



University Operating Procedure

Student Organization Misconduct Investigation and Resolution

Overview

In accordance with the Code of Student Rights and Responsibilities (<http://www.uvm.edu/policies/student/studentcode.pdf>) and related University policies (<http://www.uvm.edu/policies/?Page=alphalist.php>), individual students, as well as [Recognized Student Organizations](#) (“Student Organization(s)”) and their officers, may be held collectively responsible when violations of University policies occur. Officers, leaders, and members of Student Organizations are expected to know and abide by all University policies for Student Organizations and students in general.

Resolution of alleged misconduct by a Student Organization will be addressed through the below detailed process. Additionally, some Student Organizations are affiliated with state, regional, national, or international organizations (“Governing Groups”). Many of these Governing Groups have developed position statements on misconduct. The University may report alleged violations of University policies and the law by Student Organizations to the Organization’s Governing Group(s), as well as law enforcement.

The University's established procedures for considering alleged violations of University policies by individual students are outlined in the Code of Student Rights and Responsibilities (the “Code”) (<http://www.uvm.edu/policies/student/studentcode.pdf>), Sexual Harassment and Misconduct Policy (http://www.uvm.edu/policies/general_html/sexharass.pdf), and Discrimination and Harassment Policy (<http://www.uvm.edu/policies/student/studenttharas.pdf>), as applicable. The fact that alleged individual student misconduct grows out of participation in an activity sponsored or engaged in by a Student Organization does not eliminate the individual student's accountability. The fact that individual students are held accountable for actions taken while participating in a Student Organization's activity, does not eliminate the accountability of the Organization for its actions. Although the procedures outlined in the Code are not to be used to adjudicate charges of misconduct against Student Organizations, the University does hold Student Organizations accountable for acts or omissions taken by the Organization that violate the Code and other University policies.

Allegations of harassment and discrimination, including sexual harassment and sexual misconduct, are addressed in accordance with the University's Discrimination and Harassment Policy (<http://www.uvm.edu/policies/student/studentharas.pdf>) and/or Sexual Harassment and Misconduct Policy (http://www.uvm.edu/policies/general_html/sexassault.pdf), as applicable, and their associated procedures.

Allegations of University policy violations by Varsity Athletics teams are addressed in accordance with the UVM Student-Athlete Handbook (http://uvmathletics.com/documents/2017/8/25/Student_Athlete_Handbook_17_18.doc), and its associated procedures.

Procedures

Reporting Student Organization Misconduct

In an actual or emergency situation, contact UVM Police Services at (802) 656-3473 or 911.

Reports of Student Organization Misconduct should be referred to the Director of Student Life (the "Director") for review by the Student Organization Misconduct Committee:

Director of Student Life
Dudley H. Davis Center – Room 310
(802) 656-2060
slife@uvm.edu

Review of Reports – Student Organization Misconduct Committee

When the Director receives a verbal or written report or otherwise becomes aware of a Student Organization's alleged misconduct, the Director or designee will convene the Student Organization Misconduct Committee (the "Committee"), comprised of the Associate Dean of Student Affairs, the Director of the Center for Student Conduct, and the Chief of UVM Police Services, or their respective designees, to review the initial report and determine whether sufficient information exists to warrant an administrative investigation, whether reporting to UVM Police is required for consideration of criminal or civil law consequences, or whether it would be prudent for the Director, as Chair of the Committee, or designee, to conduct an initial inquiry to inform that decision.

In the event the Committee elects to move forward with an administrative investigation, the Chair of the Committee shall notify the leadership of the Student Organization (typically the president and vice president, equivalent executive positions, or team captains), the Organization's University Advisor and/or Coach, and the Governing Group, if any, in writing of the general nature of the alleged misconduct and that an investigation will be conducted. The Notice shall also identify the individual tasked with investigating the matter. In appropriate and limited circumstances, the Notice will include information about the Student Organization's option to resolve the matter through an Administrative Conference, as outlined below.

Student Organizations are encouraged to self-report misconduct and take affirmative steps to address misconduct.

Assessment of Interim Actions

The Committee shall also consider whether an allegation against a Student Organization gives reasonable cause to believe that the Organization represents a threat to the safety, security or welfare of the University community and/or an obstruction to accomplishing the University's lawful mission. If, in the Committee's sole discretion, such reasonable cause exists, immediate action may be warranted. Under such circumstances, the Director has the authority to temporarily suspend all or some activities of the accused Organization until the other provisions of this procedure are implemented. In the case of Interim Suspension of activities, in whole or in part, the University will make reasonable efforts to implement the procedures outlined herein for considering a complaint as quickly as is feasible under the circumstances.

Any violation of these directives will be considered aggravating circumstance(s) and will lead to harsher sanctioning. This is inclusive of violations from the Organization's leadership outside of the University community (i.e. local and national offices).

Criteria Used to Determine Whether Conduct is Organizational

The determination of whether a case concerns individual or organizational misconduct, or both, will be determined on a case by case basis. Allegations of Student Organization Misconduct may be adjudicated before, at the same time as, or following related cases of individual misconduct.

Factors used in determining whether an alleged policy violation was committed by a Student Organization may include, but are not limited to:

1. The nature of the alleged misconduct or incident(s);
2. Executive Board/Leadership knowledge of or participation in the alleged misconduct, to include notice that the event was going to occur;
3. Number of members from the Student Organization present;
4. Whether members or alumni were acting in the name of the Organization, or otherwise permitted, encouraged, aided, or assisted in committing a violation;
5. Whether the alleged misconduct or incident(s) occurred at Organization-sponsored events or within Organization-related affairs, including whether it occurred at a housed Organization's facilities or as part of an activity or assignment voted on by the Organization and/or approved by the Governing Group;
6. Whether the violation is committed by members attending a function as a representative of the University, including, but not limited to, competitions, conference, and conventions;
7. Failure of the Student Organization to implement preventative measures where it is reasonably foreseeable that a violation would occur;
8. Use of Organization funding or funding by an individual in the name of the Organization; and
9. Members or officers fail to report to appropriate University authorities' knowledge or information about violation.

Pre-Investigation Administrative Conference (*if applicable*)

Following Notice, in appropriate circumstances and at the sole discretion of the Committee, the Director may offer to meet with an Organization Representative, as defined in these Procedures,

for an Administrative Conference to discuss the incident, and the Organization will have an opportunity to resolve the matter at that time. The Organization, through the Organization Representative, may sign an agreement (the “Pre-Investigation Waiver”) by which the Organization elects to admit to the specific facts that comprise the violation(s) and accept responsibility for all violations in lieu of proceeding to a formal investigation. If a Waiver is signed, the Organization will be accepting responsibility for the violations listed in the Notice and will be required to complete the sanctions as outlined by the Director. Organizations who accept responsibility by signing the Waiver, waive the right to appeal. The Organization will receive a follow-up letter summarizing the discussion and the sanctions imposed. The Organization’s University Advisor and/or Coach, and the Governing Group, if any, will also receive a copy of this letter. The letter and signed pre-hearing waiver will become part of the Organization’s conduct file. Failure of the Organization to complete assigned sanctions may result in further disciplinary action, as will the discovery of additional violations of University policy that were not disclosed during the waiver process.

If an Organization does not accept responsibility for the alleged violations by signing the Waiver, wishes to contest the alleged violations, or does not accept the sanctions outlined by the Director, an investigation will be initiated.

Use of an Administrative Conference does not preclude the Center for Student Conduct from addressing alleged violations of University policy by individuals.

Investigation Process

The purpose of an investigation conducted pursuant to these procedures is to determine whether University policy, as alleged, has been violated. That determination is made based on a preponderance of the evidence standard which requires that the evidence supporting each finding be more convincing than the evidence in opposition to it; that is, it is more likely than not that the alleged conduct occurred.

The investigation may include, but is not limited to, interviews with Student Organization members and other witnesses identified as having information relevant to the allegations made, as well as the examination of relevant documents and other information. Information for the investigation may be provided by the Student Organization, members, witnesses identified by any party, or the University. Any person believed to have information relevant to an investigation may be contacted and requested to make an appointment to discuss the matter.

Before the investigation report is finalized, the Investigator will provide the Organization with a written report of the totality of relevant facts collected (“the Record”) for review, and the Organization may elect, through the Organization Representative, to meet with the Investigator to comment on the content thereof. The Investigator has the sole discretion to direct the Organization Representative to focus on relevant issues and/or limit redundancies, and to determine the overall length of this meeting. Ultimately, the decision to interview particular witnesses, allow or consider evidence offered, or determine which questions are appropriate and relevant to the case, and, therefore, which questions will ultimately be asked, is within the sole discretion and professional judgment of the Investigator.

Should a Student Organization decline to participate, the investigation may proceed, a finding may be reached, and a sanction may be imposed based on the information available. Similarly, individual members and other witnesses cannot be compelled to participate in an investigation, and the Investigator will proceed with otherwise available information if a witness (or witnesses) choose not to be interviewed.

Upon completion of the investigation, the Investigator shall submit an Investigation Report to the Committee and the Student Organization Representative, including a determination as to whether or not the alleged misconduct by the Student Organization is substantiated. If the misconduct is found to be substantiated, the Investigation Report will be forwarded by the Committee to the Student Organization Accountability Panel for sanctioning. Simultaneously, the Committee may refer individual students to the Center for Student Conduct for adjudication of alleged violations of University policy by providing the Center for Student Conduct with the Record.

Sanctioning Process – Student Organization Accountability Panel

The Student Organization Accountability Panel (the “Panel”) shall be composed of five (5) members of the University community who have received appropriate training on adjudication of Student Organization Misconduct policies and procedures. At least one member of the Panel shall be a student representative from the Student Government Association (SGA) Club Affairs Committee, and at least one member shall be a student representative from the Standards Committee of Panhellenic or the Interfraternity Council. The remaining Panel members will be faculty or staff members of the University, one of which will be designated to serve as Panel Chair. The Student Organization Representative will be notified of the identities of Panel Members and the time/place for their scheduled Panel Meeting within five (5) business days of receipt of the Investigation Report.

The sole purpose of the Panel Meeting is to determine the appropriate sanction(s) for violations of University Policy found by a [preponderance of the evidence](#) and detailed in the Report of Investigation. The Panel Meeting is not the appropriate venue to appeal a finding of responsibility.

All Panel Members will review a copy of the Investigation Report, and any appendices thereto, prior to the Panel Meeting. In addition to review of the Investigation Report and findings, the Panel will consider other information presented at the Panel Meeting by the Student Organization Representative relevant to sanctioning. If the case involves an individual complainant(s), the complainant(s) will be provided an opportunity to participate and provide relevant information. In all instances, such information may be presented in the form of personal statement(s) at the Panel Meeting. If the Student Organization wishes to have a third party address the Panel, in person or by written statement (which will be read aloud on their behalf by the Panel Chair), for the sole purpose of speaking to the existence of aggravating or mitigating circumstances, a summary of their expected statement(s), and their names, must be provided a minimum of two (2) business days prior to the scheduled Panel Meeting. Upon review of the summary of expected statement(s) by third-parties, the Panel may exclude third parties from the Panel Meeting to the extent their statements are deemed not relevant to a fair consideration of the appropriate sanction(s), and therefore the purpose of the Panel Meeting, as outlined above. Third-party character statements are generally not considered relevant.

The Panel, in their discretion, may ask questions of any individual making a statement. However, no individual addressing the Panel is required to answer any questions that the Panel poses. Participation in the sanctioning process is strictly voluntary. After the Panel is satisfied with its opportunity to ask questions, the Panel shall invite the Organization Representative to make any final statement(s) regarding sanctions.

At the conclusion of the Panel Meeting, the Panel Chair will advise the Organization Representative of the timeframe for issuance of the Panel's decision letter, and will provide information about the University's appeal process. The Panel Meeting will then be considered closed, and further information will not be considered by the Panel in rendering a sanctioning decision.

All proceedings are closed. The Student Organization Representative and their Advisor may be present throughout the Panel Meeting, as may Complainant(s). Third party witnesses, if any, shall be present only during their own statements. The Panel Chair is responsible for maintaining order during the Panel Meeting and may take all steps reasonably necessary to ensure an orderly Meeting up to and including removal of disruptive individuals.

Panel Meetings are not recorded; the Panel's decision letter serves as documentation of the information presented.

Range of Sanctions

When an Organization violates University policies, sanctions are put in place to inform the Organization that the behavior(s) exhibited are unacceptable and are not aligned with the values of the University. Where possible (and necessary), sanctions put in place can be a combination of deterrents, educational, and/or restorative.

In determining the appropriate sanction, the Panel should consider the nature and severity of the misconduct; whether the Student Organization self-reported the misconduct; the willingness of the Student Organization to take responsibility for the misconduct; the level of cooperation received from the Student Organization in the investigation; the conduct history of the Organization; and any other relevant factors detailed in applicable University policies.

Sanctions may be assessed singly or follow consecutively, and include, but are not limited to:

1. *Formal Written Reprimand*: A formal notice that the Code has been violated and a warning that future violations will be dealt with more severely.
2. *Written plan for reconstruction of the organization*: A plan of action, which outlines various actions the Organization must take in order to enhance itself and be a benefit to the University community.
3. *Fines*: Payment of a monetary fine.
4. *Restitution*: Required compensation for loss, damage, or injury to the appropriate party in the form of service, money, or material replacement.
5. *Class/Workshop Attendance*: Attendance and completion of a class or workshop that will assist the Student Organization avoid future non-compliance with the Code.

6. *Educational Project*: Completion of a project specifically designed to assist the Organization avoid future non-compliance with the Code.
7. *Service*: Performance of a task, or tasks, designed to benefit the community and that also assists the Student Organization avoid future non-compliance with the Code.
8. *Inability to Access University Funds*: Rendering an Organization's University account inactive so as to prevent access to funds or services being granted or disbursed. This includes generated revenue as well as student fees allocated to the Organization. This sanction is typically imposed when there are concerns regarding the appropriate use of funds by the Organization.
9. *Restricted Activities*: Restricting the Student Organization's ability to access University controlled benefits and resources.
10. *Disciplinary Probation*: A formal written notice that the Organization is not in good standing with the University and its actions will be monitored for a period no less than one semester. During this period, any further violations of the Code will result in harsher sanctions.
11. *Restrictive Probation*: A formal written notice that the Organization is not in good standing with the University and has now lost certain privileges for a period no less than one semester. During this period, any further violations of the Code will result in Disciplinary Suspension. During this period members of the Organization may be restricted from holding leadership roles within their respective governing organizations (i.e. Interfraternity Council, Panhellenic Council, SGA, etc.).
12. *Disciplinary Suspension*: Separation of the Organization from the University for a period no less than one semester.
13. *De-Registration/Recognition*: Temporary separation of a Student Organization from the University. Organizations that are de-recognized are not eligible to apply for recognition for a period up to five years. The length of time is at the discretion of the Center for Student Conduct.
14. *Permanent De-Registration/Recognition*: Permanent separation of a Student Organization from the University. Organizations that are permanently de-recognized are not eligible to apply for recognition. Any change to this must be approved by the Vice Provost for Student Affairs.

The Panel will send notice of a decision to the Student Organization's representative, the National Organization, if any, and the Organization's University Advisor or Coach. The decision will state a rationale for the decision that was reached and what sanctions will be imposed, including the length of the sanction(s), the specific privileges to be forfeited, and any and all other conditions established as part of the sanction(s).

Action taken against the Student Organization does not preclude the University from taking disciplinary action against individual students pursuant to applicable University policy.

Appeal Process

A Student Organization may appeal a finding of misconduct and/or the sanctions imposed by submitting a written request for review, including the grounds for the request, to the Dean of Students, or designee, within five (5) business days of the date of the decision. The request for review must be based upon one or more of the following grounds:

1. a procedural error unfairly and materially affected the outcome of the case;
2. material evidence has been discovered that was not reasonably available at the time of the investigation, or
3. there was a clear abuse of discretion on the part of the Investigator or Panel.

Should the standard of appeal be met, the Dean of Students, or designee, may uphold, reverse, refer back for further investigation, or modify the determination of responsibility and/or sanctions. The Dean of Students, or designee, will notify the Student Organization's leadership, the Governing Group, if any, and the Organization's University Advisor and/or Coach of the final decision in writing. The decision of the Dean of Students, or designee, is final.

Statement Against Retaliation

Retaliation against anyone who makes a complaint or participates in an investigation or proceeding against a Student Organization is prohibited by University policy. Instances of retaliation will be investigated and may result in penalties and sanctions against an individual under the Code and/or against a Student Organization under these procedures.

Statement on Impartiality

The Organization may seek the removal of an assigned Investigator or Panel Member if they believe the individual cannot be impartial by submitting a written statement to the Director, or designee, stating the specific reasons therefore. This written statement must be submitted to the Director, or designee, within 48 hours of receipt of the Notice of Investigation or Notice of Panel Meeting. If the Director, or designee, determines that the assigned Investigator and/or Panel Member may not be impartial, a new Investigator and/or Panel Member will be selected.

Role of Advisors

In all proceedings covered by this Procedure, the Student Organization, and its individual members, may be accompanied by one (1) Advisor, as defined herein, when attending investigatory and other meetings, including those related to disciplinary action. If an Advisor cannot abide by the rules for participation set forth in this Procedure, the Advisor will be asked to leave.

Coordination with Criminal Process

UVM will not wait for the conclusion of a criminal investigation or proceeding to begin its own investigation and resolve complaints. UVM may, however, in its sole discretion, comply with valid requests from law enforcement for cooperation in a criminal investigation, including temporarily delaying an investigation while law enforcement is in the process of gathering evidence. In assessing whether to temporarily delay an investigation pursuant to a request from law enforcement, the Director will consider such factors as:

- The length of the requested delay;
- The impact that such delay will cause to the involved parties and the campus community; and
- The level of real and harmful impact to the criminal investigation that will occur if the requested delay is not granted.

In the event the requested delay is granted, UVM will promptly resume and complete its investigation once law enforcement has completed gathering evidence, and will keep the Student Organization apprised of such requests to the extent permitted by law.

Record Keeping

The Office of Student Life will maintain records regarding all actions taken under this Procedure. Additionally, for discipline resulting in a sanction of probation or greater, the Student Organization will be listed on the Student Life webpage (<http://www.uvm.edu/~slife/?Page=uvm-unrecognized-student-org.html>) detailing organizations with recent conduct violations. Interim actions imposed by the Committee may also be listed on the Student Life webpage or otherwise communicated to campus in the Director's discretion.

Definitions

Advisor: A member of the University community chosen by a Recognized Group or Organization, or an individual with respect to investigatory meetings, to provide personal support through the student conduct process. Advisors may have no other role, such as a witness or Respondent in an individual student conduct matter arising out of the same fact pattern, and may not speak on behalf of, or otherwise represent their advisees. Advisors may not be lawyers, although the Director may permit a lawyer as an Advisor when related criminal charges are filed and pending. The Student Organization, or individual, as applicable, is responsible for any attorneys' fees incurred. Regardless of University affiliation, or professional license, Advisors may be present only to provide support to, or otherwise privately consult with, their advisee, but may not speak on behalf of their advisee or otherwise directly participate.

Complainant: The individual or individuals who have been the subject of alleged conduct prohibited by University policy. The University will serve as the Complainant in cases that do not involve a Complainant, where the subject of the alleged conduct is not a University community member, or is otherwise unwilling to proceed but the University has determined that the charge should be heard.

Organization Representative: The individual, or individuals (no more than three), selected by the Recognized Student Organization to speak on the Organization's behalf. The Organization Representative may be, but is not required to be a member of the Organization's leadership structure (e.g. President, Vice President, Team Captain, etc.). Individual members who have been referred to the Center for Student Conduct for alleged policy violations arising out of the same fact pattern may not serve as an Organization Representative.

Preponderance of the Evidence: The evidentiary standard used in campus investigation and disciplinary processes to determine whether or not a Student Organization is responsible for violation(s) of University Policy. A preponderance of the evidence is found when the alleged actions are more likely to have occurred than not.

Recognized Group or Organization: As defined in the University's Group and Organization Recognition Policy (http://www.uvm.edu/policies/general_html/grouprecognition.pdf).

Student Organization Misconduct: Violation of University policies, applicable state laws and regulations, and/or federal laws and regulations by Recognized Student Organizations.

- *Negligently allowing behavior.* The Student Organization did not follow policies and procedures which could have prevented the violation(s).
- *Condoning behavior.* The Student Organization did not take steps to prevent the behavior, did not actively oppose the behavior, and/or has a culture of Student Organization Misconduct.
- *Facilitating behavior.* The Student Organization coordinated or was an active player in the violation(s).

Contacts/Responsible Official

Questions related to the daily operational interpretation of this policy should be directed to the following appropriate individuals:

Director of Student Life
Dudley H. Davis Center – Room 310
(802) 656-2060
slife@uvm.edu

The Vice Provost for Student Affairs is the official responsible for the interpretation and administration of this policy.

Forms

None

Related Documents/Policies

Code of Students Rights and Responsibilities

<http://www.uvm.edu/~uvmppg/ppg/student/studentcode.pdf>

Discrimination and Harassment Policy

<http://www.uvm.edu/policies/student/studentharas.pdf>

Group and Organization Recognition Policy

http://www.uvm.edu/~uvmppg/ppg/general_html/grouprecognition.pdf

Hazing Policy

<http://www.uvm.edu/policies/student/hazing.pdf>

Sexual Harassment & Misconduct Policy

http://www.uvm.edu/policies/general_html/sexharass.pdf

Student Alcohol, Cannabis and Other Drug Use Policy

<http://www.uvm.edu/policies/student/drugandalco.pdf>

Student-Athlete Handbook

http://uvmathletics.com/documents/2017/8/25/Student_Athlete_Handbook_17_18.doc

Effective Date

Approved by the Vice Provost for Student Affairs October 10, 2017