Conduct Process and Procedures

Student Housing Services (SHS) expects residents to maintain standards of personal conduct that are in harmony with the University's educational goals, to observe national, state, and local laws, and to respect the rights, privileges, and property of others. We foster communities that value personal responsibility, respect, and civility. The housing conduct system supports the maintenance of appropriate behavioral standards and addresses alleged violations of the Student Housing Services policies. With an emphasis on restorative justice, our system promotes a healthy community in which our residents and staff are treated equitably, fairly, and efficiently.

Specific goals of the Student Housing Services conduct system include:

- Educate our residents on their rights and responsibilities
- Provide facilitation and mediation
- Hold meetings with residents involved in incidents
- Promote reflection in regards to the impact policy violations have on the community
- Provide information or refer to resources as appropriate
- Consult, as appropriate, with faculty, staff, and students on resident behavior concerns
- Participate in crisis consultation/intervention teams
- Ensure that all staff charged with enforcement or case hearings are properly trained
- Advocate for fair process

Student Housing Services utilizes the Community Standards to help define acceptable behavior on matters related to university and resident property or resident behavior. The Community Standards helps to educate our residents about the responsibilities of living in a community. For a resident who chooses to act in a manner that violates these standards, the conduct process is designed to discuss the behaviors inconsistent with the Community Standards, to restore the community and the relationships within, and to assist the resident in accepting responsibility for his/her actions and for the consequences of these actions.

Brief overview of the conduct process; refer to rest of this document for more detailed information:

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Conduct Process

A. DOCUMENTATION

Incidents of Sex Discrimination (Sexual Assault, Sexual Harassment, Stalking, Dating Violence, Domestic Violence)

Anyone wishing to make a report relating to sex discrimination or harassment may do so by reporting the concern to:

- Dee Uwono
  Director and Title IX Coordinator
  Hawai?i Hall #124
  2500 Campus Road
  Honolulu, HI 96822
  Telephone: (808) 956-2299
  Email: t9uhm@hawaii.edu

- Karen Blakeley
  Deputy Title IX Coordinator, SHS
  Residential Life Office, Johnson Hall A basement
  2555 Dole Street
  Honolulu, HI 96822
  Telephone: (808) 956-8300
  Email: conduct@hawaii.edu

If Student Housing Services staff become aware of any sex discrimination or harassment incident, the Title IX Coordinator will be immediately informed and incidents will be handled in accordance with UH Policy EP1.204 Policy and Procedural Guidelines on Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking.

Incidents of Violations of the Student Conduct Code

Incidents determined to be possible violations of the University of Hawaii Student Conduct Code may be forwarded to the Office of Judicial Affairs for adjudication under the procedures of the Student Conduct Code. See www.hawaii.edu/student/conduct for more information regarding Student Conduct Code policies and procedures.

Incidents of Violations of the Community Standards

Incidents that involve possible violations of the Student Housing Services Community Standards are documented in an ?incident report.? Information on alleged policy violations can come from residence hall staff, Public Safety Officers, and other constituents or agents of the University of Hawaii at Manoa (UHM).

Residents involved in alleged incidents, or who are witness to any incident, may request a statement form from hall staff, which will be submitted along with the incident report.
Good Samaritan Policy

In cases of significant intoxication and/or alcohol poisoning, the primary concern is the health and safety of the individual(s) involved. The University and Student Housing Services conduct processes are educational in nature. Therefore, if an intoxicated student is in need of medical assistance, it is the University’s priority to assist without punitive consequences. In most cases, neither the intoxicated individual(s) nor an individual/group who assists will be subject to punitive university disciplinary action, but instead would have an educational follow-up meeting with Housing or University staff. This does not excuse or protect those who flagrantly or repeatedly violate university policies in regards to alcohol. The Good Samaritan clause applies to straightforward cases of alcohol poisoning only. If other infractions occur, such as assault or property damage, the clause does not apply.

B. INVESTIGATION

A resident alleged to be involved in a policy violation may be contacted for the purpose of an investigative meeting with a staff member. The Accused Resident is required to attend the meeting. However, the Accused Resident will not be required to give self-incriminating information at the meeting.

The Accused Resident will receive written notification of the allegations via the individual’s UHM email address. Per University policy (E2.213 System and Campus-wide Electronic Channels for Communicating with Students), email is the official means of communication within the university and, consequently, written notice sent to the resident’s electronic address will constitute full notice.

Once the email notification is sent regarding the need to meet, the resident must adhere to the instructions provided and schedule a meeting within two business days of the email notification. Unless the staff member is not available, the investigative meeting should occur no later than four business days after the email notification is sent. Residents are responsible for clear and timely communication with the staff member to ensure that a meeting is scheduled. If a resident fails to respond and/or a meeting is not scheduled within a reasonable time frame, the case will be referred to a Formal Hearing. In this situation, the Accused Resident will receive notification via email of the decision to refer the case to the Formal Hearing.

As a result of the investigative meeting with the Accused Resident:

- The staff member may dismiss the allegation as unsubstantiated; or
- If the allegation is substantiated, the staff member may:
  a) Offer the Accused Resident the option to resolve the matter via Informal Resolution (see Section C); or
  b) Refer the Accused Resident to a Formal Hearing (see Section D). Note that a Formal Hearing may be convened without option for Informal Resolution when the Accused Resident has been involved in repeated, multiple and or serious violations of the Community Standards. A Formal Hearing will also be convened when a resident is facing suspension or dismissal from on campus housing.

At any point in the process, if the staff member receives subsequent information about an incident and/or the Accused Resident’s involvement, the staff member may need to call the Accused Resident into an additional meeting. As a result of the additional meeting, the staff member may:

- Determine that previously unsubstantiated allegations are now substantiated and, as a result, offer the option of an informal resolution or refer to a Formal Hearing.
• Revise the terms of the agreed resolution.
• Refer the Accused Resident to a Formal Hearing.

C. INFORMAL RESOLUTION

The Informal Resolution Process provides Accused Residents with the ability to resolve conduct issues with a staff member outside of a Formal Hearing when the terms of the resolution are mutually agreed upon. The options are:

• The staff member may conclude that the Accused Resident was involved in a policy violation and offer the resident a "Statement of Agreed Resolution," which outlines the violation(s) and the educational assignment(s). The Accused Resident can choose to accept this informal resolution by waiving the right to a formal hearing and accepting the terms. The accepted informal resolution is considered to be final and the Accused Resident, in accepting the resolution, waives the right to appeal the resolution. The Accused Resident will be expected to complete any assignments by the agreed upon deadline. Failure to do so will likely result in allegations of "failure to comply" and a Formal Hearing.
• The Accused Resident can choose to not accept the informal resolution and, instead, opt for a Formal Hearing (see Section D).

Exceptions:

Incidents that may be ineligible for informal resolution, depending on the circumstances, include arson, assault, weapons, illegal drug possession and/or sales, theft and burglary. The Assistant Director for Conduct and Community Standards or the Associate Director for Residential Life will make the final determination regarding the appropriate avenue for the handling of these cases.

D. FORMAL HEARING

The purpose of the Formal Hearing is to determine whether or not a policy violation occurred and, if a violation occurred, whether or not the Accused Resident is accountable. Formal hearings are conducted by staff members or, in some cases, by the Peer Education Board. Formal Hearings are administrative hearings and are not criminal proceedings.

Formal hearings can be convened when:

• The alleged policy violations are egregious.
• The Accused Resident has been involved in repeat or multiple incidents.
• The Accused Resident fails to attend an investigative meeting called by a staff member.
• The Accused Resident has failed to comply with the terms of an informal resolution agreement.
• The Accused Resident fails to complete sanctions assigned as a result of a Formal Hearing.
• The Accused Resident requests a Formal Hearing in lieu of the informal resolution process.

Peer Education Board Hearings

The Peer Education Board (PEB) is a volunteer, student-run group which focuses on the education of residents on community expectations and on the development of positive community living experiences. The board is comprised of students from the residence halls/apartments and is advised by graduate or professional staff. When a need arises (as determined by the Assistant Director for Conduct and Community Standards or by the Associate Director for Residential Life), the PEB can be convened to hear student conduct cases. In that role, the purpose of the Board is to provide residents with an opportunity to have their case heard and decided upon by a group of their peers. The PEB will proceed once quorum is
present. The Board will have access to all information which is pertinent to the case which includes the incident report, supporting documentation (statement forms, etc.), and the resident?s conduct history and standing (i.e. any violations incurred in the past, previous educational assignments and sanctions, current conduct standing, etc.).

Notice
The Accused Resident will receive written notification of the allegations via the individual?s UHM email address. Per University policy (E2.213 System and Campus-wide Electronic Channels for Communicating with Students), email is the official means of communication within the university and, consequently, written notice sent to the resident?s electronic address will constitute full notice.

The Accused Resident is required to schedule a hearing within three business days, or to attend the hearing as scheduled, or to contact the staff member /PEB advisor by the indicated deadline to reschedule the hearing. Should the Accused Resident choose not to schedule within three business days, to attend or to reschedule the hearing, a decision on responsibility will be made without the resident?s input. The decision will be based on the information available to the hearing officer or to the PEB. A resident who fails to schedule the hearing, to attend the hearing, or to properly request to reschedule the hearing may not, in general, appeal the finding or sanctions assigned except in cases where the Accused Resident is evicted from on-campus housing.

Hearing
During the hearing, the Accused Resident will be verbally presented with the details of the alleged violations. The resident may respond to the allegations and present information and/or evidence relevant to the case. The Hearing officer/board may admit relevant evidence; irrelevant, immaterial, and unduly repetitious evidence may be excluded by the hearing officer/board. The hearings are closed to the public and the Accused Resident will represent him or herself. These meetings will be recorded (written) for documentation purposes. This documentation will remain the property of the Student Housing Services.

Witnesses
Accused Residents who have relevant witnesses can provide witness statements to the hearing officer/board. Witness statement forms can be obtained from hall staff or from the Residential Life Office (Johnson Hall A basement). If, during the hearing, the Accused Resident states a need for additional time to obtain relevant witness statements, the hearing officer/board will provide instructions and a deadline for the submission of such statements.

Standard of Evidence
The standard of evidence used to determine responsibility for a policy violation is ?preponderance of evidence.? The standard is met when the evidence indicates that it is more likely than not that the Accused Resident is responsible for engaging in behavior that violates the Community Standards.

Outcome
The resident is informed of the decision in the final decision letter. The letter will be issued within seven (7) business days after the date of the hearing. The letter will include a statement of the findings and, if applicable, the sanctions imposed.

Resident Rights
The following are the rights that apply to residents involved in the hearing process.

A. Notification Rights:
The resident has the right to written notification of the alleged violation(s). Written notification is provided via UHM e-mail address.

In most cases, residents will be given at least 48 hour notice that a hearing has been called to allow for adequate preparation time.

The resident must be provided with all rights and responsibilities regarding the conduct process.

B. The Right to a Fair and Impartial Hearing

- The resident has the right to a fair hearing.
- The resident has the right to an impartial hearing officer.

C. Testimony Rights

- The resident has the right to testify on her/his own behalf.
- The resident has the right to provide her/his own documentation or witnesses. Witness statements can be provided at the time of the hearing. If documentation or witness statements cannot be provided at the time of the hearing, the resident will be given time to provide witness statements or other relevant documentation.
- The resident has the right to decline to provide information or responses. This choice to remain silent will not be taken as an admission of responsibility. However, the hearing officer/board will base decisions on the information available.
- The resident has the right to hear all evidence being used against them. Evidence will be presented verbally during the hearing.

D. The Right to Notification of Outcome

- The resident has the right to receive notification, in writing, of the outcome of the hearing.
- Notification of outcome will be provided via the decision letter.

E. The Right to Appeal

- The resident has the right to be made aware of appeal options.
- The resident has the right to request an appeal hearing. An appeal hearing will be granted provided that the resident provides evidence that grounds for an appeal exists. Simply disagreeing with the outcome of a conduct proceeding is not considered grounds for an appeal.

F. The Right to Waive Conduct Proceedings:

- The resident has the right to waive the hearing process by accepting responsibility for a policy violation and all associated sanctions. If a resident chooses to waive the hearing process, the resident cannot appeal any sanctions assigned (with the exception of suspension or dismissal).

It is important to note that the hearing process is an administrative proceeding and not a legal proceeding. As such, residents may not have lawyers present at any hearing and are not entitled to the same level of rights they would be entitled to in a legal proceeding.

E. CONDUCT ACTIONS

Conduct Status

All residents are assigned a conduct status. A resident’s current conduct status may impact the severity of sanctions assigned in the event that a resident is found responsible for violating a policy - in general, the
higher the conduct status, the more severe the sanction. Conduct status categories are as follows:

A. No Status: The resident is in good standing with the Student Housing Services.
B. Warning: The resident remains in good standing with the Student Housing Services, but has been found responsible for violating a policy or procedure and is put on notice that further violations of policy may result in more severe conduct action.
C. Probation: A resident with this status is expected to demonstrate a willingness to comply with all University and Student Housing Services policies and procedures. A resident with this status is not considered to be in good standing with the Student Housing Services and may be evicted from on-campus housing in the event that further policies are violated while on probationary status.
D. Deferred Suspension: A resident with this status is provided with a final opportunity to demonstrate a willingness to comply with all University and Student Housing Services policies and procedures. During this period of deferred action, subsequent violations of policy and/or a failure to complete assigned sanctions, will result in immediate termination of the housing contract and the resident will not be allowed to return to on-campus housing for a specified period of time and/or until certain conditions are met.
E. Suspension: A resident with this status will have their housing contract terminated and will not be allowed to return to on-campus housing for a specified period of time and/or until certain conditions are met.
F. Dismissal: A resident who is assigned this status will have their housing contract immediately terminated and will be trespass banned from on-campus housing facilities and surrounding areas. A resident who has been dismissed is banned from returning to on-campus housing at any point in the future.

Conduct status is not necessarily assigned in the order above. For example, a resident with no status who commits a serious violation of policy may be assigned probation or suspension at the discretion of the hearing officer.

**Educational Sanctions**

When a resident is found responsible for violating a policy, the resident may be assigned an educational sanction. The goal of an educational sanction is to restore damage to the community or to individual relationships; and/or to educate the resident on the impact her/his behavior has on the community; and/or address other behavioral needs. Sanctions assigned by a hearing officer/board may be one or more of the following:

A. Educational Assignment: The resident is assigned a specific project or program (relevant to the violation) to be completed by a set deadline. Examples include, but are not limited to, attendance and/or assistance in educational programs, meeting with University officials (such as coaches, advisors, counselors, etc.), a written paper on a specific topic, addressing student groups, letters of apology, or completing a roommate contract.
B. Restitution: In cases of damage, destruction, or theft, or the unauthorized use of property or services, restitution may be required. This may include reasonable administrative costs.
C. Referral: This may include referral to another department of the University for counseling and/or other intervention.
D. Loss of Privileges: This may include removal of privileges such as the ability to host guests, the ability to check out items from the Community Desk, etc.
E. Administrative Transfer: This is the relocation of a resident from one community to another. Residents who are transferred are prohibited from entering the floor, wing, or building that they were transferred from for a specified period of time.
F. No Contact Order: The resident is prohibited from any form of contact (such as verbal contact, contact via any electronic medium, contact via a third party, etc.) with a specific person or persons.
G. No Retaliation Order: The resident is prohibited from any attempts at retaliation (such as intimidation, threats, coercion or discrimination) undertaken or attempted either directly or by someone acting on behalf of the resident.

H. Other: With the permission of the Assistant Director for Conduct and Community Standards and/or the Associate Director for Residential Life, a hearing officer/board can assign a sanction that is not listed in any category above provided that the sanction is relevant to the policy that was violated and/or is in the best interest of the community.

Interim Administrative Actions

Interim administrative actions are assigned in serious or severe alleged violations of the Community Standards. These interim actions are assigned before a conduct hearing in cases where it is in the best interest of the community and/or the alleged offender to be removed from the community and/or to prohibit contact between individuals. Interim actions are in place until the matter can be properly heard and pending the outcome of the hearing. Interim administrative actions are as follows:

A. Interim No Contact Order: The resident is prohibited from any form of contact (such as verbal contact, contact via any electronic medium, contact via a third party, etc.) with a specific person or persons.

B. Interim No Retaliation Order: The resident is prohibited from any attempts at retaliation (such as intimidation, threats, coercion or discrimination) undertaken or attempted either directly or by someone acting on behalf of the resident.

C. Interim Administrative Transfer: This is the temporary relocation of a resident from one community to another. Residents who receive an interim administrative transfer are prohibited from entering the floor, wing, or building from which they were transferred.

D. Interim Trespass Ban: The resident is temporarily prohibited from entering a specific building or housing area.

E. Interim Suspension: This is the temporary eviction of a resident from on-campus housing. This interim sanction is only assigned in cases where a resident displays behavior that poses imminent or potentially imminent danger to herself/himself and/or others.

Appeal Process

Residents who choose to appeal a formal hearing decision must do so by submitting the On-Line Conduct Appeal Form within five business days of the date of notification of the decision. This form can be found at http://manoa.hawaii.edu/housing/forms [4] and will require the use of the individual?s log in information.

The right to appeal must be based on at least one of the following categories:

- A procedural error (example: Resident Rights? not afforded) has occurred during the original conduct process.
- New evidence or an unusual condition, relevant to the case, was discovered and was verifiably not available at the original formal hearing.

The On-Line Conduct Appeal Form requesting an appeal must contain information explaining in detail the procedural error and/or new evidence or unusual conditions related to the resident?s case. A resident may appeal on one or both of the categories listed above, but may not appeal because the resident simply disagrees with the decision and sanctions. All requests for appeals of conduct decisions will be reviewed by the Associate Director, an Assistant Director or a designee, who will evaluate the appeal to determine whether valid grounds exist to meet one or more of the criteria cited above. Appeal forms that do not contain the appropriate information will be rejected and returned to the resident with sanctions upheld. If an
appeal request is granted, conduct action will be suspended until the appeal process is concluded. However, any further violations can result in other conduct action which may include immediate suspension or dismissal from the residence halls.

Residents will receive a decision within seven business days from the date that the appeal is received. The appeal investigation will result in one of the following decisions:

a) Uphold the original decision.
b) Revise the decision.
c) Remand the case to a Formal Hearing.

Residents have one level of appeal after the original decision is rendered and that decision on the appeal is final and binding within the Student Housing Services.