

## Information for Attorneys and Legal Counsel

### Administrative Student Conduct Hearing Procedures

The parties have the right to be present at the hearing; however, they do not have the right to be present during discussions (deliberations) by the panel. If a student cannot attend the hearing, it is that student's responsibility to notify the Office of Student Conduct no less than **3 days** prior to the scheduled hearing to arrange for another date, time and location.

Except in cases of grave or unforeseen circumstances, if the alleged student fails to give the requisite minimum **3 day** notice, or if the alleged student fails to appear, the hearing will proceed as scheduled. If the party bringing the complaint fails to appear, the complaint may be dropped or the College may choose to pursue the allegation on its own behalf, as determined by the Office of Student Conduct.

Administrative Student Conduct Hearings shall be conducted according to the following guidelines:

1. Hearings will be closed to the public.
2. Admission to the hearing of persons other than the parties involved will be at the discretion of the panel chair.
3. In hearings involving more than one responding student, the standard procedure will be to hear the complaints jointly. The Office of Student Conduct may permit the hearing pertinent to each alleged student to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each alleged student.
4. The parties have the right to an advisor of their own choosing. Parties may select whomever they wish to serve as their advisor. The advisor may not make a presentation or represent the party bringing the complaint or the alleged student during the hearing. They may confer quietly with their advisee, exchange notes, clarify procedural questions with the chair and suggest questions to their advisee.
5. Parties will have the privilege of questioning all present witnesses and questioning all present parties directly or through the Chair, at the discretion of the Chair.
6. Unduly repetitive witnesses can be limited at the discretion of the panel Chair.
7. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the panel.
8. Formal rules of evidence are not observed.
9. The panel Chair may limit the number of character witnesses presented or may accept written affidavits of character instead.
10. All procedural questions are subject to the final decision of the Dean of Student Affairs.

11. After the conclusion of the hearing, the panel shall have a discussion and determine, by majority vote, using preponderance of the evidence, whether it is more likely than not that the alleged student has violated the South Texas College Student Code of Conduct.
12. The Dean of Student Affairs will consider the recommendations of the panel, may make appropriate modifications to the panel's report and will then render a decision and inform the alleged student and party bringing the complaint of the final determination within **5 days** of the hearing.
13. There will be a single verbatim record for all panel hearings. All information, evidence, and reports shall be maintained in the College's Student Conduct Electronic Database; currently Maxient Student Conduct Software.

### **Appeals (Final Review)**

The alleged individual(s), or entity(s) and the alleged victim(s) may appeal the administrative decision made by the Office of Student Conduct, or their designee to a committee appointed by the Vice President for Student Affairs and Enrollment Management. This appeal must be made in writing and received in the Vice President's office within **5 working days** of receiving notice of the administrative decision by the Office of Student Conduct, or their designee. Appeals received after the deadline may be rejected without review.

### **Choosing Not to Participate**

The conduct process works best when individuals and the Office of Student Conduct work collaboratively to resolve matters brought to the attention of the Office of Student Conduct. Individuals are strongly encouraged to participate, however their participation is not required. If an individual chooses not to participate in the administrative student conduct process the Office of Student Conduct will precede with the normal conduct process as outlined. In instances where an alleged individual has chosen not to participate in the administrative hearing process the decisions of the Office of Judicial Affairs, Sanction Review Panel, Dean of Student Affairs, the Vice President of Student Services and Enrollment Management or their designee will have the same force and effect as if the student had fully participated. Individuals alleged to have committed a violation of the Student Code of Conduct may choose to remain silent during the student conduct process; however, this may hinder the ability of the college to reach a fair and well informed conclusion.

### **Advisors for the Alleged and the Alleged Victim (Support Person, Counselor, or Adviser)**

Individuals may be accompanied by one advisor at any stage of the Administrative Student Conduct Process. An advisor's role in the Administrative Student Conduct Process is to provide the individual with assistance in preparing for and conducting meetings and hearings. In any meeting prior to a formal hearing, the individual is encouraged to fully participate but may be assisted by an advisor. The role of an advisor is to support and offer guidance. The role of an advisor is not to act as a participant in the meeting or hearing or to actively engage with members of panels, witnesses, alleged individuals or victims.

It is the individual's responsibility to make appropriate arrangements if they wish to have an advisor present, please note that all scheduled meetings and hearings shall proceed without delay, the Office of

Student Conduct, or their designee reserves the right to not to delay a meeting or a hearing due to scheduling conflicts with the individuals chosen advisor.

The advisor may be present to advise the student but shall not speak for or act on their behalf or otherwise participate directly during the meeting or hearing. If an individual wishes to have an advisor present but does not have one the Office of Student Conduct, or their designee shall make available the contact information of an impartial Ombudsman.

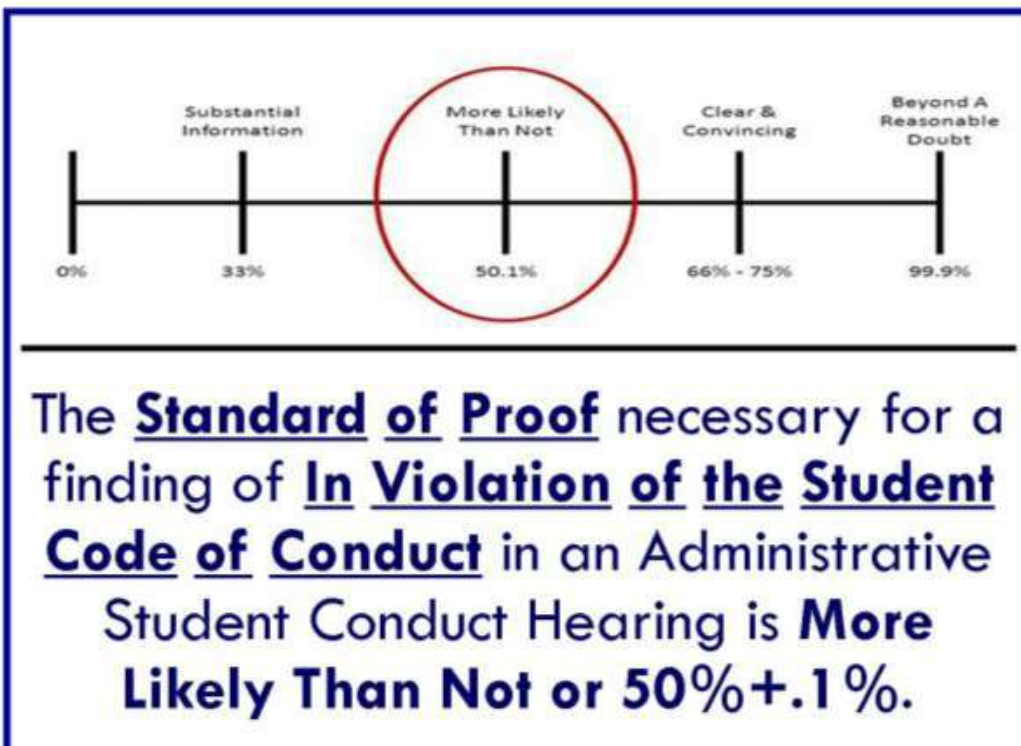
If the advisor acts outside of the described role within this document the advisor may be removed from the meeting or hearing.

### **Standard of Proof**

The standard of proof for all hearings is a preponderance of evidence. A preponderance of evidence is defined as “more likely to be true than not” or “50%+0.1%, 50% plus a feather”.

Additionally, the standard of proof needed to make a finding that an individual is in violation of the Student Code of Conduct is only the amount of information needed or necessary to establish a violation of the Student Code of Conduct.

For the purposed of the Administrative Student Conduct Process, the process will rely on “information” instead of “evidence.” As such, formal “Rules of Evidence” do not apply to Administrative Student Conduct Process. A hearing officer or panel shall weigh all information, or "the Totality of the Evidence", presented when making a determination of in violation or not in violation of the Student Code of Conduct. Legal rules of evidence shall not apply in Administrative Student Conduct Hearings. Any information relevant to the Administrative Student Conduct Process shall be considered.



## **Types of Sanctions**

Should the result of the Investigation and the Administrative Student Conduct Hear determine that the alleged student has violated the Student Code of Conduct; the Office of Student Conduct, or their designee will issue an administrative decision imposing one of the following sanctions:

1. **Verbal or Written Warning**
2. **Restitution**
3. **Probation**
4. **Community Service Hours**
5. **Loss of Privileges**
6. **Confiscation of Prohibited Property**
7. **Behavioral Requirement**
8. **Educational Program**
9. **Campus or Academic Reassignment**
10. **Suspension**
11. **Expulsion**
12. **Eligibility Restriction**
13. **Delayed Conferral of Degree**
14. **Strike or Ban**
15. **Mental Health Assessment and Mandatory Treatment**
16. **Additional or Other Sanctions**
  - a. **Administrative Trespass**
  - b. **Special Project**
  - c. **Restriction or Denial of Services**
  - d. **Exclusion from Participation**
  - e. **Program Ban**
  - f. **Restitution for Damages**
  - g. **Withholding of Official Transcript, Degree, or Certificate**
  - h. **Withdrawal from a Course**
  - i. **Supervision Plan or Case Plan**
  - j. **Restriction from a Certain Campus or Campus Location**
  - k. **Loss of parking privileges**
  - l. **No Contact Directive**
  - m. **Counseling Referral**
  - n. **Community Service Hours**
  - o. **Letter of Apology**
  - p. **Behavior Agreement**

NOTE: Above list is not intended to be comprehensive.

For more information please review the Student Code of Conduct at:

<https://life.southtexascollege.edu/student-rights-and-responsibilities/student-conduct/>

Criminal Justice System (Criminal Defendants)	Administrative Student Conduct Process (Respondent or Alleged Parties)
You have the right to an attorney, even if you cannot afford one.	You have the right to have a support person or advisor present. However, that party may not actively question the other party, witnesses, panel members, or directly participate in the hearing.
You have the right to remain silent and not to incriminate yourself. Police are obligated to inform you of this right before questioning you.	You have no guaranteed right against self-incrimination. If, due to pending criminal charges, you remain silent, the school hears only the complainant's version of events. If you tell your side of the story, your words may be used against you in court.
You have the right to confront and cross-examine your accuser and other witnesses against you.	In cases of sexual misconduct the complainant may opt to not be present during the hearing. There is no requirement that you be allowed to cross-examine other witnesses. DOE suggests that, if there is a hearing, schools may have both sides submit questions to a hearing panel and that the panel ask only those questions it deems "appropriate and relevant."
You have the right to due process of law and a fair trial.	The process should be "prompt and equitable," but the school has a large degree of discretion. You have the right to receive notification of the section(s) of the Student Code of Conduct allegedly violated and the date, time, and place of any conference or hearing on the alleged violation.
You have the right know the charges and evidence against you, and have the right to present a thorough defense.	The school may only give you a summary of the evidence against you and can limit your presentation of evidence.
Trained police officers investigate, and professional prosecutors decide whether to bring a case. A judge or grand jury may also have to decide whether there is probable cause to issue charges.	The school must immediately investigate every allegation of "possible sexual violence," and may take "interim" measures before determining whether any wrongdoing occurred.
A neutral judge and/or impartial jury decides the case.	Administrators, Investigators, and other panelist who have been trained decide the outcome.
The government has to prove your guilt beyond a reasonable doubt, an extremely high standard.	The decision-maker determines whether it is "more likely than not" (just over 50% likely) that you are responsible for misconduct.
If you are found guilty, you have the right to appeal to higher courts also made up of neutral judges, raising legal errors or violations of constitutional rights.	The right to appeal is based on narrow grounds, which do not include improper consideration or exclusion of evidence. You may appeal based on one of the following, Denial of Rights, new evidence that was unavailable at the time of the hearing, or sanctions too severe for the violation. The appeal is decided by a trained administrative panel.
If you are found not guilty, the government cannot appeal.	If you are found not responsible, the complainant must be given the same right to appeal that you have.