanding that not every student who reports misconduct intends to initiate a Complaint, the Office of Student Responsibility and Community Standards may not proceed with a Formal Investigation and resolution as set forth in Section 2.0 of the Student Handbook in the absence of a filed Complaint. When the Director of the Office of Student Responsibility and Community Standards believes that, with or without the Complainant's wish to participate in a Formal Investigation, the nature of the allegations warrants an investigation, the Director, or designee, has the discretion to initiate a Formal Investigation by initiating a Complaint. In determining these circumstances the University may consider the following:

- The seriousness, persistence, or pervasiveness of the alleged misconduct;
- The respective ages and roles of the Complainant and Respondent;
- Whether there have been other reports of misconduct against the Respondent;
- The right of the Respondent to receive notice and relevant information before disciplinary action is sought;
- Whether the circumstances suggest there is an increased risk of the Respondent committing additional acts of misconduct;
- Whether the Respondent has a history of arrests or prior conduct violations (at the University or elsewhere) indicating a history of violence;
- Whether the Respondent threatened further acts of misconduct or other violence against the Complainant or others;
- Whether the misconduct was committed by multiple individuals;
- Whether the circumstances suggest there is an increased risk of future acts of misconduct under similar circumstances;
- Whether the misconduct was perpetrated with a weapon, by force, or through the use of predatory behavior, including the use of incapacitating substances;
- Whether the University possesses other means to obtain revelation information (e.g. security cameras or personnel, physical evidence);
- The Respondent's rights to receive information if such information is maintained in an educational record under the Family Educational Rights and Privacy Act (FERPA) 20, U.S.C. (§)1232g; 34 C.F.R. Part 99; and;
- The University's obligation to provide a safe and non-discriminatory environment.

Where the Director, or designee, initiates the Complaint and Formal Investigation, the Director, or designee, is not a Complainant or otherwise a party under these procedures. Furthermore, the initiation of a Complaint by the Director is not sufficient alone to imply bias or that the Director is responsible for taking a position adverse to the Respondent.

Except for good cause, the University will conclude its investigation, hearing, and appeal process within ninety (90) University business days following a notice of investigation. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness,

fairness, and impartiality. The University may extend this time frame for good cause and will communicate any delay in the process in writing to the parties, including an updated timeframe for completion and the reason(s) for any delay. Good cause may exist for a variety of factors, including the complexity of the circumstances of each allegation, the integrity and completeness of the investigation, to comply with a request by external law enforcement, to accommodate reasonable scheduling requests or extensions by either or both Parties, to accommodate the availability of witnesses, to account for holidays resulting in University closure, or to address other legitimate reasons.

The Director of Student Responsibility and Community Standards has the discretion to dismiss a complaint when a Complainant notifies the Director or Investigator that they wish to withdraw their complaint. The Director will notify the Respondent when the Complainant withdraws their complaint and explain to both the Complainant and the Respondent whether the investigation will continue or be dismissed.

Notice

When an investigation is initiated, the investigator will provide a written notice of investigation. The notification will include, but is not limited to, the following:

- The name of the Complainant;
- The nature of the reported misconduct and the corresponding sections of the Student Handbook;
- The time, date, and location of the reported incidents, if known;
- The right to an advisor;
- A prohibition of retaliation;
- The name of the assigned investigator; and
- Contact information for the Director, or designee.

If in the course of the investigation, information is provided that discusses different or additional misconduct that was not included in the original notification of investigation, the investigator will provide an amended notice of investigation to the Respondent outlining the additional information.

Upon receipt of the investigative report, the Hearing Officer will provide written notification of charges to both the Respondent and the Complainant. This notification will include:

- Name of the individual assigned as the Hearing Officer to determine responsibility and sanctions, if applicable;
- Sections of the Student Handbook that the Hearing Officer determines are alleged to have been violated;
- Invitation to meet with the Hearing Officer;
- Opportunity to provide questions to be asked of the other Party;
- Opportunity to review the investigative report, including the recommendation of the Investigator.

Investigation

Where a decision has been made to pursue an investigation, the Director, or designee, will assign a trained investigator to conduct a prompt, thorough and impartial investigation of reports of misconduct. All parties and witnesses are expected to provide truthful information. Knowingly providing false or misleading information is a violation of University policy and can subject a Student to disciplinary action. The investigator or designee will provide timely updates, as appropriate or requested, about the timing and status of the investigation.

It is the responsibility of the University, not the parties, to gather relevant evidence, to the extent reasonably possible. The Investigator will conduct a fair and reliable fact-gathering in light of the circumstances of the report. The investigator will be responsible for interviewing the Complainant and Respondent; interviewing potential witnesses; collecting relevant documentation and physical evidence, including documents, communications between the parties, and other electronic records as appropriate; creating a timeline; and preparing a written report documenting the complete investigation.

The Complainant and Respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character.

The investigator will determine the relevance of any proffered information, and will not consider statements of personal opinion, rather than direct observations or reasonable inferences from the facts, or statements as to any party's general reputation for any character trait, including honesty.

Medical and counseling records of a Complainant or Respondent are privileged confidential records that individuals are not required to disclose. However, these records may contain relevant and material information and a party may voluntarily choose to share such records with the Investigator. Any records provided by a party become part of the file and are available to review by the opposing party.

A Complainant's prior sexual history will never be used as evidence of character or reputation, and will only be considered during an investigation under limited circumstances. For example, where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent asserts that the conduct was consensual, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. The mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Complainant with other individuals is typically not relevant and will only be permitted if it is probative of a material fact, for example, to explain an injury or physical finding.

In gathering information, the Investigator may also consider other reports of, or findings of responsibility for, similar conduct by the Respondent to the extent such information is relevant and available. Such information may be relevant to prove motive, intent, absence of mistake, pattern or another material fact.

Where a sufficient informational foundation exists, the investigator, in consultation with the Director, will assess the relevance, form, and reliability of the information and determine if it is appropriate for inclusion in the written investigative report for consideration by the Hearing Officer in its determination of responsibility and/or any assigning of a sanction.

The Investigator and Director have the discretion to consolidate multiple reports against a Respondent into one investigation if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident.

At the conclusion of the investigation, the Investigator will prepare a written report that summarizes the report, details the information gathered, identifies the potential Policy violations and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. In preparing the report, the

investigator will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation. Before the report is finalized, the Complainant and Respondent will be given the opportunity to review a preliminary investigative report that contains all information to be relied upon in reaching a determination. The Complainant and the Respondent may submit any additional comment or information to the investigator within ten (10) business days of the opportunity to review the report.

Upon receipt of any additional information by the Complainant or Respondent, or after the ten (10) day comment period has lapsed without comment, the Investigator will finalize the report. This finalized report will be given to the Hearing Officer.

Hearing Procedures, Determination of Responsibility, and Sanctions

The Hearing Officer is an individual designated by the University to determine responsibility and impose, as appropriate, any sanctions. Both the Complainant and the Respondent will receive a written notification from the Hearing Officer within ten (10) business days from the Hearing Officer's receipt of the investigative report. The Hearing Officer will provide both Parties an opportunity to review the final investigative report and meet with the Hearing Officer separately. The Parties may submit written comments in lieu of or in addition to an in-person meeting with the Hearing Officer. Any Party may submit written questions that they want to be asked by the Hearing Officer of another Party. The Hearing Officer will review the questions prior to them being asked of another Party to ensure they are appropriate and relevant. At the conclusion of the individual meetings, or upon receipt of additional written comment, the Hearing Officer will make a determination as to whether, based on the preponderance of the evidence standard, the Respondent committed an act or acts of misconduct in violation of this Section.

If the Hearing Officer determines that the Respondent is responsible for one or more forms of misconduct, the Hearing Officer will determine the appropriate sanctions. A determination of sanctions will be based on the facts and circumstances of each case and will be designed to eliminate the misconduct and prevent any reoccurrence of such misconduct. Any determination for sanctions will be rooted in the University's educational mission and institutional values.

Sanctions for Students for a violation of this Section may include: expulsion; suspension; disciplinary probation; mandated counseling assessment which may include anger management course(s), alcohol and/or drug education program(s), and other requirements based upon the counseling assessment; restrictions on campus privileges including restrictions on campus housing or participation in student activities; community service; and/or other education sanctions.

In determining the appropriate sanction, the Hearing Officer may consider the following factors:

- the nature and violence of the conduct at issue;
- the impact of the conduct on the Complainant;
- the impact of the conduct on the University community;
- prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere, and any criminal convictions;
- how the University has previously sanctioned similar conduct;
- whether the Respondent has accepted responsibility for the conduct;
- maintenance of a safe and respectful learning, living and working environment;

- protection of the University community; and
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate outcome in each case.

Both Parties will receive written notice of the Hearing Officer's findings, any sanctions, the rationale for each and the right to appeal via email.

If a Respondent has been suspended and wishes to return to campus after completing their period of suspension, the University shall notify the Complainant if a.) the Respondent's request to return has been approved and b.) the Complainant is currently enrolled in the University.

Appeals

Either Party may appeal the decision of the Hearing Officer. All appeals are due, in writing, to the Director, or their designee, within three (3) University business days following receipt of the Notice of Outcome. If a request is not received within three (3) business days, the Hearing Officer's determination is final.

The appeal shall consist of a plain, concise and complete written statement outlining the basis for appeal and all relevant information to substantiate the grounds. The appeal will be decided by a panel of three members of the University Appeal Board (UAB). The members of the appeal panel will be appointed by the Director, or their designee.

The grounds for appeal may only be one or more of the following:

1. There was a material deviation from the producers set forth in the applicable provisions of the Student Handbook that would significantly impact the outcome of the case or may have resulted in a different finding;
2. New or relevant information, not available at the time of the investigation or determination of responsibility, has arisen that would significantly impact the outcome of the case.

Dissatisfaction with the outcome of the investigation, and failure of a party or witness to attend or participate in the investigation or hearing process, are not grounds for appeal.

The other Party will have an opportunity to review the appeal and may submit a written response to the appeal to the Director of Student Responsibility and Community Standards, or designee, within three (3) University business days following a Party's review of the appeal. No additional submissions by either Party will be permitted.

Appeals are not intended to be a full rehearing of the report (de novo). In most cases, appeals are limited to a review of the written documentation and pertinent documentation regarding the grounds for appeal. Absent extraordinary circumstances the appeal panel will not meet with either Party. The decision of the appeal panel is a final determination.

Except in extraordinary circumstances, appeals will be resolved within ten (10) University business days following receipt of the written response to an appeal. All parties will receive written notification following the final determination of any appeal.

2.8.5 Procedures for Title IX Sexual Harassment Grievance process

The Grievance Process, inclusive of the Investigation, Hearing, and Appeal Procedures for Title IX Complaints, is outlined in Section 2.11 of the Title IX Sexual Harassment Policy.

2.8.6 Procedures for Student Organizations

All hearing procedures applicable to Accused Parties are also applicable to Student Organizations. Organizations that are not formally recognized by the University, but operate as a Student organization, will be held accountable for violations of University Policies and Community Standards and are subject to any and all sanctions that may be imposed.