

## Community Judicial Code

The President is responsible to the Board of Trustees for the administration of College policies and programs and is granted authority to enforce rules and regulations in keeping with institutional commitments and legal obligations. The procedures and bodies of the Community Judicial Code are established under the authority of the President through the General Faculty and Student Government Association and their committees as provided by their bylaws and College policy. The President reserves the right to review procedures and decisions of the judicial system and to make final judgments or to establish special procedures where necessary to meet policy or legal responsibilities of the College.

### Judicial Procedures

Charges must be presented, in cases involving judicial bodies other than House Councils, to individuals, in writing, no less than 48 hours before the hearing unless the student waives his or her right to a 48-hour notice.

In specific cases, special reporting and adjudicative procedures may apply. Cases deemed by the President or designate to be of an emergency nature will be referred to the Student Life Council for immediate action. In an emergency situation the Vice President for Labor and Student Life may take disciplinary action pending completion of judgment by the Student Life Council.

Each person charged has the right of personal appearance before the review body as well as the additional rights as provided in this Code. The student also has the right to select a Personal Observer from within the College community (i.e. enrolled students or College employees) to bring with him or her to the hearing. In all cases decided by judicial bodies other than House Councils and Student Judicial Boards, students must be advised of this right. The person(s) charged, along with the Personal Observer, and the person bringing the charges shall be present during the hearing except during deliberation and decision. The person(s) charged and the person bringing the charges has the right to view incident reports and testimony prior to the hearing. Arrangements will be made for students to view these documents in advance of the hearing.

If the person charged is found in violation, a copy of the incident report(s), charge letter, and sanction form will be placed in the student's file. If the person charged is found not in violation, no documents will be placed in the student's file. All hearing materials will be retained until the appeal deadline has expired.

No party to the dispute may sit on the hearing board.

Each judicial body shall elect its chief officers from among its membership unless otherwise indicated. Decisions of all judicial bodies are final unless overturned upon appeal. It shall be the duty of the chairperson to conduct all hearings in an orderly manner. Each member of the judicial body shall have the right to question witnesses upon recognition by the chairperson. All hearings shall be closed to persons other than those provided for in these procedures and those summoned by the Hearing Board or Judicial Liaison.

In cases heard above the level of House Council, the following provisions shall apply: Only facts and evidence relevant to the case at hand shall be used in determining guilt or innocence. Previous disciplinary, academic, and labor records are excluded during the proceedings and during deliberations on questions of guilt or innocence. Previous disciplinary records shall be presented by Student Life Office staff or others prior to determination of penalties.

In cases involving two or more students, the accused shall be customarily heard jointly by the same judicial body though the judicial body having jurisdiction may grant separate hearings upon petition by any of the accused.

### Judicial Records Retention

Upon completion of a judicial hearing, if the decision is "Not in Violation," all hearing materials will be destroyed and nothing will be retained in a student's permanent record. If the decision is "In Violation," all hearing materials will be kept by the Judicial Officer until the appeal deadline has passed or, if appealed, until a decision is made. Thereafter, a copy of the incident report, the charge letter and the sanction form will be retained in the student's permanent record maintained by the Student Life Office. All other hearing materials will be destroyed.

### False Testimony

The chairperson of each judicial body shall inform all parties to a case, including witnesses, that all testimony must be the complete truth and that persons knowingly giving false testimony shall be liable to judicial action under provision of the Student Conduct Regulations.

Anyone who knowingly gives false testimony before a judicial body in writing or in person shall be subject to suspension for not less than one full term. Under unusual or extenuating circumstances, the judicial body having jurisdiction may reduce the penalty to a fine of not less than \$100, or one-year probation, or both. If a judicial decision is determined to have been made on the basis of proven false testimony, the judicial body that made the original decision shall determine the relative importance of that testimony and may require a new hearing.

Any person charged with knowingly giving false testimony before any judicial body shall be heard by that body unless the charges are brought by a member of that body.

Each judicial body shall develop its own rules of procedure in conformity with these regulations. To assure consistency and equity, the Board of Residents shall coordinate procedures and standards for application of penalties by House Councils. Procedures for House Councils shall be subject to approval by the Assistant Vice President for Student Life. Procedures of other judicial bodies shall be subject to approval by the Vice President for Labor and Student Life.

### **Appeal of Judicial Decision**

Judicial procedures provide for a single level of appeal. The decision of any judicial body may be appealed only by the accused, except for decisions of House Councils, which may be appealed by any of the parties concerned. Appeals must be filed within three (3) working days of the decision. Charges will be reheard only if it is first determined that the appeal has grounds based on fairness, or evidence that the body has acted irresponsibly, or that the body failed to function as provided in the judicial code. Evidence of prejudice in any case by a participating member of the judicial body shall be sufficient grounds for appeal.

All appeals are directed to the chairperson of the judicial body having appellate jurisdiction. Anyone participating in a judicial hearing may not sit on the hearing body for the appeal.

The President of the College or designee reserves the right to review the decision of any judicial body and to make a final judgment.

### **Hearing Boards and Jurisdictions**

#### **House Councils**

House Councils are Residence Hall bodies chaired by the president of the hall or an appropriate House Council designee. House Councils may make and enforce necessary rules or guidelines within the residence hall so long as these rules do not conflict with the higher authority of existing rules or policies of the College. Any resident of the hall may report to the House Council and/or to a Hall staff member, charges of rule violations within a hall. Individual House Council jurisdiction is limited to violations occurring in that residence hall, but applies whether the violation involves residents of that hall. House Councils are responsible for developing community standards that are tailored to the unique needs of that hall. Community standards are to be presented to the Judicial Liaison in the Student Life Office each term. The Judicial Liaison and the Director of the Residential Life Collegium will review all standards.

With the agreement of residents, House Councils may choose to establish a separate judicial council. Such a council would be established by residence hall election and is subject to the same general regulations and procedures. House councils have empowered Judicial Boards to serve as separate judicial councils. House Councils have original jurisdiction over violations of community standards established by residence halls and over disputes and complaints relative to activities within residence halls. They also may hear charges related to general College rules depending upon the circumstances and the specific rule. The House Council may, by majority vote, either make a decision in a case or refer the case to another sanctioning body beyond the House Council level.

Sanctions prescribed by House Councils may include performance of work in the residence hall or elsewhere on campus, special project assignments, minor fines, loss of certain residence-hall privileges, community service, or other such actions. House Councils may not apply probation or suspension. Penalties should be based on the severity of the violation and related conditions. Penalties for second offenses generally will be more severe. Third or more serious offenses will be referred directly to a sanctioning body beyond the House Council level.

Appeals of House Council decisions will be referred to one of the following: an Administrative Hearing Officer or a Student Judicial Board.

#### **Judicial Boards (J-Boards)**

Student Judicial Boards (“J-boards”) are a cross-section of elected/appointed student leaders, representing the residential campus. J-boards have been empowered by the Student Government Association, Vice President of Labor and Student Life, Residential Life Collegium, and House Councils to hear cases referred to them by the Judicial Liaison. J-boards hear most residential and some campus violations. The purpose of the J-boards is to provide peer accountability through a process that is fair, educational, and developmental. The intent of the J-boards is to provide a balanced student representation in regard to gender, year in school, and ethnicity. J-boards have authority to determine “In Violation” or “Not in Violation” and to sanction students accordingly. Appeals of Judicial Board decisions will be referred to an Administrative Hearing Officer or to the Campus Conduct Hearing Board.

### **Campus Conduct Hearing Board**

The Campus Conduct Hearing Board has original jurisdiction for all suspendable nonacademic cases of student misconduct, including violations of “Student Conduct Regulations” and other rules, except those over which original jurisdiction is delegated specifically to another authority. The Campus Conduct Hearing Board’s jurisdiction is beyond that of House Councils and Judicial Boards.

Students charged with violations for which the maximum penalty is typically less than suspension may be referred to an Administrative Hearing Officer instead. Should the Hearing Officer determine during the course of the hearing that a suspension sanction is possible; the case will be referred to the Campus Conduct Hearing Board.

The Campus Conduct Hearing Board has appellate jurisdiction for Administrative Hearing Officers and Judicial Boards.

The Campus Conduct Hearing Board consists of five elected faculty members and five elected staff members, a representative from the Student Life Council (appointed annually), and four students appointed annually by the Student Government Association. Students serving on the Campus Conduct Hearing Board must not be on any form of probation.

Cases of student misconduct are heard by a three-person panel constituted by the Student Life judicial officer. The panel must include two faculty/staff from the Campus Conduct Hearing Board and one student who is a member of the Campus Conduct Hearing Board or a J-Board Chair. Any member may chair the hearing. Concurrence of a majority of the members present is necessary in order to reach a decision. If concurrence cannot be reached, the case shall be referred to the Student Life Council. The Vice President for Labor and Student Life, the Assistant Vice President for Student Life and members of the Residential Life Collegium are not eligible to serve as hearing board members. Appeals of decisions of the Campus Conduct Hearing Board may be submitted to the Chair of the Student Life Council.

### **Administrative Hearing Officers**

Appeals of Administrative Hearing Officers’ decisions may be made to the Campus Conduct Hearing Board. (For more detailed information, please see “Appeal of Judicial Decision” in this section.)

### **Student Life Council**

The Student Life Council reviews general policy regarding student-initiated campus activities and Student Life program matters. These include residence-hall matters and rules, campus activities, clubs and organizations, student publications, event-schedule development, and nontraditional and international student concerns. The Student Life Council does not make specific decisions, such as scheduling of campus events, but reviews policy. The Committee receives and reviews proposals for policy changes, and makes recommendations to the Executive Council.

The Student Life Council has original jurisdiction in cases involving weapons, and in cases deemed by the President or his designee as being of an emergency nature. Hearings require the presence of at least three Council members: two faculty/staff and one student. Concurrence of a majority of the members present is necessary in order to reach a decision.

The Student Life Council also hears appeals of procedural or substantive matters involved in nonacademic misconduct cases unless appellate authority is granted elsewhere. When a decision is appealed to the Council, the Council Chair will determine whether the appeal has procedural or substantive grounds. (See “Appeal of Judicial Decision” in this section.) If the appeal is judged to have merit, the Council Chair constitutes from the Council membership a hearing board consisting of two faculty/staff and one student. In appellate hearings, those with information about the case may be present to answer questions and give information, but will not be present during deliberation and decision-making.

Only appeals of decisions made by the Student Life Council while functioning in its original jurisdiction may be submitted to the President or his designee.

Membership of the Student Life Council totals seven, including the Vice President for Labor and Student Life, four elected members of the General Faculty (two of whom also are members of the College Faculty), and two students (one of whom is the Student Government Association President or other elected officer designated by the SGA President.) Of the four elected faculty members, two must be male and two female. Of the two student members, one must be male and one female.

The Student Life Council is the authority on matters relating to interpretation of the Community Judicial Code and of the Student Government Association’s Constitution, By-laws, and Statutes. In cases arriving before it, the Student Life Council is also the authority on matters relating to interpretation of Student Conduct Regulations. In the absence of an actual case, the Council will not issue interpretations of the regulations.

### **Summer Judiciary**

The summer judiciary shall consist of summer House Councils and the Student Life Council. Others may be appointed to serve in this role as needed and appropriate.

**NOTE:** More information and details on residence-life expectations are available in the *Residential Living Guide* published by the Residential Life Collegium Office and available online at <http://www.berea.edu/residentiallifecollegium/livingguide.asp>.