

JUDICIAL BOARD PHILOSOPHY

The philosophy of Student Judicial Affairs at Kansas State University places students in a direct and primary role in the establishment and enforcement of campus and living group policies and regulations. The philosophy of conduct is founded upon an educational framework. The focus is to foster the growth and development of individual students through the encouragement of self-discipline, accountability and responsibility to the community. A respect for the rights and privileges of others is the core of this philosophy. Responsibility for proper conduct is put upon the student – not the institution – with the assumption that most students do not try to intentionally cause violations, and will respect the rights and property of others.

The goals of the Judicial Board process are to redirect the behavior of students into acceptable patterns, to protect the rights and privileges of all students and to encourage educational development. The main advantage of a student judicial system is that when peer influence is exerted through a structured process, it can often be the most effective and positive means of accomplishing the goals of the system.

The student judicial system promotes peer communication and those behaviors and attitudes appropriate to the creation and maintenance of a positive living and learning environment. It is therefore necessary to find the most effective way to deal with unacceptable conduct, so that academic matters can be pursued. Since most students are saturated with advice from authority figures, we turn to other students, recognizing that they understand the balance between individual freedom and the difficulties of college life and group living. Use of a student judicial system seems to reduce the threat to the offender's maturity and freedom. Therefore a major task of the student judicial board is to attempt to create and help maintain this balance between increased individual freedom and abiding by rules and regulations.

Finally it should be understood that there exists a fundamental difference between the nature of student discipline and that of criminal law. As noted before, the student judicial system is couched within an educational framework. Student discipline is meant to be in accordance with the mission of the university. The policies and procedures used are not meant to resemble those in the criminal process. The formal responsibility for all judicial matters rests within the university administration, but has been delegated through the Student Governing Association. The administrators who bear this responsibility will be made aware if discipline problems get out of hand, so student boards should expect a certain amount of interest in their work, and an occasional suggestion or comment based on past experience.

The commitment of the students involved with the boards, as well as that of the professional staff, will enhance the personal and educational goals of the university and will in large part determine the success of the peer influence approach in addressing judicial matters.

JUDICIAL FRAMEWORK

The KSU Student Governing Association's judicial system has jurisdiction over any non-academic misconduct that happens on campus or at university-sponsored events that happen at sites off campus. The judicial system is made up of five different boards. The composition of the boards and its duties are set out by Article VI of the KSU SGA Constitution. All board members serve one-year terms and may request reappointment for subsequent terms.

Judicial Council is the board that serves as the educational arm of the judicial branch and it is chaired by the Attorney General. It is made up of five students and the Dean of Student Life's designee. Judicial Council is to serve as the designee of the Attorney General when deemed necessary, to receive and dispose of complaints filed with the Attorney General, to prepare and distribute pamphlets and materials explaining the SGA judicial system to members of the university community, provide information and forms to judicial boards necessary for their administration, and also responsible for training and providing continuing education for all members of the judicial branch.

Student Tribunal is composed of two faculty members and five student members. Its duties are to interpret the SGA Constitution, By-Laws and legislation upon written request by the Student Body President, Chair of Student Senate, or by presentation of a petition signed by 50 members of KSU SGA, try bills of impeachment, hear appeals from all boards except Parking Citation Appeals Board, hear cases involving special circumstances or situations for which jurisdiction is not otherwise outlined, hear appeals from committees created by Student Senate, and also consider appeals of decisions originating under the Policy Prohibiting Sexual Harassment, Policy Prohibiting Sexual Violence, and Policy Prohibiting Racial and/or Ethnic Harassment when the appeal is beyond the administrative process desired.

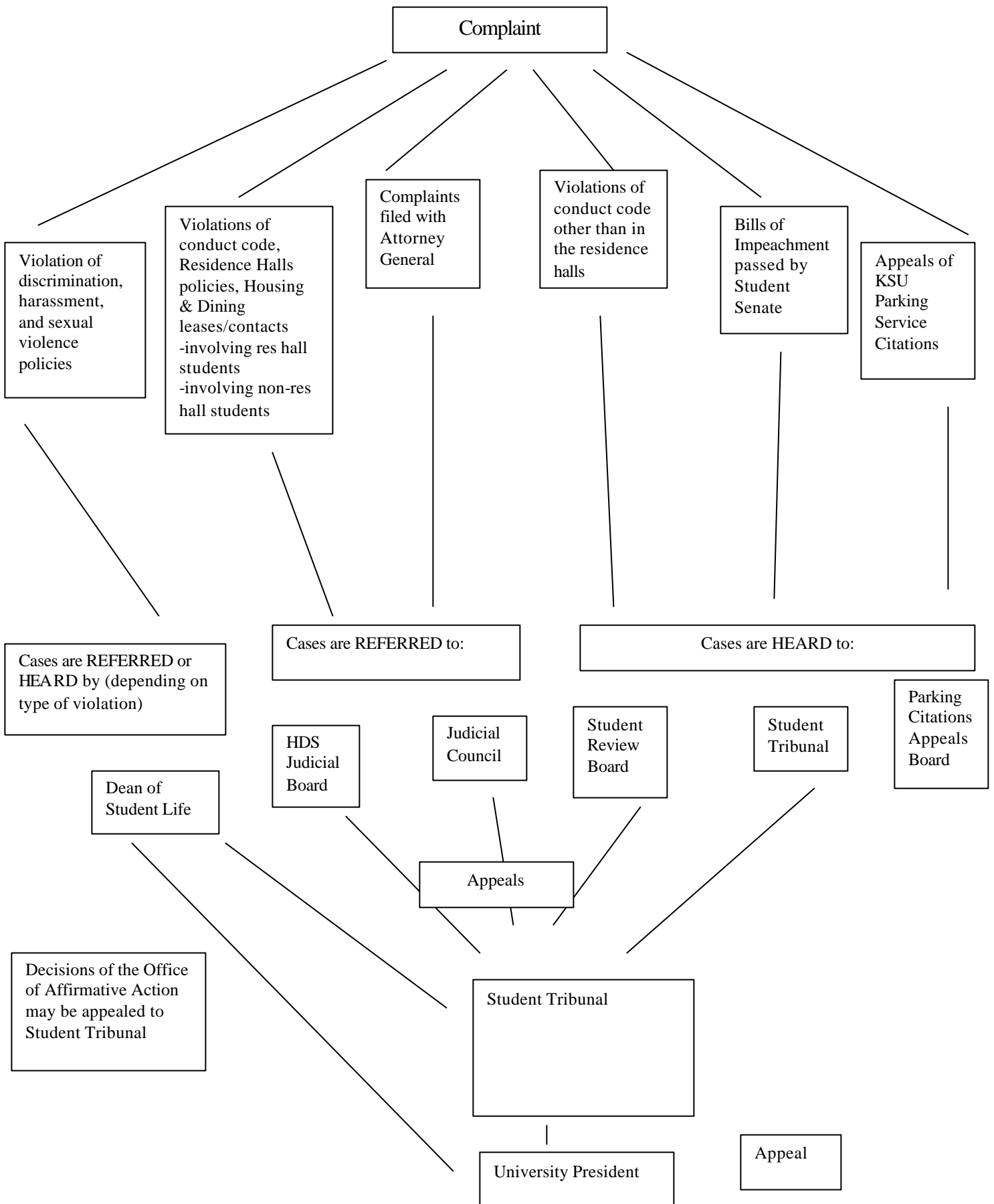
Student Review Board is composed of one faculty member and five students. It is responsible for the primary hearing of complaints that happen on campus, but not in the residence halls, or at university-sponsored events that happen off campus. They also hear what are referred to as 20g hearings, which involve student's failure to comply with or complete the educational sanctioning they were issued. (See Glossary of Terms on pages 16-17)

Housing and Dining Judicial boards have members representing each residence hall, including Smurthwaite and Jardine. Each hall elects a Chief Justice and Associate Justices according to the guidelines in each individual hall's constitution. The duties of these boards are to hear cases involving violations of the Conduct Code, Jardine Policies, Residence Halls Policy and Information Handbook, and Housing and Dining Services leases and contracts. These boards also hear cases involving violations of such rules occurring on the premises of such living group by any non-resident and shall hear all cases involving violations of such rules on grounds surrounding living group premises in buildings and areas used in common by living groups, such as dining centers.

The last board is **Parking Citation Appeals Board** which is composed of six students, three faculty and two members of the classified staff. This board considers student, faculty, and staff appeals of Kansas State University Parking Services parking citations.

Note: No member of the judicial branch may serve in the legislative or executive branches of the KSU SGA except one student senator who serves on the Judicial Council as a liaison between the legislative and judicial branches of SGA.

KSU Judicial Structure



ROLES AND RESPONSIBILITIES

The judicial hearing is a structured conversation between the board, the complainant, the respondent and their witnesses. An advisor to the complainant or the respondent may also be present, but may not address the Student Judicial Board. The hearing is lead by the Chief Justice of the board in consultation with the Judicial Advisor. The proceedings are tape-recorded. All information communicated during a hearing is confidential.

A. Associate Justices

It is the task of Associate Justices to investigate the facts of the case by reading all information provided regarding an alleged violation and by asking probing, thorough and appropriate questions.

The facts will be used to determine, by a preponderance of evidence, whether or not the respondent has violated the Student Conduct Code as outlined in the Student Governing Association By-laws. If a majority of the justices find the respondent responsible for violating the Student Conduct Code they will move to consider appropriate sanctions. Sanctions are to be determined by consensus and should be commensurate with the violation and the educational goals of the judicial system..

B. Chief Justice

The Chief Justice has two responsibilities – guiding the hearing and facilitating discussion. While guiding the hearing, the Chief Justice insures that proper procedure is followed, questions are appropriately asked, issues are thoroughly investigated, the due process rights of the respondent and the complainant are protected and the hearing runs smoothly. Careful adherence to procedure is an important responsibility because the potential consequences for the respondent and the university could be significant. The Chief Justice may consult the Judicial Advisor and/or the Office of Student Life regarding procedural matters before, during or after a hearing. The Chief Justice is also responsible for the safe keeping and proper order of case notes, the tape recording and any physical evidence, until they are transferred to the Attorney General at the end of the hearing.

While facilitating discussion, the Chief Justice is responsible for helping panel members ask appropriate, thorough questions during the hearing and for guiding their discussion of the facts. The Chief Justice (generally) does not question the complainant; respondent or witnesses but he/she may stimulate questioning or redirect it. The Chief Justice should focus on facilitating discussion of the proceedings. Remember that the hearing is not a court of law.

It will also be the duty of a Chief Justice to serve as a member of newly established Judicial Council as a way to better the judicial system here at Kansas State University.

D. Judicial Advisor

The Assistant Residence Life Coordinator (ARLC) and the Residence Life Coordinator (RLC) in each residence hall serves as the Judicial Advisor for all residence hall cases. The Coordinator for

the Office of Student Activities and Services (OSAS) serves as the Judicial Advisor for Student Review Board and Student Tribunal hearings. The Judicial Advisor is present during the hearings for consultation by any person on the hearing board. Judicial Advisor also acts to protect the rights of the respondent and the complainant in ensuring that due process is protected and respected. The board may call the Judicial Advisor as a witness.

Should the board find the respondent in violation and move to the sanctioning stage, the Judicial Advisor is consulted in order to offer guidance on appropriate sanctions. Only after the hearing board has moved to the sanctioning stage, may the Judicial Advisor advise the hearing board of prior violations by the respondent and only to assist the board in the sanctioning process.

E. Complainant

The complainant is the student, faculty, staff member or guest of the university who has filed a complaint or report. There may be more than one complainant at a hearing if all of the complaints involve the same situation. However, should such a situation arise each complainant is allowed to request a separate hearing.

E. Respondent

The Respondent is the student against whom the complaint has been filed. There may be more than one respondent if all of the charges involve the same situation. However, should such a situation arise each respondent is entitled to request an individual hearing.

F. Witnesses

Persons who have direct knowledge of the incident that leads to the filing of the complaint. Witnesses may be neutral or appear for either party. Witnesses may not be compelled to testify. Witnesses may only be present in the hearing while they are testifying but may be recalled by the hearing panel at a later time for further questioning.

G. Advisors

An advisor may be a faculty member, staff person, friend, relative or advocate and may be present on behalf of either party, the complainant or the respondent. Advisors may not speak for or represent either party unless the student has a speech disability or is physically unable to be present at a hearing. Attorneys may serve as advisors but have no speaking privileges.

H. Attorney General

It is the duty of the Attorney General to preside over the Judicial Branch of SGA. Judicial authority is divided and controlled by the following boards: Judicial Council, Student Tribunal, Housing and Dining Services Judicial Boards, Student Review Board, Parking Citations Appeals Board and Ad Hoc Boards.

Judicial power includes the disposition of non-academic university disciplinary complaints against students, violations of the KSU SGA Constitution, Conduct Code, Residence Life Policies, and Housing and Dining Services Contracts, interferences with students' rights and

freedoms and appeals of KSU Police Department parking citations.

The SGA Attorney General in consultation with the Student Body President appoints members to the above-mentioned judicial boards, and is also responsible for initial and on-going training of those boards. The Attorney General also determines which judicial boards shall be authorized to hear each case in consultation with the Dean of Student Life.

I. Dean of Student Life

The University President has authority over the operation of the campus judicial program. This authority is delegated to the Dean of Student Life or his/her designee. The Dean of Student Life or designee shall assist in advising and supporting the operation of the campus judicial program, and in some cases, may determine if there has been a violation of the Conduct Code and impose sanctions. The Dean of Student Life or designee is a member of Judicial Council and may serve an advisory or consultation function on other boards.

J. Member of a Judicial Board

As a member of a judicial board, it is your responsibility to positively contribute to the educational and developmental function of such a board. You should read all allegations and other paperwork ahead of time, prepare questions for the complainant or respondent ahead of time and arrive to the hearing prepared. You should listen attentively and suspend all judgment until everyone has had a chance to address the board. Always keep in mind that your goal is to want what is best for all involved when considering all the circumstances of a particular situation.

GLOSSARY OF TERMS

Ad Hoc Judicial Board: a board convened for the specific purpose of conducting a primary hearing or appeal when judicial board members are unavailable or as the need arises.

Allegations : assertions or statements not yet proven.

Appeal: review requested by the respondent of the primary decision to determine whether the decision is supported by substantial evidence and/or the respondent has been substantially disadvantaged by procedural error.

Arbitrary or Capricious : not according to reason or judgment; without fair, solid and substantial cause, without consideration and regard for the facts and circumstances presented.

Bias : a predisposition to decide a case or an issue in a certain way, which does not leave the mind perfectly open; inability to make an impartial decision.

Burden of Proof: the obligation to prove by a certain level of evidence. Within the K-Sate Judicial System , the burden of proof is that of a preponderance of evidence.

Complainant: shall refer to the individual(s) who files a written allegation of the Student Conduct Code, Residence Hall Policy and/or Housing and Dining Services Contract violation(s).

Conflict of Interest: sitting in judgment upon a respondent after investigating the case against the respondent, after serving as a witness, when acting as the complainant, or when engaging in any other activity which is incompatible with the role of free and impartial decision maker.

Fundamentally Fair: just and proper proceedings.

Jurisdiction: the area of authority of the SGA judicial system as a whole and of individual judicial boards. The SGA judicial system deals only with non-academic conduct and each judicial body hears specific types of cases.

Preponderance of Evidence: evidence that is of greater weight or more convincing than the evidence which is offered in opposition to it.

Primary Hearing: determination of whether the respondent violated a rule and if so, imposition of sanction.

Prior Determination: that the respondent engaged in conduct described in Section 3, “the respondent,” in a formal SGA judicial proceeding or a private hearing with the Dean of Student Life or his/her designee either admitted the violation or was found to have violated the rule. A rumor or statement that the respondent has been in trouble before is not a “prior determination.”

Policy: is defined as the written regulations of the University as found in, but not limited to, the Student Conduct Code, Housing and Dining Services Contract, Residence Hall Policy and Information Handbook, Graduate/Undergraduate Catalogs, Faculty Handbook and the University Campus Directory.

Quorum: the minimum number of members required to be present before a judicial body can hear and decided a case.

Respondent: student against whom a complaint is filed.

Sanction: action described in Section 6 of the Judicial Code that may be taken against the student(s) violating rule(s).

Testify: to make statements and answer questions before a judicial body. Such statements and answers are called “testimony.”

20g Hearing: refers to a hearing that takes place when the Chair of the primary hearing board files a complaint against the original respondent because of a failure to comply with sanctions. 20g’s are heard by Student Review Board.