

# HEARING PROCEDURES

- a. In no case involving suspension or expulsion, shall a hearing to resolve charge(s) of student misconduct take place before the investigative report has been finalized or before the respondent has had an opportunity to respond in writing, unless the respondent has chosen to go through an informal resolution process or otherwise has waived his or her of rights to these procedures.
- b. Notice of the date, time, and location of the hearing, shall be provided to the respondent and alleged victim (where applicable) at least five (5) business days prior to the hearing. Notice shall be provided via institution email.
- c. All hearings are closed unless the accused student requests an open hearing in writing. However, the Office of Community Standards has the authority to make the final decision regarding access of spectators to the hearing to the extent permitted by law.
- d. The party charging a violation of the Student Code of Conduct has the right to be informed of hearing procedures and the right to be present throughout the presentation of witnesses and evidence. The conduct officer will inform the charging party of these rights prior to the hearing.
- e. The accused student will enter a response to all charges before the hearing authority.
- f. The hearing officer or the Chair of the Hearing Panel will remind the accused student and each witness presented of the importance of providing truthful and accurate information during the hearing process. If a witness fails to tell the truth during conduct proceedings, disciplinary action may result.
- g. At the hearing, the conduct officer and/or complainant will present the evidence and facts of the case to the hearing officer or to the Hearing Panel. If appropriate, witnesses will be presented in support of the case against the accused student. See the Witness Participation (<https://catalog.clayton.edu/student-handbook/student-policies/disciplinary-procedures/due-process-student-rights/>) rights and duties within the Due Process and Rights section of this Student Handbook.
- h. The hearing officer or members of the Hearing authority may question all witnesses or ask for clarification from the conduct officer or any witness.
- i. The accused student may question all witnesses, at the discretion of and through the hearing authority. Upon approval by the hearing authority, witnesses will be asked to answer questions posed by the accused student.
- j. When the case against the accused student has been presented, opportunity will be given for the accused to make a statement regarding the charges. The hearing officer, members of the Hearing Panel, or the conduct officer may question the accused student if he or she chooses to make a statement. The accused student has the option of remaining silent and is not required to respond to questions from the hearing authority or the conduct officer. No inference of responsibility will be drawn from such silence.
- k. The accused student will present any information or witnesses in his or her behalf. Such witnesses are subject to questioning by the complainant, at the discretion of the hearing authority.
- l. The hearing authority may recall any witness if clarification is needed.
- m. After hearing both sides of the case, the hearing authority will, in a closed session, deliberate and reach a decision based upon the preponderance of the information presented. Any decision to suspend or to expel a student must also be supported by substantial

evidence at the hearing. A decision will indicate findings regarding responsibility for the charge(s) and appropriate sanctions.

- n. A student's prior disciplinary record is not admissible to prove responsibility for a violation, but may be used for determining appropriate disciplinary measures.

## Findings of the Hearing Authority

- a. If the hearing is before a Hearing Panel, and the members of the panel are divided after deliberation, a majority vote is necessary to reach a decision.
- b. Written findings of the Hearing Authority must be submitted to the conduct officer and to the accused student within five (5) business days after the conclusion of the hearing. The decision will include details on how to appeal, as outlined below. Additionally, the written decision must summarize the evidence in support of the sanction.
- c. These findings are considered final unless appealed by the accused or overridden by the Vice President of Student Affairs or the President of the University.
- d. In cases where no decision can be reached, the case will revert to the Vice President of Student Affairs. The Vice President may appoint another hearing authority, drop the charges, or otherwise determine a fair and equitable method for disposition of the case.