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## PRIMARY HEARING PROCEDURES (SCRIPT)

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### 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* Chairman, 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 shall 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 9).)

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 remain available 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 in 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 THE JUDICIAL BOARD" with introductions:

**Judicial Board Members**

**Judicial Board Advisor**

**Complainant**

**Complainant's Advisor** (Note: Advisors are permitted to speak only to their advisee.)

**Respondent**

**Respondent's Advisor** (Note: Advisors are permitted to speak only to their advisee.)

**Others Present (Attorney General, etc.)**

\* 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. Allegations.

*Chair:* The Respondent "NAME OF RESPONDENT", for case number "CASE NUMBER", is alleged to have violated "NAME OF CODE/POLICY AND NUMBER" which states "READ TEXT". At this time I will read the complaint for the judicial record. "READ COMPLAINT". (including Complainant and Respondent's names, date and location of the alleged violation, attached incident reports, etc.).

3. Admittance or Denial of Violations.

*Chair:* Does the Respondent understand these allegations? (wait for response)  
Does the Respondent admit or deny these allegations?

At this point, the 5 minutes originally set for closed session will have expired. The board will need to come out of closed executive session and proceed with either the "admit" or "deny" portion of the script.

- If the Respondent **denies** the allegations, you must follow the procedures for EXTENDING CLOSED EXECUTIVE SESSION (Page 9). Then, proceed with the "Deny" section of the script (Page 5).
- If the Respondent **admits** to the allegations, move to the "Admit" section of the script (Page 3) where you will be instructed to come back into open session. Proceed from that point.
- If there are multiple Respondents:
  - o If one Respondent admits and one Respondent denies, excuse the Respondent(s) that denied the allegations. Then proceed as normal for the Respondent(s) that admitted to the allegations. After the hearing for the Respondent(s) who admitted the allegations is finished, allow the Respondent(s) who denied the allegations back into the hearing room and proceed with the "Deny" section of the script (Page 5).
  - o If the Respondents either all admit or all deny, just do one hearing. However, **all Respondents should be judged on an individual basis.**

# Admit

## 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.)

*Ensure that the Tape Recorder is still on.*

***Chair:*** The time is “TIME” and “NAME OF BOARD” will resume open session. At this time the hearing board announces that the Respondent has admitted to being in violation of the university policy that they were alleged to have violated. The board shall now hear from the Complainant(s) and Respondent regarding sanctioning and then deliberate on an appropriate sanction for the Respondent.

## RETURN TO CLOSED EXECUTIVE SESSION FOR SANCTIONING:

***Chair:*** Is there a motion to move back into executive session to discuss an appropriate sanction?

***Board Member 1:*** Mr./Madam Chairman, I move we recess into closed executive session in order to protect the privacy of the parties involved as we discuss sanctioning against a member of the University. 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 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”. \*

\* (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 9].)

## SANCTIONING:

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

***Chair:*** The hearing board shall notify both the Complainant and the Respondent in writing within 48 hours of the decision indicating the reasons for the decision, the sanctions, and the rules and procedures for exercising the right to appeal. Either party shall have the right to submit a written appeal to the Attorney General by 5 p.m. within 5 class days following this hearing. The written appeal request must include the name of the Respondent, the body whose decision is being appealed, the date the decision was given and the grounds for appeal supported by specific facts.

***Chair:*** By his/her own admission, the Respondent violated, “STATE THE RULE” which states, “READ TEXT OF RULE”. The sanctions that may be imposed range from a written warning to recommendation for expulsion.

4. 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.)
5. Board members may question the Complainant.
6. 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.)
7. Board members may question the Respondent.
8. Chair: Escort the Complainant(s) and Respondent and their advisor from the hearing room.

*Turn off the Tape Recorder.*

9. Judicial Advisor informs the board of any prior violations by the Respondent.
10. Board members discuss possible sanctions and extend closed executive session if necessary.

#### COME OUT OF CLOSED EXECUTIVE SESSION – ANNOUNCE SANCTION:

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? (*Note: For multiple Respondents, a different motion will need to be made for each sanction that is different. In other words, if Respondent 1 has a different sanction than Respondent 2, two motions will need to be made.*)

***Board Member 1:*** I move the hearing board pass the following sanction for the Respondent: "STATE THE SANCTION".

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

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

***Chair:*** It has been moved and seconded that the Respondent complete the aforementioned sanction. 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 Respondent is required to complete the aforementioned sanction. This hearing is now closed.

End of hearing.

# Deny

RESUME THE HEARING BY EXTENDING CLOSED EXEC. SESSION [page 9].

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

4. Presentation of evidence by the Complainant.

***Chair:*** “**COMPLAINANT’S NAME**”, do you have any witnesses or relevant evidence to present at this time?

- Complainant may present witnesses and speak at this time.

***Chair:*** “**RESPONDENT’S NAME**”, do you have any questions for the Complainant or *his/her* witnesses at this time?

- Respondent may question the Complainant and his/her witnesses at this time.

***Chair:*** Do the board members have any questions for the Complainant or *his/her* witnesses at this time?

- Board members may question the Complainant and his/her witnesses at this time.

5. Presentation of evidence by the Respondent.

***Chair:*** “**RESPONDENT’S NAME**”, do you have any witnesses or relevant evidence to present at this time?

- Respondent may present witnesses and speak at this time.

***Chair:*** “**COMPLAINANTS’S NAME**”, do you have any questions for the Respondent or *his/her* witnesses at this time?

- Complainant may question the Respondent and his/her witnesses at this time.

***Chair:*** Do the board members have any questions for the Respondent or *his/her* witnesses at this time?

- Board members may question the Complainant and his/her witnesses at this time.\*

\* (Note: All questions for the Complainant, Respondent, and their witnesses should be asked at this time. Otherwise, all parties are permitted to leave following the closing statements, in which case they would be unavailable to respond to any future questions, should they choose to leave.)

6. Concluding statement by the Complainant.

7. Concluding statement by the Respondent.

8. Closing the hearing.

***Chair:*** The hearing board shall notify both the Complainant and the Respondent in writing within 48 hours of the decision, indicating the reasons for the decision, the sanctions, and the rules and procedures for exercising the right to appeal. Either party shall have the right to submit a written appeal to the Attorney General 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 Respondent, the body whose decision is being appealed, the date the decision was given and the grounds for appeal supported by specific facts.

The hearing board will now discuss the evidence presented and determine if there exists a preponderance of evidence that the Respondent violated the identified policies. The Respondent may wish to wait outside so that if the board finds *him/her* in violation he/she may be available to present any information relevant to the range of sanctions.

*Turn off the tape recorder*

9. Excuse all parties from the room and deliberate on whether the Respondent violated the rule or conduct code in.

**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, this hearing board will determine, based on a preponderance of evidence, whether or not the Respondent for case number "***CASE NUMBER***" is in violation of the University *policy/policies* in question. **Is there a motion whether or not the Respondent is in violation?** (Note: If there are multiple Respondents, some may be found in violation while the others are found not in violation. Make one motion for the Respondent(s) who is/are not in violation and another motion for the Respondent(s) who is/are in violation.)

***Board Member 1:*** I move the hearing board find the Respondent *in/not* in violation.

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

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

***Chair:*** It has been moved and seconded that the Respondent be found *in/not* in violation. 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 Respondent is found *in/not* in violation.

Not In Violation

***Chair:*** The board finds that there is not a preponderance of evidence that the Respondent violated the Kansas State University Student Conduct Code, Residence Hall Policy, and/or Housing and Dining Services Policy in question. Therefore, the matter is concluded and the Respondent and Complainant will receive written notices of this decision, in the manner previously described. This hearing is now closed.

End of hearing.

OR

In Violation

***Chair:*** The board finds by a preponderance of evidence that the Respondent violated the university policy in question. The sanctions that may be imposed range from a written warning to recommendation fro expulsion. The board shall now hear from the Complainant(s) and Respondent regarding sanctioning and then deliberate on an appropriate sanction for the Respondent.

RETURN TO CLOSED EXECUTIVE SESSION FOR SANCTIONING:

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

***Board Member 1:*** Mr./Madam Chairman, I move we recess into closed executive session, in order to protect the privacy of the parties involved, to discuss sanctioning against a member of the University. 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 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". \*

\* (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 9).)

SANCTIONING:

10. 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.)
11. Board members may question the Complainant.
12. 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.)
13. Board members may question the Respondent.
14. Chair: Escort the Complainant(s) and Respondent and their advisor from the hearing room.

*Turn off the Tape Recorder.*

15. The Judicial Advisor informs the board of any prior violations by the Respondent.
16. Board members discuss possible sanctions and extend closed executive session if necessary.

COME OUT OF CLOSED EXECUTIVE SESSION – ANNOUNCE SANCTION:

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? (*Note: For multiple Respondents, a different motion will need to be made for each sanction that is different. In other words, if Respondent 1 has a different sanction than Respondent 2, two motions will need to be made.*)

***Board Member 1:*** I move the hearing board pass the following sanction for the Respondent: "STATE THE SANCTION".

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

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

***Chair:*** It has been moved and seconded that the Respondent complete the aforementioned sanction. 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 Respondent is required to complete the aforementioned sanction. 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.)