

UNIVERSITY HEARING BOARD PROCEDURES

I. Charge.

Any student, faculty member, administrator or other member of the University community with knowledge of an act by a student which constitutes violation of University policy as defined in the University of Richmond Student Handbook individual catalogs, handbooks, and or another announcements of the Colleges or Schools of the University of Richmond may file a complaint in writing with the appropriate dean of the College or School.

II. Preliminary Hearing.

A. Any student who is charged with a violation of the standards of conduct as contained in the Standards of Conduct, as well as other regulations of the University of Richmond shall be subject to disciplinary action and, if need be, legal action. It is the established procedure of the Dean of the College or School or his/her designee to notify the student of the charge in writing and to request a meeting. During the meeting, the Dean or his/her designee explains the options available for resolution of the charge.

B. The three options available to all students are:

1. The student may accept the sanctions deemed appropriate by the Dean of the College/School or his/her designee for the alleged violation(s), thereby waiving her/his right to a hearing. If the student elects this option, but does not agree with the findings of the Dean of the College/School or his/her designee, the student may appeal the decision to the appropriate judicial body in an appeal board hearing.
2. The student has a right to a hearing before the University Hearing Board composed of a chair, three students, a faculty member, and an administrative officer. If the student elects option "2", the student is notified by the University Hearing Board of the alleged violation(s) and is informed of his/her rights and responsibilities.
3. The student may resign from the University. The student could not re-enter the University without the allegation(s) being resolved. Off-campus civil or judicial actions or criminal charges, if any, may continue to be processed.

The student is asked to choose one of the three options.

C. Within twenty-four hours after the preliminary hearing, the accused student must advise the appropriate dean or his/her designee in writing of his/her choice of the available procedural options.

III. Hearing Board.

A. If the accused student chooses to exercise his/her right to a hearing before a University Hearing Board, the appropriate coordinate dean shall select such a board.

B. The University Hearing Board shall consist of the student's coordinate dean or his/her designee serving as non-voting Chair and five voting members chosen by the Chair as follows:

1. Student representatives. Three from the Student Judicial Pool, which pool shall consist of the Executive Members of the Richmond College Judicial Council, Westhampton College Judicial Council, Richmond College Honor Council, and Westhampton College Honor Council. If the student is enrolled as a professional, graduate, or continuing studies student, member of the T. C. Williams School of Law Honor Court will also be included in the pool.
 2. Faculty representative. One from the Faculty Judicial Pool, which shall consist of two faculty members from each of the following divisions, appointed annually by the respective Dean of Arts and Sciences; E. Claiborne Robins School of Business; Jepson School of Leadership Studies; T. C. Williams School of Law and the School of Continuing Studies. If the accused student is enrolled as a professional or graduate school student, the faculty-voting member shall be a faculty member teaching a graduate-level course.
 3. Administration representative. One from the Administration Judicial Pool, which shall consist of ten administrators appointed annually by the Vice President for Student Development.
- C. Any person selected to serve on the University Hearing Board must disqualify himself or herself for any conflict of interest; e.g., if he or she is related to the accused or the accuser, involved with the hearing, or possesses prior knowledge of the case. He or she may disqualify himself or herself for other reasons.

IV. Pre-hearing Procedures.

- A. The Chair of the Hearing Board shall appoint a member of the Judicial Council to serve as the judicial advocate. The judicial advocate shall prepare and present the case to the Hearing Board, and may call upon the University Police or any members of the campus community to assist in this responsibility.
- B. The Chair of the Hearing Board shall prepare and deliver to the accused at least forty-eight hours before the hearing a statement of the complaint and a statement of the accused's rights and responsibilities.
 1. The Statement of the complaint shall include:
 - a. The name and address of the accused;
 - b. The policy the with which the accused has been charged;
 - c. A concise statement of the particulars of the offense—including if known, the time, date, and place of the alleged violation;
 - d. The name of the accuser and, if not the same, the name of the person who signed the complaint;
 - e. The name and University address of the Chair of the Hearing Board;
 - f. The names and University addresses of the voting members of the voting members of the Hearing Board;
 - g. The names of all persons the judicial advocate anticipates calling as witnesses in the case, to be supplemented, as intended witnesses are added, but not later than forty-eight hours before the hearing;
 - h. The time and place of the hearing.

2. The statement of the Accused's Rights and Responsibilities shall include the following;
 - a. The accused has the right to the services of an advisor of his/her choice from the faculty, administration, or student body and to the services of an attorney of his/her choice (provided, however that he/she does not have the right to have an attorney present during any interviews or during any hearing);
 - b. The accused has the right to remain silent and is advised that any statement he/she makes may be used in evidence against him/her.
 - c. The accused has the right to terminate any interviews of him/her, other than testimony before the Hearing Board, at any time;
 - d. The accused has the right to be present and to have his/her advisor (but not an attorney) present to hear the evidence introduced against him/her at the hearing;
 - e. The accused and his/her advisor (but not his/her attorney) has the right at the hearing to question any witness who gives oral testimony;
 - f. The accused has the right to offer evidence and oral testimony of witnesses in his/her behalf;
 - g. The accused has the right to offer written statements of witnesses, provided that at least forty-eight hours before the scheduled hearing, the accused informs the judicial advocate in writing of the names and addresses of those witnesses whose statement he/she intends to offer in evidence. Accused witness written statements must be witnessed by the Judicial Advocate or Chair in order to be submitted and introduced to the Hearing Board.
 - h. If the accused without valid excuse or authorization, fails to attend the hearing as scheduled, the Hearing Board may proceed in the accused's absence to a determination of the matter, and, if appropriate, impose a penalty or sanction;
 - i. Notwithstanding the above, the accused may, at the discretion of the Hearing Board, be convicted of Prohibited Conduct, Number 5, as defined in the University of Richmond Student Handbook, solely upon the introduction into evidence of a certified copy of an order of conviction or other document satisfactorily evidencing conviction of a felony or of a misdemeanor.
 - j. The hearing will be closed to the public unless the accused student files a written request with the Chair that it be open to the public within forty-eight hours of the hearing. Whether or not the hearing will be open is up to the sole discretion of the chair. However, in cases involving sexual misconduct, the hearing will remain closed. If the hearing is open, the student's attorney may attend but may not participate in any way.
- C. A copy of the above-mentioned statements shall be presented to the accused at least forty-eight hours before the date of the hearing, by delivery to the accused in person or through the student's campus mail box.

- D. The Chair of the Hearing Board shall have the authority to issue a request to any member of the University community to appear before the Hearing Board as a witness. This request shall be in writing and shall be presented to the witness in person.
 - E. The accused will be informed of all witnesses called by the Hearing Board forty-eight hours before the scheduled hearing.
- V. General Hearing Rules.
- A. The Chair shall preside over and conduct the hearing and is specifically empowered to:
 - 1. Appoint a recording secretary and other staff as needed by the Hearing Board.
 - 2. Control the admission of persons to the hearing. The Chair may order any person in attendance to leave who does not conduct himself or herself in an orderly and respectful manner. Obstructive, contemptuous, disruptive or noisy conduct in the presence of the Hearing Board by any person, including the accused, may be charged with violation of University policy.
 - 3. Control the conduct of the judicial advocate and the conduct of the accused or the accused's advisor to protect witnesses from improper questions, insulting treatment and unnecessary inquiry into their private affairs.
 - 4. Exclude witnesses from the hearing room except when they are testifying.
 - 5. Rule on all procedural and other matters, such as the admission of evidence.
 - B. No person shall address the Hearing Board without first being recognized by the Chair.
 - C. The taking of photographs in the hearing room, the broadcasting from the hearing room of the proceedings by radio or television, or the recording of the proceedings for non-official use, or for later release or broadcast to the general public, shall not be permitted.
 - D. Members of the Hearing Board, its staff, the accused, the accused's advisor and the judicial advocate have a right to be present during the entire hearing, except that the voting members of the Hearing Board shall deliberate in private on the findings and possible sanctions. The Chair is present during deliberation and the determination of sanction, but only to maintain proceedings. The Chair may not contribute to the discussion during deliberation or determination of sanctions. In a case involving sexual misconduct, the Chair may elect not to have the accused and the accusing students in the hearing room at the same time. In such a case, the Chair will make arrangements to have video conferencing available for the student not in the hearing room.
 - E. All voting members of the Hearing Board must be present throughout the hearing. If a voting member disqualifies him or herself or for good cause cannot be present, the Chair shall select a replacement who serves the University in the same capacity as the withdrawing member; i.e., the student, faculty, or administrator. The Chair shall, after consultation with the accused and judicial

advocate, in open session, provide the replacement with a summary of all prior proceedings.

F. Record of Proceedings.

1. The Chair shall see that an audiotape or videotape recording of the hearing is made. A student penalized by suspension may request an opportunity to review the recording but will not be given a copy of the recording.
2. If it appears vital to the disposition of the case, the Hearing Board or the appropriate review body may order that the proceedings and the testimony be transcribed.
3. A student found responsible of a violation of the standards of student conduct will generally have their disciplinary records destroyed unless they are on “conduct probation” at the time of their graduation. In the event that a student is on “conduct probation” at the time of his/her graduation, the student’s disciplinary record will be destroyed one year following the student’s graduation. The records of the students involved in cases deemed serious (acts of violence, drug distribution, etc.) by the deans of the Colleges or Schools will be maintained at the discretion of the deans for a period of time deemed appropriate by the deans.
All relevant documents will be maintained in a separate reporting file in the coordinate dean's offices in accordance with federal regulations.

VI. Hearing Rules Specific to Cases Involving Sexual Misconduct

A. Definitions.

1. Sexual assault: physical contact of a sexual nature that is against one’s will or without one’s consent.
 2. Rape: sexual intercourse that is against one’s will or without one’s consent. It may be coerced through force or threats of force, or with someone who is unconscious, or with someone who is incapable of giving consent.
 3. Sexual harassment: may consist of unwelcome sexual advances, requests, requests for sexual favors, or other verbal or physical conduct of a sexual nature with the effect of interfering with a individual’s work or academic performance, or creates a hostile, intimidating or offensive work or educational environment.
- B. The accusing student may choose to give testimony in the presence of the accused student and the Hearing Board at the hearing. As an alternative, the accusing student may choose to give testimony before the Hearing Board while the accused student observes the process by way of video conference capability.
- C. The accusing student may be present, along with an advisor of his or her choice, throughout the hearing, except for private deliberations of the Hearing Board.
- D. Information regarding the accusing student’s and /or accused student’s past sexual history will not be allowed at the hearing except as such pertains specifically to each other.
- E. The results of any police investigation pertaining specifically to the case may be considered by the Hearing Board.

- F. In the case of a finding of responsibility, and prior to sanction deliberations, the Hearing Board may consider information pertaining to prior criminal convictions or findings of responsibility in other University disciplinary proceedings.
- VII. Order of Hearing.
- A. The Chair shall read the charge to the accused, and the accused shall enter a plea of “responsible” or “not responsible”. In the absence of a plea, the Chair shall enter a plea of “not responsible” for the accused.
 - B. The judicial advocate may make an opening statement.
 - C. The accused student or his/her advisor may make an opening statement.
 - D. If the accused pleads not responsible, the judicial advocate shall offer evidence in support of the charge. When possible, witnesses shall appear and testify under oath or affirmation before the Hearing Board. The accused, or his/her advisor, may cross-examine each witness after the judicial advocate has completed questioning that witness. The Chair, upon a showing that the presence of a witness cannot be obtained without serious inconvenience, may permit the presentation of the statement of such witness in the form of an affidavit, provided that the judicial advocate has delivered a copy of the affidavit to the accused at least forty-eight hours before the hearing, and provided there has been an opportunity to question the witness by the accused or his/her advisor before the hearing.
 - E. The accused or his/her advisor may offer evidence on behalf of the accused. The judicial advocate may cross-examine each witness after the accused or his/her advisor has completed questioning of the witness. The Chair, upon showing that the presence of a witness for the accused cannot be obtained without serious inconvenience, may permit the presentation of the statement of such witness in the form of an affidavit, provided that the accused or his/her advisor has delivered a copy of the affidavit to the judicial advocate at least forty-eight hours before the hearing, and provided there has been an opportunity to question the witness by the judicial advocate before the hearing.
 - F. The judicial advocate and the accused or accused’s advisor may then in turn offer rebutting evidence on any aspect of the original testimony.
 - G. When the submission of evidence has been concluded, the judicial advocate and the accused or accused’s advisor may then argue the case to the Board, with the judicial advocate arguing first and last.
 - H. The voting members shall then retire to an appropriate place to deliberate in private.
- VIII. Decision of the Hearing Board.
- A. The voting members of the Hearing Board shall deliberate in private and reach a decision based only upon the evidence introduced at the hearing. The Chair is present during the deliberation, but does participate in the determination of sanction as they are a non-voting member. The Hearing Board may take the matter under advisement and adjourn, but a decision must be made within forty-eight hours of completion of the presentation of the evidence and argument,

unless there are extenuating circumstances and a different deadline is established by the Chair.

- B. The Hearing Board shall not make any finding of fact that is not supported by substantial evidence.
- C. The accused student may not be found responsible except on a finding of clear and convincing evidence.
- D. If three or more Hearing Board members find the accused responsible, the student is “responsible”.
- E. If the accused student is found responsible, the recommended sanction shall be chosen generally from those listed in the University of Student Richmond Handbook.
- F. Immediately after reaching a decision on whether the accused is responsible, and any appropriate sanction, the Hearing Board shall orally render its findings to both the accused and victim as applicable.
- G. Immediately thereafter the Chair shall inform both the accuser and the accused student of their right to appeal to the appropriate review body.
- H. For the record, the Hearing Board’s sanction(s) and a brief statement of the reasons for the decision shall be reduced to writing, signed by the members of the Hearing Board and filed with the Chair within forty-eight hours after a decision is reached.
- I. The Chair shall deliver a copy of the recommendations and statement of reasons to the accused and the victim as applicable.

IX. Procedures for Review of Judicial Body Decision.

- A. The accuser and the accused shall each have the right to appeal the decision of the first hearing by a judicial body to the Vice President for Student Development. Such appeal shall be made in writing, and must include one of the following reasons for appeal.
- B. A new hearing shall be granted to the person filing an appeal if there is clear and convincing evidence that one or more of the following pertained:
 - 1. A witness at the first hearing lied and the testimony was adverse to the appealing party.
 - 2. New evidence of a material nature is available which was not available at the time of the first hearing, unless such evidence was available but not presented at the first hearing.
 - 3. The appealing student’s right to a fair hearing was violated at the first hearing.
- C. The Vice President for Student Development, at his/her discretion, may seek the advice and counsel of a Review Board. The Review Board shall consist of:
 - 1. One student recommended annually by a joint decision of the College Student Government presidents approved by the Vice President for Student Development or his/her designee.
 - 2. One faculty member, chosen from the faculty judicial pool by the Vice President for Student Development.
 - 3. The Vice President for Student Development or his/her designee who shall serve as Chair.

Under this section, the student must submit written notice of the appeal to the Chair of the Review Board within seventy-two hours after the oral notification of the findings and sanction of the Hearing Board.

D. Procedures for Review

1. The Review Board shall set its own procedures and rules.
2. The Review Board shall meet within seventy-two hours after the notice of appeal is submitted to the Chair of the Review Board, unless there are extenuating circumstances and a different deadline is established by the Chair.
3. No attorneys shall be present at any Review Board hearing or deliberation.

E. Options Available in Appeals Process

1. The findings and sanction of the original hearing Board may be upheld.
2. The case under appeal may be returned to the original Hearing Board for reconsideration. If such action is taken, the original judicial body shall be informed of the errors committed at the first hearing and/or other reasons for the new hearing.
3. The case under appeal may be reheard and finally adjudicated during the appeals process.
4. The final decision rests with the Vice President for Student Development.