

# DUE PROCESS AND STUDENT RIGHTS

When a student is charged with violating the rules and regulations of the University, disposition of the case will be according to the Constitutional requirements of due process. These rights include entitlement to:

- a. A written copy of the charge(s).
- b. A fair and impartial hearing and to be considered not responsible until proven responsible by a preponderance of the information.
- c. Know the nature of the information against them and names of witnesses scheduled to appear.
- d. Present information and witnesses in his/her behalf.
- e. Choose an advisor of his/her choice. The advisor cannot participate directly in the hearing but may actively support his or her advisee.
- f. Be present at the hearing during the presentation of any information or material on which a decision will be made. If the student fails to attend the hearing, it will be held in the student's absence.
- g. Remain silent and refrain from answering questions without inference of guilt.
- h. Ask questions of witnesses.
- i. A copy of the hearing recorded by The Office of Community Standards will be provided to the student upon written request to the Office of Community Standards within 3 business days.
- j. A decision based solely on the preponderance of the information presented.
- k. A written notice of the results of the hearing and an explanation of the decision and any sanctions assessed, if applicable.
- l. Appeal any decision made by a hearing authority or conduct official on appropriate grounds based upon established appeals procedures.

## Interim Measures

- a. At any time following the submission of a written referral/complaint, the Vice President of Student Affairs or his/her designee may impose measures on a student for an interim period prior to resolution of the disciplinary proceeding. Interim measures are designed to protect the alleged victim and the campus community.
- b. Interim Measures may include, but are not limited to: change of housing assignment, issuance of a no contact directive; restrictions to entering certain institution property, changes to academic or employment arrangements, schedules or supervision, and interim suspension.
- c. Before any interim measure is issued, the institution will make all reasonable efforts to give the respondent the opportunity to be heard. During this meeting, the administrative officer will consider the following criteria with respect to whether the interim measure(s) should be imposed; existence of a significant risk to the health or safety of the campus community; the nature, duration, and severity of the risk; the probability of potential injury; and whether less restrictive means can be used to significantly mitigate the risk.
- d. The decision to impose an interim measure, including suspension, student for an interim period shall be communicated in writing to the student and shall become effective immediately upon sending the notice.
- e. The interim measures shall remain in effect until a final decision has been made on the pending charges or until the Vice President

determines that the reasons for imposing the interim suspension no longer exist.

- f. Upon request, the respondent will have an opportunity to be heard by the respective conduct officer, Title IX Coordinator, or System Director, as appropriate, within three business days in order to determine whether the interim suspension should continue.

## Absence of Accused or Lack of Cooperation

Throughout any investigation and resolution proceedings, a respondent shall receive written notice of the alleged misconduct and will be provided an opportunity to respond. If the student is, absent from the University community while a disciplinary case is pending or if a student declines to participate in the disciplinary process, the student is not absolved of responsibility. As such:

- a. A reasonable effort will be made to locate the student through customary channels such as CSU email, telephone, or regular mail. If the student does not respond to the request to return for a conduct meeting within three (3) business days, a hearing may be scheduled in absentia and action will be taken as warranted by the facts of the case.
- b. Students who choose an option for disposition of their case, have a hearing scheduled, and who fail to appear at such a hearing after proper notice has been given, will have their cases adjudicated in absentia at the scheduled hearing time.
- c. A student may choose to remain silent during the investigation and resolution process without any adverse inference resulting.

## Multiple Defendants

Two or more accused students may be required to participate jointly in a hearing if they are alleged to have participated in the same incident, act, events, or series of related acts. The charge(s) or factual circumstances need not be identical for the accused students in hearings held jointly.

An accused student may make a written request to the conduct officer for a separate hearing, citing specific reasons why a joint hearing would unfairly prejudice his/her case. This request must be received in the Office of Community Standards within two (2) business days of the accused student's receipt of the hearing notice. A decision will be communicated within two (2) business days of receipt of the request.

## Witness Participation

Each party shall arrange for the attendance of his/her own witnesses, if appropriate. The conduct officer will assist in securing the attendance of witnesses if a written request for assistance is made to the Office in a reasonable amount of time in advance of the hearing date.

The respondent shall have the right to present witnesses and evidence to the hearing authority as well as to ask questions to any witnesses. At the determination of the hearing authority, this questioning this questioning may take place through the submission of written questions to the hearing authority for consideration; however, the parties' advisors may still actively advise and assist in drafting those questions. The hearing authority shall ask the questions as written and will limit questions only if they are unrelated to determine the veracity of the charge levied against the respondent(s). The hearing officer or panel shall err on the side of asking all submitted questions and must document the reason for not asking any particular questions.

Where the conduct officer or hearing authority determines that a party or witness is unavailable and/or unable to be present due to extenuating circumstances, the hearing authority may establish special procedures for providing testimony from a separate location. In doing so, the conduct officer or hearing authority must determine there is a valid basis for the unavailability, ensure proper sequestration in a manner that ensures testimony has not been tainted, and make a determination that such an arrangement will not unfairly disadvantage any party. Will it be reasonably believed that a party or witness who is not physically present has presented tainted testimony, the hearing authority will disregard or discount the testimony.

In sexual misconduct cases, the Office of Community Standards and/or Hearing Authority reserves the right to allow a party to testify in a separate room, when determined to be necessary. Where such a determination is made, special measures must be in place to ensure no party is unfairly disadvantaged by this procedure. A party must still give testimony in the presence of the panel and the opposing party must have opportunity to view the testimony remotely and submit follow-up questions.

## **Role of the Witness**

The role of a witness is not that of an advocate or helper for one side; a witness is required to share truthful information at the proceeding about matters directly or indirectly related to the situation in question. Character witnesses may only be called to attest to the character of the accused, not to assail the character of the complainant, victim, or witnesses brought by the conduct officer.

## **Role of the Advisor**

The respondent and alleged victim (where applicable), as parties to these proceedings, shall have the right to use an advisor (including an attorney) of his or her choosing, and at his or her own expense, for the express purpose of providing advice and counsel. The advisor may be present during meetings and proceedings during the investigatory and/or resolution process at which his or her advisee is present. The advisor may advise his or her advisee in any manner, including providing questions, suggestions, and guidance on responses to any questions of the advisee, but shall not participate directly. The institution shall not prohibit family members of a party from attending if the party requests such attendance, but may limit each participant to two family members. Space will be made available for the advisor to sit with the accused at the hearing.