

Conduct Procedures for Social Violations

The following section addresses responses to any disregard or substantiated violation of stated expectations within this document. We are both intentional and aspirational with the Commitment to Community as our agreement to engage one another with respect. We will address any behavior that falls short or causes harm to the community. The following section outlines the conduct process and outcomes.

Conduct Procedures for Social Violations

1. **Filing a Complaint:** Any member of the College community, guest, or visitor may bring a complaint that a student or student group has violated the Commitment to Community expectations. A student may report themselves for committing a social infraction. The initial complaint will be referred to the AVP or designee to assign a Conduct Officer as deemed appropriate. The Conduct Officer then schedules a consultation with the Complainant. This meeting may result in a written statement of complaint to serve as a formal statement.
2. **Disposition of Social Violation Complaints**
 - a. Once a complaint has been made and/or a report has been filed, the assigned Conduct Investigative Team member(s) oversees an investigation†
 - b. Suppose a complaint is deemed to have merit and the Conduct Officer has considered the seriousness of the offense. In that case, the Conduct Officer may officially charge the Respondent (s) and/or offer the parties more than one resolution option. Charges are made in writing. They include notice of the policies allegedly violated, the process to address the charge(s), and instruction to review the interventions, sanctions, and outcomes that could result.
 - c. If a Complainant withdraws their complaint during an investigation, the College will evaluate whether to end its conduct process. The College reserves the right to continue the conduct process based on evidence other than the testimony of the Complainant, if available.
 - d. An option to pursue a conduct matter outside the SCC process is entirely up to the Conduct Officer. Such considerations depend on the nature and context of the alleged violations.
 - i. Mediation between the parties, except in cases of sexual harassment or crimes of violence, may be offered with the understanding that it is entirely voluntary and results in a mutually acceptable agreement that may not be appealed but will be enforced. If the parties cannot reach an agreement, the matter will be addressed via an SCC hearing or an administrative alternative at the discretion of the Conduct Officer. Any breach of the agreement is also a violation subject to disciplinary action.
 - ii. Suppose the Respondent agrees to an administrative alternative and admits to violation(s) of the Commitment to Community policies. In that case, disciplinary sanctions may be invoked or applied as outlined in Section C: Conduct Interventions, Sanctions, and Outcomes for Social Violations. Agreements reached through administrative alternatives are final and may not be appealed.
 - iii. Students have a right to an SCC hearing if they participate in the conduct resolution process. A Respondent's absence from investigative or conduct meetings will not prevent the Conduct Officer from proceeding with an investigation or resolving a conduct matter through an administrative alternative when deemed appropriate. The Conduct Officer may offer students options for resolving an issue without referral to an SCC hearing but may not require a student to accept the alternatives.
 - iv. The Conduct Officer allows the Respondent to accept responsibility for the charges. If the Respondent accepts responsibility for the charges against them, the Conduct Officer can elect to determine an outcome and appropriate resolution as an alternative to a hearing.
 - v. If the Respondent rejects responsibility for the charges, the Conduct Officer will appoint a resolution body that has not been involved with the investigation. The body will make official findings based on the investigative report and the results of a conduct resolution meeting.
 - vi. Failure to reply to the invitation to participate in an investigation or any meeting as part of the resolution process by the specified deadline will result in moving forward to an administrative resolution, and the Conduct Officer will determine an outcome.

3. **If the Conduct Officer refers the matter to a hearing, a statement identifying the allegation, the date of its occurrence, and the hearing date will be sent to the parties.**
 - a. A hearing will usually be scheduled to be completed within 15 business days after the student is sent an allegation statement and when all parties are free from class obligations.
 - b. Co-curricular involvement is not a barrier to scheduling a hearing
 - c. Any party wishing to delay a scheduled hearing should submit a written request at least one business day prior. The Hearing Chair will consider the request at their discretion.
4. **The SCC Hearing Procedure for Social Violations**
 - a. The hearing process never presumes that a violation has occurred but instead evaluates whether it is more likely than not that a policy violation has occurred, taking into account the totality of all relevant evidence available from credible sources.
 - b. The Hearing Chair, in advance of the SCC, will meet with all parties to assure the conduct process is understood by everyone and that procedures have been followed.
 - i. The Hearing Chair determines what witnesses and Support Persons will be at the hearing.
 - ii. The Hearing Chair provides written information regarding the formalities of the hearing and participant rights.
 - iii. The Hearing Chair determines the case information to be presented at the hearing. The parties must give all witnesses' names and sources of evidence to the Hearing Chair (or designated administrative support staff) no less than three business days before a scheduled hearing. The Hearing Chair will exchange all evidence, including any investigation reports or summaries and witness lists between the parties, at least two days before the hearing.
 - c. A digital recording will be made of the hearing, not the Council's deliberations. This recording will be made available to the parties and the SCC-A Board in case of an appeal. The recording will remain in possession of the College at all times and will be retained with other records of the proceedings for one semester after the respondent graduates or leaves the College.
 - d. The Hearing Chair convenes and conducts the hearing. The Hearing Chair has the authority to exclude/remove disruptive persons from the proceedings and is present as the facilitator of deliberations. The Hearing Chair makes all decisions about the admissibility of evidence.
 - e. After introductions of the persons present and procedural matters, the hearing begins with the Hearing Chair reading the allegations statement. If the Respondent is absent, the hearing will proceed, and the Council will reach decisions based on the available evidence.
 - f. The Process Adviser, Complainant, and Respondent may make opening statements. The Investigative Team's report will also be presented to the Council.
 - g. Witnesses may be presented, first by the Complainant and then by the Respondent. The parties, Hearing Chair, Process Adviser, and all members of the SCC may question the witnesses. Witnesses will be present only at times when they offer evidence.
 - h. All members of SCC may question the parties, and they may question each other. The Hearing Chair and the Process Adviser may ask clarifying questions of the parties.
 - i. Allegations of past social violations and behaviors are not admissible within a hearing. Previous findings of social violations are not admissible during the hearing and are only considered in deliberations as they impact sanctioning.
 - j. The parties may make final statements. After final statements, the parties and their support persons are dismissed, allowing the Council to commence deliberations.
 - k. During deliberations, the SCC members will first consider whether the Respondent violated College policy or policies. The Hearing Chair and Process Adviser are present during deliberations. The Council should render decisions as soon as reasonably possible but no later than three business days after the hearing has been completed. If the Respondent is found in violation, the Council then deliberates to determine the appropriate sanction(s).
 - i. The Hearing Chair will explain what sanction(s) have been applied to similar offenses in the past to encourage comparable sanctions. The Council may also consult the Process Adviser.
 - ii. A student's conduct history will be considered when determining a sanction(s).
 - iii. The Council may choose one or more sanctions from the suggestions contained within this policy. They may also design a specific sanction(s) for a violation in consultation with the Hearing Chair and Process Adviser
 - iv. The Council may require the Respondent to participate in a counseling services assessment following a hearing, with a directive to complete any associated recommendations. An evaluation with a specific licensed health care provider might be required to assess substance use or abuse risk.

- l. The parties will receive a written statement of the decision, including information about the appeals process, within three business days of the decision.

Notification of Outcomes to Parties Other than Respondent The outcome of a conduct resolution process is part of the education record of the responding student. It is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions.

Complainant's Right to Receive Notification of Outcome As allowed by FERPA, when a student allegedly violates a policy that would constitute a crime of violence or forcible or non-forcible sex offense, the College will inform the complainant in writing of the final results of a hearing regardless of whether the College concludes that a violation was committed.

FERPA defines "crimes of violence" to include:

- Arson
- Assault offenses (including stalking)
- Burglary
- Criminal Homicide—manslaughter by negligence
- Criminal Homicide—murder and non-negligent manslaughter
- Destruction/damage/vandalism of property
- Kidnapping/abduction
- Robbery
- Forcible sex offenses
- Non-forcible sex offenses

Such release of information may only include:

- The responding student's name.
- The violation committed, if applicable.
- The outcomes imposed, if applicable

In cases of sexual harassment and other offenses covered by Title IX, the rationale for the outcome will also be shared with all parties to the complaint, in addition to the finding(s) and sanction(s). For procedures related to an investigation under Title IX and/or sexual harassment, see <https://earlham.edu/office-of-title-ix/>.

5. Appeals Process for SCC Hearings of Social Violations

- a. The only acceptable grounds for appeal are a material deviation from the process that would likely have resulted in a different outcome, persuasive new evidence previously unavailable, or an inappropriate sanction. The petition for an appeal must address one or more of these three grounds in detail.
- b. The Complainant or Respondent can submit a written petition for an appeal to the VPDS within five business days from when the hearing decision was sent or within a calendar week should the decision occur at the end of a semester or before an academic break. The VPDS will determine if there are acceptable grounds for an appeal to go forward to an Appeals Board. Should the VPDS determine there are no acceptable grounds, the matter ends with the decision of the VPDS.
- c. Should the VPDS determine an appeal is warranted, an Appeals Board will convene to review the petition. The SCC Appeals Board (SCC-A) must be convened within five business days of the VPDS's petition review.
- d. The SCC-A's work is limited to a review of the documentation or record of the investigation, the concluded hearing, and pertinent written information regarding the grounds for appeal. The SCC-A may determine that the original finding and outcomes are fair and appropriate or may come to a different conclusion and provide a different sanction/outcome(s).
- e. The SCC-A's decision is rendered in writing, and the Hearing Chair will send it to the parties within three business days. The decision of the SCC-A is final.

Conduct Interventions, Sanctions, and Outcomes for Social Violations

The College utilizes a range of outcomes and interventions that will support student education and growth. The goal is to develop appropriate outcomes for each individual or organization to empower them to take responsibility for their actions and role in the community.

1. The range of potential outcomes includes:

Conduct Hold: a hold on a student's record that prevents the student from enrolling in the College's academic courses for the following semester. If the student is a graduating senior, a hold prevents them from receiving their diploma until certain conditions are met. It is typically used when students fail to comply with outcomes.

Community restitution/service to the community: repayment to the community through service projects or shadowing a campus department impacted by student behavior.

Educational/health interventions require a student to complete a consultation appointment with a medical professional or licensed counselor to assess risks to personal health due to substance use and/or abuse.

Expulsion: permanent separation from the College. Expelled students will not receive reimbursement for their semester's accounting charges. Parents/Guardians of expelled students may be notified.

Learning-Based intervention: outcomes that encourage self-reflection and enable the individual and/or organization to evaluate decision-making and impact on their community.

Loss of Housing Privileges: this includes losing the opportunity to select and/or live in specific housing on-campus or the ability to reside in residential spaces.

Loss of Privileges: for organizations, it is typically denial of the right to host social gatherings and engage in other activities for a specified time. For individuals, it might include a housing assignment change, restrictions on being in designated areas of campus, and loss of other privileges.

Parental/Guardian Notification: The College reserves the right to notify parents or legal guardians of dependent students of any violations of College policy that endanger the health and well-being of a student or other individuals in the community. The College may also notify parents or guardians in cases where other conduct modification approaches have not been successful or when the conduct is sufficiently severe.

Probation: a specified period in which a student or organization's conduct is expected to be exemplary.

Any additional violations of the Commitment to **Community: Principles & Practices** by a student or organization on probation will result in more severe outcomes, including possible suspension or expulsion. Individual students and organizations are subject to losing privileges while on probation.

Restitution: repayment for financial loss to an individual or the College.

Suspension: removal from the College for a stated period and/or until a stated condition(s) is met.

Suspended students are not permitted on campus without written permission from the VPDS or designee or to participate in any College activity. Suspended students will not receive reimbursement for their semester's accounting charges. Readmission to the College following the end of the period of suspension is contingent upon demonstrating to the VPDS that measures have been taken to correct the problems that resulted in the suspension. The VPDS or designee may impose restrictions on individuals or organizations as reinstatement conditions. Parents/Guardians of suspended students may be notified.

Warning: an official letter of warning placed in the file of a student or organization that has been found responsible for a violation.

2. Recommended Minimum Responses for Specific Social Violations

Acts of emotional or physical harm: For a first offense, the response will depend on the severity and likely involve disciplinary probation and an educational/health intervention or suspension from the College. Repeat offenses warrant more severe sanctioning up to and including expulsion.

Crimes of violence: Up to and including expulsion from the College.

Disorderly behavior or violation of other College policies while possessing or consuming alcohol and other drugs: The response will likely involve disciplinary probation and an educational/health intervention or suspension for a first offense. Repeat offenses warrant more severe sanctions up to and including expulsion. Any sanction short of expulsion may also include a professionally licensed care provider evaluation as a health intervention to determine whether additional educational or rehabilitative initiatives may be required.

Possession and/or consumption of illegal drugs or drug paraphernalia: The response often includes disciplinary probation and may involve educational/health intervention for a first offense. Repeat offenses warrant more severe sanctions up to and including suspension from the College. The sanctions may also include a professionally licensed counselor evaluation to determine whether additional educational or rehabilitative initiatives may be required.

Providing, sharing, and/or selling illegal drugs or drug paraphernalia: Penalties up to and including expulsion from the College.

Repeat Violations: In the case of repeated violations or a violation in deliberate disregard of a specific warning, a student will be subject to more severe sanctions.