

Campus Organization Judicial Policy and Procedures

Introduction

As recognized campus student organizations, organizations are accountable to the College for the conduct of their members. Since the Department of Student Development is committed to the concept of self-governance for student organizations, the Department of Student Development has delegated the responsibility for discipline within The Student Government Association to the President of the Student Government Association and the Senate Rules Committee. This process is for all organizations outside of the purview of the IFC/PC Judicial Board, which has been given specific jurisdiction over social Greek-letter organizations.

These procedures have been developed to ensure that all cases of organizational discipline are handled in a fair, objective, consistent and orderly manner, protecting the rights of all parties to procedural due process. These due process rights include the right to:

- 1) A timely hearing (see judicial process timeline)
- 2) Reasonable and complete notice
- 3) Examine all evidence and hear all testimony presented
- 4) Have an advisor present
- 5) Present a defense
- 6) A decision based on the facts presented and supported by substantial evidence
- 7) Cross-examine witnesses
- 8) Receive timely, written notification of the results of any hearing
- 9) An appellate review

Although these rights are guaranteed, all participants in the organizational judicial process should understand that there is a fundamental difference between the natures of the organizational judicial board and the proceedings in a court of law. The discipline of students within the College community is primarily a part of the educational process. The exact processes of criminal and civil law do not apply because they are designated for circumstances unrelated to the academic community. To the degree possible, the organizational judicial process should remain informal and non-adversarial.

The goals of the organizational judicial process are to compel adherence to both College and organizational policies. To resolve conflicts within the student community and to improve the public image of the system by promoting high standards of conduct.

Role of the Organization Judicial Process

The Senate Rules Committee should conduct hearings based on cases referred to the committee by the Director of Student Activities. At such hearings, the committee shall review all evidence and question witnesses in order to determine the facts, and if necessary, impose sanctions.

While committee hearings are by their very nature, quasi judicial, the emphasis of these hearings is on the fact-finding. Consequently, every effort should be made by the committee to avoid these processes that traditionally characterize courts of law—excessive legalization of the proceedings and an adversarial relationship with defendants. The organizational judicial process will only remain an effective, educational vehicle for resolving disciplinary problems regarding organizations insofar as hearings remain non-adversarial, informal, straightforward, and factually oriented.

Jurisdiction

The Senate Rules Committee within the Senate Branch of the Student Government Association has jurisdiction over all campus-recognized organizations to enforce organizational policies and college rules covered in the Hornet, and to maintain appropriate standards of conduct. Instances of alleged misconduct may result in the referral of the organization or organization member(s) to the Senate Rules Committee or college judicial board for disciplinary action.

Charges of misconduct by individual(s) normally are referred to the Associate Dean (campus judicial). Charges of misconduct by organizations are normally referred to the organizational judicial process. Action

by the campus judicial board may run concurrently with action by the Senate Rules Committee; one type of judicial action does not necessarily affect the other.

In certain severe circumstances, the Dean of Students may direct that a particular case be handled administratively or by a special hearing panel. Such action may be taken when there are substantial and compelling reasons for utilizing a process other than the normal organizational judicial procedures.

An organization may be held accountable for the actions of any of its members if the behavior is in any way related to the organization. Any organizational misconduct need not be officially sanctioned by the membership in order to be considered grounds for possible disciplinary action against the organization. There is no minimum number of members who must be involved in an incident before disciplinary action may be taken against the organization; in some instances, the misconduct of a single member may provide sufficient grounds for action against the organization.

The President of the Student Government Association, in consultation with the Director of Student Activities makes the determination of whether a case should be referred to the Senate Rules Committee for possible action against the organization on a case-by-case basis. In determining whether a case is to be referred to the board, the Director of Student Activities should consider the nature of the evidence, the seriousness of the alleged offense, whether the allegation represents a repeated offense, and whether the matter can successfully be handled informally.

If the President of the Student Government Association, in collaboration with the Director of Student Activities, feels that a hearing is in the best interest of student organizations, he/she may refer a case to the Senate Rules Committee even though the aggrieved party may not desire that formal disciplinary action be taken.

Actions taken or pending by an organization's internal judicial body, the national/international office of the individual organization or by the Commonwealth of Virginia court system will not necessarily affect the determination of whether or not a case is referred to the committee or the Dean of Students. The actions taken by other bodies may, however, be considered as a mitigating factor in determining how the committee will handle a particular case.

Role of the President of the Student Government Association

The responsibilities of the President of the Student Government Association, as they pertain to the judicial process, are:

1. to assist the Director of Student Activities in investigating reports of alleged misconduct,
2. to assist the Director of Student Activities in resolving complaints,
3. to determine, in consultation with the Director of Student Activities whether a case is to be referred to the Senate Rules Committee,
4. with the approval of the Director of Student Activities to offer an administrative sanction in lieu of referral to the Senate Rules Committee,
5. to serve as an ex-officio, non-voting member of the Senate Rules Committee,
6. to serve as moderator at Senate Rules Committee hearings, including making procedural rulings,
7. to serve as spokesperson for the committee, and
8. to write judicial board decisions.

Role of the Director of Student Activities

The responsibilities of the Director of Student Activities as they pertain to the judicial process are:

1. to ensure that all organizations are informed of relevant organizational policies, College regulations and expectations, and applicable local, state, and federal laws,
2. to investigate all complaints regarding individual organizations,
3. to consult with the Senate Rules Committee to determine necessity of a hearing,
4. to facilitate the resolution of disciplinary problems,

5. to assist and advise the President of the Student Government Association in the performance of his or her judicial responsibilities, and to approve administrative sanctions offered by the judicial board,
6. to advise all organizations regarding the judicial process,
7. to prepare and distribute copies of the incident report to involved parties,
8. to attend the hearings and to serve as advisor to the Senate Rules Committee.
9. to see that appropriate records are maintained in the Office of Student Activities, including a complaint log and organization hearing minutes,
10. to prepare reports as needed by the Dean of Students,
11. to assist other College offices dealing with an organization's complaints, including the Campus Safety and Security and the Dean of Students Office.
12. to refer individual organization members to the College Judicial Board as needed as well as their specific organization, and,
13. to perform other duties as assigned by the Dean of Students

No organization judicial process, including hearings and appeals, may be conducted without the presence of the Director of Student Activities, if the Director of Student Activities cannot attend, the presence of the Dean of Students or his/her designee shall be required.

Role of the Dean of Students

The Dean of Students shall conduct appeal proceedings in the event that an organization found responsible by the committee wishes to appeal the decision or sanction. The Dean of Students has the authority to review all actions of the Senate Rules Committee and Director of Student Activities and where necessary direct that further action be taken.

The Dean of Students also makes the final determinations on appeals after a review of the case. On appeal the Dean of Students may reverse, modify, or remand a case back to the Senate Rules Committee with instructions for reconsideration.

Selection of the Senate Rules Committee

The Senate Rules Committee shall consist of the President of the Student Government Association, and four members of the Senate Rules Committee derived from Senate and their selection procedures. The head of the Senate Rules Committee, the Second Vice President of the Student Government Association, may be included as a panel member. The President of the Student Government Association serves as a non-voting member.

Confidentiality Statement for Judicial Board Members

Board members must exercise care to protect the confidentiality of the organizational judicial process. Board members may NOT divulge the charges pending against an organization, the decision of the committee, and the sanctions. Only the Senate Rules Committee, the President of the Student Government Association and the Director of Student Activities shall know, and all other information should be held in confidence. Specifically, the incident report, the testimony of witnesses, and the deliberations of the committee should not be discussed outside of the conference room. In order to preserve their objectivity, committee members are expected to refrain from discussing a case with **anyone** prior to the hearing. If a member of an organization involved in a case attempts to contact a committee member prior to a hearing, the committee member shall inform the person that such contact is prohibited and should refer the individual to the SGA President.

All members should uphold decisions of the committee, even though there may be dissenting opinions.

Investigations of Reports of Alleged Misconduct and Informal Judicial Conferences

All reports of alleged misconduct involving organization members shall be referred to the Director of Student Activities. A comprehensive report summarizes the incident, including: a description, date, time, place, organization involved, names of participants (if known), number of participants, witnesses, probable cause, and historical information (if offense is repeated).

When a report is received, the president of the accused organization will receive the investigation report completed by the Director of Student Activities, as well as a chance to informally discuss the incident with the Director of Student Activities as an informal Judicial Conference to assess probability for immediate solutions and the need for judicial board action.

If it appears that College action against individual organizational members seems appropriate, the Director of Student Activities will refer such cases to the Associate Dean of Students.

Referral to the organization judicial board

If a case is referred to the Senate Rules Committee, the President of the Student Government Association will arrange a time and a place for the hearing. Notice of organizational hearings should be given in writing to all parties involved at least seventy-two (72) hours prior to the hearing. The notice to the president of the organization charged with misconduct should include a brief but clear description of the alleged offense, the time and location of the hearing, and a copy of the organizational judicial procedures. If the incident occurs during a time when the committee is not in session, the matter will be handled in an administrative hearing with the Director of the Student Activities or his/her designee.

The Director of Student Activities will prepare a written report to the board detailing the facts uncovered in preliminary investigation, attaching pertinent written documentation relating to the case, a copy of this report will be made available to each board member during the pre-hearing process. The same report will be made available to the organization president and advisor along with the hearing notice.

Matters preliminary to hearings shall be decided, hearings conducted, and cases determined as quickly as possible, consistent with reasonable notice. Normally matters preliminary to hearings shall be decided and notices of hearings given within ten (10) school days of the time a report is received by the Director of Student Activities. Hearings will normally be held within ten (10) school days of the notice being sent.

The Director of Student Activities will keep a record of all reports received during summer vacation. During the first week of school, the President of the Student Government Association in consultation with the Director of Student Activities shall review the complaints received during the summer to determine the necessity of judicial action.

A case normally must be referred to the Senate Rules Committee within thirty (30) school days, excluding school vacations, after the alleged incident of misconduct occurred. This time limitation may be waived by a majority vote of the committee.

Hearing Process

No committee member may serve on the hearing in a case in which his/her judgment would be biased on the grounds of closeness with the aggrieved party. Whenever a regular member is unable or ineligible to serve on a panel hearing a case, an alternate member should be selected to serve on the panel for that hearing. Four voting Senate Rules Committee members (not including the President of the Student Government Association) should serve on the panel hearing a case, however, no hearing may be conducted unless ALL four voting members are present. All committee actions require a majority vote of the voting members present.

An organization charged with misconduct is presumed to be not responsible, and this presumption follows the organization until responsibility is proved by "clear and convincing" evidence. Judicial Board members, as fact finders, must consider all factors properly before them. In so doing, it is their duty to weigh the evidence calmly and dispassionately. Members are not allowed to permit bias, sympathy, or prejudice any place in their deliberations, for all organizations are equal before the committee.

The President of the Student Government Association is NOT to discuss "responsible" or "not responsible" decisions for a hearing unless there is a tie among board members as to the final decision. The role of the President of the Student Government Association is to conduct the hearing process and ensure that all judicial procedures are being followed.

Any evidence relevant to a case is admissible at a hearing. This may include direct (eyewitness) evidence, circumstantial evidence, hearsay evidence, and signed affidavits. The President of the Student Government Association should rule on the relevancy of the evidence. This does not imply that all evidence admitted is equivalent in weight, since most testimony has some degree of bias or tends to lead the listener to a single interpretation of a fact or situation.

The agenda for a typical hearing includes:

- 1) pre-hearing
- 2) introductions
- 3) explanation of the judicial process
- 4) explanation of the charges and the statement of responsibility or lack thereof
- 5) presentation of evidence and information of witnesses against the organization
- 6) organization/board allowed time for questioning
- 7) presentation of evidence and information of witnesses on behalf of the organization
- 8) organization/board allowed time for questioning
- 9) concluding statements by the spokespersons for the parties involved
- 10) deliberations with only voting members present and
- 11) announcement of decisions

The agenda may be modified at the discretion of the President of the Student Government Association. During the questioning of witnesses a person must be recognized by the President of the Student Government Association before a question can be asked.

The president of the organization charged with misconduct, or another active member who has been designated as spokesperson for the organization, has the right to be present to hear and question all witnesses and to examine all evidence, including all written documentation presented to the judicial board. Each organization is entitled to ONE spokesperson, who must be an active undergraduate member. If the spokesperson is someone other than the organization president, the organization president may still attend as an observer.

The organization charged with misconduct has the right to call four (4) witnesses to the hearing.

The organization charged with misconduct has the right to have their advisor present during the proceeding. **An advisor, even if he is an attorney, may not present evidence, question witnesses, or address the board;** his/her role is simply to advise the organization.

The hearing shall be closed to everyone other than the Senate Rules Committee, the Director of Student Activities, the organization's president, and the organization's advisor. Witnesses are permitted to be present only while they are presenting evidence. If an organization fails to appear at a hearing, after being given proper written notice, the evidence in support of the charges shall still be presented, considered and adjudicated.

Judicial Records

Documentation of the hearing shall include a copy of the original complaint, a copy of all written documentation pertaining to the case, the date and location of the hearing, a list of all persons in attendance at the hearing, a copy of all "notice to appear" letters sent, and a copy of the decision. Documentation of all hearings shall be kept on file in the Office of Student Activities for five years.

The Director of Student Activities will tape record the testimony presented at a hearing. Committee deliberations shall not be tape recorded. The tape can be used for the committee to rehear testimony during its deliberations and for the appeal process. Only one tape may be made. If the accused organization desires, it may listen to the tape when preparing for an appeal provided the tape is not removed from the Office of Student Activities. All witnesses should be informed that their testimony is being taped (but witnesses do not have the right to request that their testimony not be taped). The tape will be kept on file with the judicial documentation.

Organizational judicial records, including tape recordings, are confidential. Access to the judicial records is limited to the judicial board, the Director of Student Activities, the organizations involved in a case, and the Student Development staff members who handle organizational discipline.

Witnesses

The Director of Student Activities has the authority to request members of the organization, faculty, staff, and students who are not members of the organization to appear as witnesses. A chapter should be served with a notice to appear at least seventy-two (72) hours before the scheduled hearing. This notice period, however, may be shortened if circumstances warrant.

If it can be proved that a member of a organization clearly and deliberately falsified testimony presented to the committee, the senate rules committee may take disciplinary action against the organization in question or refer the individual to the College judicial board for an honor code violation.

Decisions

The standard of proof, “clear and convincing”, does not mean that committee members may not have doubts about responsibility; the standard requires only that the committee members be convinced of responsibility to a substantial level of certainty.

A decision of the senate rules committee must be by majority vote of those on the hearing panel and must be based upon evidence brought out during the hearing. The numerical vote is not announced.

The President of the Student Government Association will announce its decision immediately after final deliberations. No discussion, other than clarification, is permitted. If an organization wishes to debate the decision, it must do so via the appeal process. A written decision will be prepared by the Director of Student Activities and will be mailed to the organization’s president within seventy-two (72) hours after the hearing. The written **decision will contain the sanctions imposed, and notice of the right to appeal the decision** to the Dean of Students.

A copy of the decision shall be given to the Director of Student Activities, Dean of Students, President of the Student Government Association, and the organization’s advisor.

Sanctions

In determining an appropriate sanction, the judicial board should consider the following factors:

- 1) Was the behavior intentional
- 2) What were the direct and indirect actual consequences of the behavior? What were the potential consequences?
- 3) Has the organization previously engaged in similar behavior?
- 4) What is the attitude of the organization regarding this incident?
- 5) What is the educational value of the sanction? Will it help the group to act more appropriately in the future?
- 6) What is the deterrent value of the sanction? Will it be effective in discouraging similar behavior by other organizations?
- 7) Is the sanction related to the offense?
- 8) Is the sanction consisted with the expectations of the College administration and the Student Government Association?

Appeal Procedures

An organization found in violation by the senate rules committee may appeal the decision to the Dean of Students. An organization desiring to appeal must submit a properly completed “Notice of Appeal” form to the Director of Student Activities within ten (10) school days after receiving the written sanction.

Appeals are warranted if one or more of the following applies:

- 1) The sanction was unreasonable
- 2) The findings were not supported by substantial evidence
- 3) The judicial proceedings were unfair, i.e., the established procedures were not correctly followed. (Error in procedure that substantially impacted fairness or outcome of hearing.)
- 4) The board erred in its interpretation of any College or Organizational policy, rule, regulation or directive

If more than one ground has been stated, the Dean of Students should consider each issue separately and in this order:

- 1) Fairness of the proceedings
- 2) Jurisdiction
- 3) Policy interpretation
- 4) Presentation of new evidence
- 5) Determination of whether there was sufficient evidence to support the finding, and
- 6) Reasonableness of the sanction

If it is found that a hearing was unfair, the Dean of Students may recommend either a reversal of the decision or remanding the case to the Senate Rules Committee with instructions for a rehearing or revision of sanctions. The Dean of Students shall arrange a time and location for the appeals hearing. The hearing should be held within ten (10) school days after the "Notice of Appeal" is filed. The president of the organization involved shall be notified within seventy-two (72) hours of the hearing of notice for appearance. All previous judicial documentation and any other relevant documentation will be reviewed prior to the hearing.

Appeals meetings are held in a closed session, with attendance limited to the Dean of Students, Director of Student Activities, the organization's advisor and president (and their spokespersons if they so desire). The same guidelines for organization spokesmen and advisors that apply in hearings also apply in appeal proceedings.

The typical agenda for an appeal hearing is as follows:

- 1) Introductions
- 2) Clarification for the appeal process
- 3) Presentation of arguments by the organization that is appealing
- 4) Questions from the Dean of Students
- 5) Concluding statement from the chapter
- 6) Proceedings are concluded and a decision will be rendered in writing by the Dean of Students within on (1) school day after the proceeding

The decision of the Dean of Students is final; no further avenue of appeal is available. After the final decision has been sent by the Dean of Students, the Director of Student Activities shall send a copy of the Dean's decision, along with a copy of the Director of Student Activities' written report, to each person who was sent a copy of the original organization judicial board's decision.

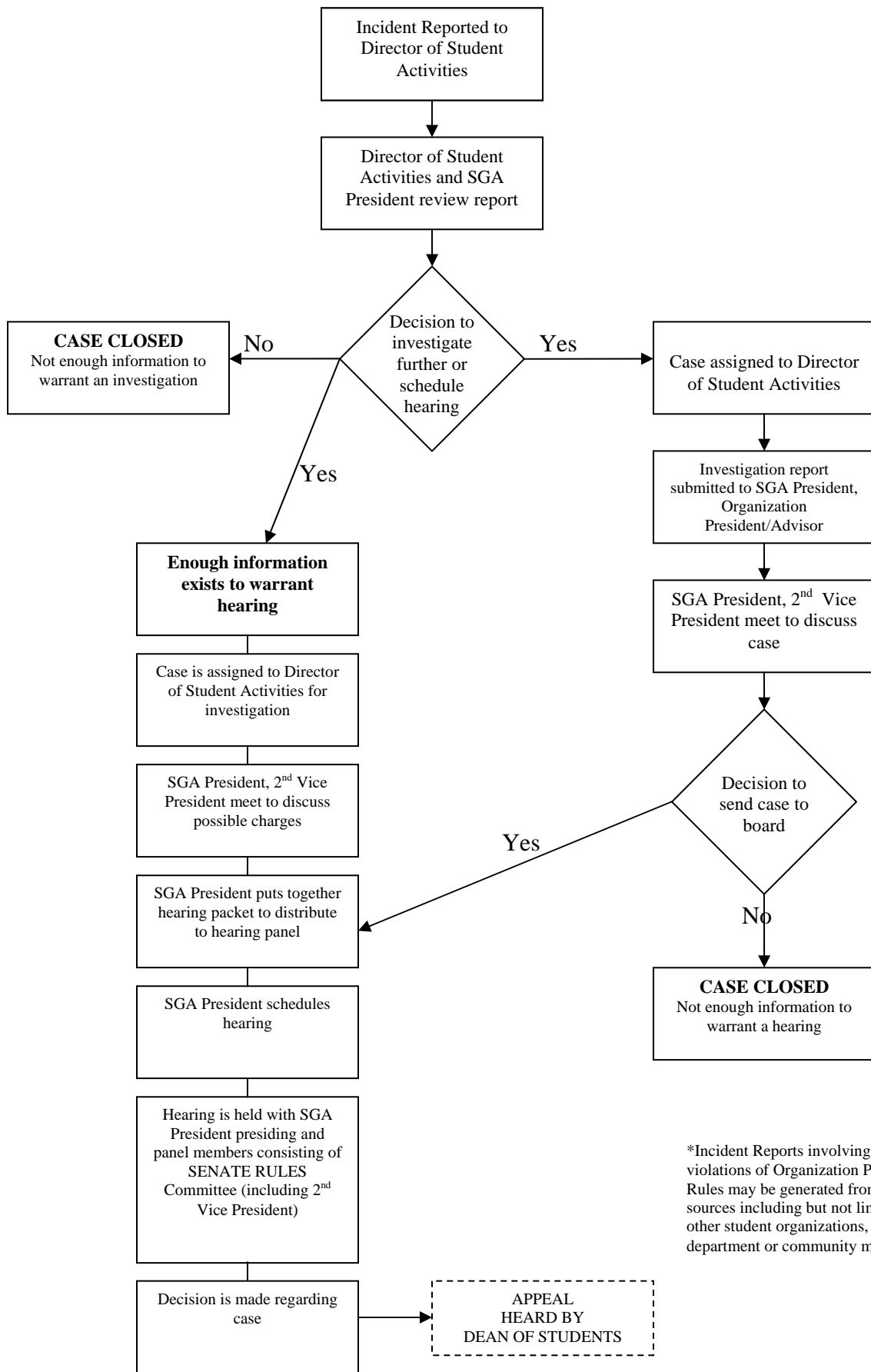
Organization Judicial Process

(*This timeline indicates a typical process. Extenuating circumstances may alter the timeline at any point in the process. For further and easier explanation of process please refer to the Organization Judicial Process Flow Chart directly following.)

- 1) Incident reported to the Director of Student Activities, located in the Office of Student Activities.
- 2) The Director of Student Activities reviews the alleged incident report along with the President of the Student Government Association to discuss further action.
- 3) The Director of Student Activities along with the President of the Student Government Association will make the decision of whether or not the case has enough evidence to automatically warrant a judicial hearing or whether or not it needs to be further investigated.
- 4) If the Director of Student Activities along with the President of the Student Government Association feel as if there is not enough evidence to warrant an investigation, the case is closed.

- 5) If the Director of Student Activities along with the President of the Student Government Association feel as if the case warrants further investigation, it will be referred back to the Director of Student Activities for investigation procedures.
- 6) The investigation report, prepared by the Director of Student Activities will then be submitted to the SGA President, the organization president, and advisor.
- 7) The SGA President and SGA Second Vice President will meet to discuss the case to determine if enough information is present to warrant a hearing.
- 8) If so, the President of SGA will compile hearing packets to distribute to the hearing panel. All information compiled will be received from the Director of Student Activities.
- 9) The SGA President will then schedule a hearing so that him/herself, four members of the Senate Rules Committee, and the Director of Student Activities can attend, and notifies all appropriate members of the organization in question, of time, date, and location of hearing.
- 10) The hearing is held with the SGA President presiding.
- 11) The Senate Rules Committee will make a decision regarding responsibility or lack-thereof, with the SGA President as a non-voting, tie-breaking member.
- 12) If an appeal is desired, the organization may do so to the Director of Student Activities, following guidelines and procedures listed.

Organization Judicial Process (Organizational Policy Violations)



*Incident Reports involving alleged violations of Organization Policy or Senate Rules may be generated from multiple sources including but not limited to students, other student organizations, college department or community members.