



OFFICE OF THE VICE PRESIDENT FOR STUDENT AFFAIRS
Phone: (864)388-8905 Email: jgreen@lander.edu Fax: (864)388-8115

STUDENT CODE OF CONDUCT: DUE PROCESS SELECTION FORM

| | | | |
|------------------------------------|-------|------------------------|-------|
| Name of Student: | _____ | Date of Charge Letter: | _____ |
| Applicable Administrative Charges: | _____ | Contact Phone Number: | _____ |

Please initial by the appropriate selection below.

_____ I admit to violation(s) the University regulations as outlined in the written notice from the Vice President for Student Affairs/Student Conduct Officer. I waive my right to a hearing and request that the Vice President for Student Affairs, or his designee, take whatever action is deemed appropriate.

_____ I admit to violation(s) the University regulations as outlined in the written notice from the Vice President for Student Affairs/Student Conduct Officer. I request a hearing before the Student Conduct Committee to determine the appropriate course of action.

_____ I deny violation(s) the University regulations as outlined in the written notice from the Vice President for Student Affairs/Student Conduct Officer. I request a hearing before the Student Conduct Committee.

Clarifying Comments from Student:

Student Signature: _____

Date: _____

Hearing Officer Signature: _____

Date: _____

ROLE(S) OF AN ADVISOR

The charged student, and in some instances, a complainant, shall have the right to be accompanied to the hearing by an advisor. Delays will not normally be allowed due to the scheduling conflicts of an advisor, particularly if delays are excessive. The advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose advisors from inside or outside of the Lander University community. The University has the right to disqualify a particular advisor when participation of that advisor allows the potential for disruption of the student conduct process. An advisor is not permitted to participate directly in the hearing process, or to speak for the charged student unless otherwise noted in the description below.

If disciplinary action is the direct result of a criminal charge, retained counsel, as applicable, will be allowed to provide full legal representation in all proceedings including, but not limited to, allowing counsel to appear on behalf of the student, speak on behalf of the student, question witnesses, protect the statutory and constitutional rights of the student, and to otherwise fully participate in all proceedings on behalf of the student. Note that if a party opts to retain counsel, they do so at their own expense. (This addendum is in compliance with 2022-2023 South Carolina State Budget Proviso 117.162, outlining a responding student's ability to retain counsel.) For the purposes of this addendum, the following definitions apply:

Disciplinary Proceeding - The formal process under which alleged violations of the Code of Student Conduct are investigated and resolved, wherein a finding (in violation or not in violation) is entered and becomes part of the student's conduct record. *Informal resolutions and contract-based processes are not considered disciplinary proceedings.

Retained Counsel - An individual enrolled as a member of the South Carolina Bar, pursuant to applicable court rules, or an individual otherwise authorized to perform prescribed legal activities by action of the Supreme Court of South Carolina.

If disciplinary action is not the result of a criminal charge, with the written permission of the party(ies), the advisor's role in a disciplinary proceeding is limited to the following: (a) Advise the party regarding preparation for the hearing; (b) Accompany the party to all disciplinary proceedings; and (c) Have access to evidence to be introduced at the hearing.

**If a matter is deemed Title IX, the appropriate resolution procedures, including the prescribed roles of parties/advisors, will be applied.*

RULES GOVERNING FORMAL HEARINGS

1. All charges shall be presented to the accused student or student organization in written form. A time shall be set for a student conduct board hearing, not less than three (unless written permission from the charged student) nor more than 15 calendar days after the student has been notified. Maximum time limits for scheduling of student conduct board hearings may be extended at the discretion of the student conduct administrator.
2. The conduct board or Student Conduct officer may proceed independently to secure evidence for the hearing. The charged party(ies) shall have access to any evidence prior to the hearing. The charged party(ies) may prepare responses to such evidence. Upon review of the evidence, the charged party may request a hearing extension if additional time is needed to prepare. Extension requests shall not exceed a five-day period.
3. All procedural questions are subject to the final decision of the student conduct board chairperson.
4. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in student code proceedings.
5. The complainant, if applicable, and the accused student shall be allowed to address the student conduct board. The complainant(s) and the accuser(s) participation will vary, dependent upon student privacy considerations and other relevant laws. Admission of any other person to the student conduct board hearing shall be at the discretion of the student conduct board and/or its student conduct administrator.
6. In student conduct board hearings involving more than one accused student, the student conduct administrator, in his or her discretion, may permit the student conduct board hearings concerning each student to be conducted either separately or jointly.
7. Charges against the accused will be presented to the conduct board, as well as all relevant facts pertaining to the case. At the discretion of the chairperson, pertinent records, exhibits and written statements may be accepted as information for consideration by a student conduct board.

8. Each side will be given a chance to present its position separately without interruption from the other side. After presentation of both positions, rebuttal and questions will be allowed. The complainant, the accused student and the student conduct board may arrange for witnesses to present pertinent information to the student conduct board. The university will try to arrange the attendance of possible witnesses who are members of the university community, if reasonably possible, and who are identified by the complainant and/or accused student in advance of the student conduct board hearing. Witnesses will provide information to, and answer questions from, the student conduct board and shall only be present during the time in which they are testifying.
9. Questions may be suggested by the accused student and/or complainant to be answered by each other or by other witnesses. This will be conducted by the student conduct board, with such questions directed to the chairperson, rather than to the other involved parties directly. This method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. Questions of whether potential information will be received shall be resolved at the discretion of the student conduct board chairperson. At all times, control of the hearing rests with the chair, which shall retain the right to ensure decorum and a fair process.
10. The chairperson shall have the right to set reasonable time limits for participants who testify orally.
11. The chair of the conduct board will exercise control over the hearing to avoid needless consumption of time through repetition of information and/or prevent the harassment or intimidation of participants.
12. The prior conduct of the accused and/ or accuser shall be taken into consideration only if it bears directly on the charges at hand. Such determination shall be made by the chair. If so determined by the chair, relevant prior conduct may be considered in the determination of responsibility and/or sanctioning.
13. After all pertinent information has been received and the student conduct board hearing concludes, the student conduct board shall go into private session to determine by majority vote whether or not the accused student is responsible for said violation(s).
14. The chairperson may facilitate the deliberation process to ensure procedures are appropriately adhered to, but is not a voting participant.
15. After hearing the evidence, the conduct officer/board may choose to continue the hearing at a later date if additional evidence or witnesses are needed. If this action is deemed necessary, the accused must have the opportunity to review the information prior to resuming the hearing.
16. The student conduct board's determination shall be made on the basis of whether it is more likely than not that the accused student violated the student conduct code. **(This is referred to as the preponderance of evidence standard, which is also applicable for Title IX grievances.)**
17. There shall be a single verbatim record, such as a recording of all student conduct board hearings before a student conduct board. **Deliberations shall not be recorded.* A transcript or audio recording of the presentation of testimony shall be kept by the student conduct administrator until any appeal or any external board review has been concluded, or 30 days from the date of the hearing, whichever is longer. No typed record shall be required. The charged party(ies) and advisor shall have the right, upon request, to listen to the recording in the presence of a staff member from the Office of Student Affairs. The charged student or student organization representative may request a duplicate copy of the recording at his/her/its own expense within a period of 30 days from the date of the hearing.
18. Hearings may be held both "live" or via teleconference. Hearing procedures shall remain consistent, regardless of the hearing platform.
19. The board chairperson shall be responsible for forwarding the written decision of the hearing authority to the charged party(ies) and the victim, if applicable, and as permitted by law. The letter from the hearing authority to the accused shall consist of the following:
 - a) Findings of the hearing authority;
 - b) Sanction(s), if applicable;
 - c) Rationale of the hearing body; and
 - d) Statement regarding the right to appeal and the appeal procedures.
20. The student conduct administrator may accommodate for concerns regarding the personal safety and/or privacy of involved parties, particularly when the circumstances are sensitive in nature. Such measures may include, but are not limited to, non-student representation on the committee; and/or providing separate facilities or remote virtual participation by teleconference.
21. Prior to the start of any conduct proceeding, involved parties have the right to state concerns regarding potential bias of committee members on record. Such concerns will be taken into consideration by the student conduct administrator. A hearing may be rescheduled, and a new board member selected, when appropriate.

RIGHTS OF THOSE CHARGED WITH VIOLATION OF THE STUDENT CODE OF CONDUCT

1. The right to be notified in writing of their rights in the disciplinary process.
2. The right to be notified in writing of the charges against him/her/them. In the event that additional charges are brought, a further written notice must be forwarded to the student(s) or student organization(s). The charged student(s) or student organization(s) may waive the right to separate written notice of additional charges in order to expedite the pre-hearing process.
3. The right to be notified of the date, time and place of formal hearings at least three university business days (72 hours) prior to the hearing.
4. The right to be notified of the hearing authority charged with conducting the hearing.
5. The right to waive the required 72 hour hearing notice in order to expedite the process.
6. The right to know the nature and source of the evidence used in a hearing process; this includes the right to review, prior to the hearing, all documents and exhibits to be introduced at a hearing as well as a list of witnesses asked to testify at the hearing.
7. The right to present evidence on one's own behalf, and to bring witnesses on one's behalf. *NOTE: It may not be possible to secure the presence of all witnesses since no subpoena power exists for an administrative hearing.*
8. The right to elect not to appear at the hearing, in which case the hearing shall be conducted in the absence of the charged party(ies). The failure of a student to appear will not be taken as indicative of guilt and must be noted without prejudice.
9. The rights of refusal to answer any questions and/or make a statement; however, the conduct board may draw inferences from this refusal.
10. The right to present questions for the witnesses to answer; the conduct officer/board may rule on relevance of these questions.
11. The right to be accompanied by an advisor throughout the hearing process. (See Rules Governing Formal Hearings.) Appeals are limited to the following:
 - a) Procedural Error(s): A procedural irregularity affected the outcome of the matter.
 - b) New Evidence: New evidence has been discovered that was not reasonably available at the time on the determination of responsibility or dismissal.
 - c) A conflict of interest on the part of a Title IX Coordinator, an investigator that compiled the evidence, or a decision maker, and the conflict of interest affected the outcome.

The online appeal form may be accessed at the following url:

[Grievance Appeal Form](#)

My below signature certifies that I have been provided written notification of the procedures and rights afforded to me. Further, I understand that additional information can be found in the *Lander University Student Handbook*.

Student Signature: _____

Date: _____