
APPEAL HEARING PROCEDURES (SCRIPT)

PRIOR TO BEGINNING THE HEARING:

Turn on the Tape Recorder. Always make sure that the door is open while not in closed executive session.

***Chair:* “NAME OF BOARD” will now come to order to discuss case number “CASE NUMBER”. This hearing shall involve matters relating to actions adversely or favorably affecting a member of the University. Due to the content of the hearing, this board may move into closed executive session in compliance with the Kansas Open Meetings Act. Is there a motion to move into closed executive session?**

***Board Member 1:* Mr./Madam Chair, I move we recess into closed executive session to discuss possible disciplinary actions against a member of the University in order to protect the privacy of the parties involved. We will reconvene the open meeting here at “TIME (5 MINUTES FROM NOW)”.**

***Chair:* Is there a second?**

***Board Member 2:* I second the motion.**

***Chair:* It has been moved and seconded that the board recess into closed executive session. Is there any discussion? (Seeing none) All in favor say aye. All opposed say nay. (Assuming the motion passes) The motion carries. At this time the hearing will move into closed executive session. No binding action will be taken while the board is in closed session. The board will resume open session at “SET TIME”. ***

* (Note: You must **always** resume open session **exactly** at the time you announce. If/When you need to extend time for closed executive session, see EXTENDING CLOSED EXECUTIVE SESSION (Page 6).)

Chair: Clear the room of everyone present except for the Complainant, Respondent, their advisors, and board members. Witnesses and anyone else must wait outside (preferably in a separate room) until the board calls for them. Explain to the witnesses how they will be called in one at a time and then be permitted to leave. Despite the fact that they are allowed to leave, please request that the witnesses stay for the duration of the hearing in the event that they need to be recalled.

BEGIN THE HEARING:

Ensure that the Tape Recorder is still on and the door is closed.

1. Introduction of the Hearing.

Chair: (in a loud, clear voice) **“The time is _____; the date is _____ 20_____.**

Prior to beginning this hearing I ask if there are any justices present who may not sit in judgment on this hearing for any reason. Reasons might include: prior knowledge of any of the parties involved with the incident, or of the incident in question.”

– If there is *still a Quorum*, continue with the following:

Chair: **We will begin this hearing of “NAME OF BOARD” with introductions:**
Judicial Board Members
Judicial Board Advisor
Others Present

OR

– If there is *no longer a Quorum (2/3)* then read the following:

Chair: **For the record, according to the Kansas State University Student Governing Association By-Laws to the Constitution, Article VI Section 7A part 1c, a quorum no longer exists. This hearing will be postponed for a period of no more than 10 class days. You will receive notice of the future hearing from the Chairperson, “YOUR NAME”, within the given time.**

Come out of closed executive session and repeat the previous paragraph. The hearing is then closed.

2. Appeal Reading.

Chair: **The Respondent, “NAME OF RESPONDENT”, of originating case number “CASE NUMBER”, (who now becomes the Complainant for this appeal) is appealing the decision of the “NAME OF THE JUDICIAL BOARD” (who now becomes the Respondent). The appeal has been made on the following grounds: “READ THE CHECKED BOXES ON THE APPEAL REQUEST FORM”**

3. Chair reads any evidence for the Complainant.

4. Chair reads any evidence for the Respondent.

5. Closing of the hearing.

Chair: **The “NAME OF BOARD” shall notify both the Complainant and the Respondent of the original primary hearing, as well as the primary hearing board, in writing within 48 hours of the decision, stating whether or not the decision made by the primary hearing board is upheld. If the “NAME OF BOARD” does not uphold the decision made by the primary hearing board, then new sanctions may be issued. It is also possible that this board may decide that more information is needed in order to make a just decision. If another hearing is deemed necessary, then the time and place will be stated. All parties will be issued a notice to appear. This board will now deliberate in closed executive session whether there exists a preponderance of evidence supporting the Complainant’s appeal.**

Turn off the tape recorder

Chair: Excuse all parties from the hearing room and deliberate on whether to uphold or overturn the primary hearing board’s decision.

COME OUT OF CLOSED EXECUTIVE SESSION:

Chair: Open doors. Allow anyone waiting outside to return to the hearing room. (Note: Open session cannot resume until the time that was stated in the motion to go into closed session.)

Turn on the Tape Recorder.

Chair: The time is "**TIME**" and "**NAME OF BOARD**" will resume open session. At this time the hearing board will decide, based on a preponderance of evidence, whether to uphold, or overturn the primary hearing board's decision for "**CASE NUMBER**". Is there a motion to uphold or overturn the primary hearing board's decision?

Board Member 1: I move this appeals board *uphold/overturn* the decision of the primary hearing board.

Chair: Is there a second?

Board Member 2: I second the motion.

Chair: It has been moved and seconded that the primary hearing board's decision be *upheld /overturned*. Is there any discussion?

Board Member 1: I move unanimous consent.

Chair: Is there a second?

Board Member 2: I second the motion.

Chair: Are there any objections? Seeing none, the motion passes unanimously. The primary hearing board's decision shall be *upheld/overturned*.

A. The primary findings are upheld:

"NAME OF BOARD" did not find a preponderance of evidence to support the Complainant's appeal. The board shall now determine whether any changes should be made to the sanctions issued by the "**NAME OF BOARD**".

B. The primary findings are overturned:

Chair: "**NAME OF BOARD**" has found grounds and a preponderance of evidence to support the appeal of the Complainant. The board shall now determine whether any changes should be made to the sanctions issued by the "**NAME OF BOARD**".

C. The board needs more information:

The "**NAME OF BOARD**" has deemed it necessary to hold a hearing with the Complainant and Respondent's primary hearing chair present to answer questions from this board's members. All will be issued a notice to appear in writing at "**TIME, DATE AND PLACE**".

Stop the Tape Recorder. End the Hearing.

RETURN TO CLOSED EXECUTIVE SESSION FOR SANCTIONING:

Chair: **Is there a motion to move back into executive session to discuss sanctioning for the Respondent?**

Board Member 1: **Mr./Madam Chairman, I move we recess into executive session to discuss sanctioning against a member of the University in order to protect the privacy of the parties involve. We will reconvene the open meeting here at "SET TIME".**

Chair: **Is there a second?**

Board Member 2: **I second the motion.**

Chair: **It has been moved and seconded that the board recess into closed executive session. Is there any discussion? (Seeing none) All in favor say aye. All opposed say nay. (Assuming the motion passes) The motion carries. At this time the hearing will move into executive session. Again, no binding action will be taken while the board is in closed session. The board will resume open session at "SET TIME". ***

* (Note: You must **always** resume open session **exactly** at the time you announce. If/When you need to extend time for closed executive session, see EXTENDING CLOSED EXECUTIVE SESSION (Page 6).)

Chair: Clear the room of everyone present except for the Respondent, their advisor, and board members.

SANCTIONING:

6. Complainant may address the impact of the respondent's violation(s) and the range of sanctions. (The Complainant(s) do have the option of submitting this impact statement in writing.)
7. Board members may question the Complainant, if available.
8. Respondent may address the range of sanctions, giving reasons why certain sanctions would be difficult or impossible to complete. (The Respondent does have the option of submitting this personal impact statement in writing.)
9. Board members may question the Respondent, if available.
10. Chair: Escort the Complainant(s) and Respondent and their advisor from the hearing room.

Turn off the Tape Recorder.

11. Discuss what changes in the sanctions should be made, if any.

COME OUT OF CLOSED EXECUTIVE SESSION:

Chair: Open doors. Allow anyone waiting outside to return to the hearing room. (**Note:** Open session cannot resume until the time that was stated in the motion to go into closed session.)

Turn on the Tape Recorder.

Chair: The time is "TIME" and "NAME OF BOARD" will resume open session. At this time, the board will decide upon an appropriate sanction for the Respondent. Is there a motion for an appropriate sanction?

Board Member 1:

a.) I move the hearing board uphold the previous sanction.

OR

b.) I move the hearing board strike the previous sanction and a new sanction be assigned as follows: "READ THE NEW SANCTION".

Chair: Is there a second?

Board Member 2: I second the motion.

Chair: It has been moved and seconded that the sanctions be "BE AMENDED TO READ..." OR "REMAIN THE SAME". Is there any discussion?

Board Member 1: I move unanimous consent.

Chair: Is there a second?

Board Member 2: I second the motion.

Chair: Are there any objections? Seeing none, the motion passes unanimously.

The Complainant and Respondent shall have the right to submit a written appeal request to the President of the University by 5 p.m. within 3 class days following the receipt of the written notification of this decision. The written appeal request must include the name of the Complainant, the body whose decision is being appealed, the date the decision was given, and the grounds for the appeal, supported by specific facts.

This hearing is now closed.

End of hearing.

****EXTENDING CLOSED EXECUTIVE SESSION:****

Turn on the Tape Recorder. (If it is not already on)

***Chair:* The time is "TIME" and "NAME OF BOARD" will resume open session. At this time, the discussion in the executive session has not been completed. Is there a motion to extend closed executive session?**

***Board Member 1:* I so move.**

***Chair:* Is there a second?**

***Board Member 2:* I second the motion.**

***Chair:* It has been moved and seconded that the closed executive session be extended. Is there any discussion? (Seeing none) All in favor say aye. All opposed say nay. (Assuming the motion passes) The motion carries.**

The hearing will move back into closed executive session. Again, no binding action shall be taken while the board is in closed session. The board will resume open session at "SET TIME".*

Return to the part in the script where you left off.

* (Note: You must **always** resume open session at **exactly** the time you announce that you will resume.)