

1.0 JUDICIAL POLICY

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1.1 PHILOSOPHY

The Cornell University Greek community is committed to cultivating the intellectual, social, and ethical development of our members in an environment of freedom with responsibility. One key component of student development is experiential learning; thus, student self-governance is the cornerstone of the Greek Judicial System. The Greek Judicial System parallels the University Judicial System and the Campus Code of Conduct, which is the policy that:

- 1) enumerates the general principles upon which the Cornell Judicial System operates,
- 2) provides guidance to the administrators of the judicial system, and
- 3) enunciates policy related to membership expectations.

The University Judicial System responds to violations of the Campus Code of Conduct by an individual or student organization. **The Greek Judicial System responds to a recognized fraternity's or sorority's violations of The Fraternity and Sorority Expectations for Membership, The Strategic Plan, The Fraternity and Sorority Event Management Guidelines, The Anti-hazing Policy, and any other related Greek policies.** The Fraternity and Sorority Expectations for Membership outline the behavior that is expected of all members in the Greek system. The Office of Fraternity and Sorority Affairs will advise the Multicultural Greek Letter Council, Interfraternity Council, and Panhellenic Association in the adjudication of violations of Greek policies. In the event that allegations of chapter misconduct violate the University's Recognition Policy for Fraternities and Sororities, the Office of Fraternity and Sorority Affairs (OFSA) may choose to resolve the matter independent of the governing council's process. However, the goal of the Greek judicial system is for the OFSA to advise a student-led adjudication of policy violations and chapter misconduct.

The advantage of a student-centered judicial process lies in the ability of its members to influence the attitudes and subsequent behavior of their peers through a formal judicial proceeding. These procedures have been developed to promote fairness in resolution of fraternity and sorority disciplinary matters. Fraternity and Sorority Judicial Board proceedings are administrative in nature and are held independent of any criminal and/or civil proceedings that may be concurrently in process. The conduct in question may be simultaneously in violation of federal, state or local laws. Notification of such violations will not modify the need to adjudicate the alleged misconduct through the Fraternity and Sorority Judicial System. The discipline of students within the University community is primarily a part of the educational process.

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The goals of the Greek judicial process are to compel chapters and their members to adhere to the Fraternity and Sorority Expectations for Membership, other Greek policies, University Policies, New York State Law, to resolve conflicts within the Greek community, and to improve the public image of the Greek system by promoting high standards of conduct.

Neither the Cornell University Recognition Policy nor anything in these procedures is intended in any way to alter the legal relationship between Cornell and fraternities and sororities. Each fraternity and sorority is, and remains, an independent legal entity responsible for its own actions and for meeting its own legal duties and obligations.

1.2 JURISDICTION

Through the Strategic Plan, the Multicultural Greek-Letter Council, Interfraternity Council, and Panhellenic Association (MGLC, IFC, and PHC) will have jurisdiction over all member fraternities and sororities to enforce Greek policies and University rules and regulations, and to maintain appropriate standards of conduct. Charges of misconduct by fraternity or sorority chapters are referred to the Office of Fraternity and Sorority Affairs, to be forwarded to the appropriate process for resolution. Charges of misconduct are resolved in one of three ways:

- 1) a student-led Greek Judicial Board hearing,
- 2) an informal resolution meeting, suggested to the Associate Dean of Students (or his/her designee) by the governing council leadership, or
- 3) a Chapter Review Board meeting, initiated by the Associate Dean of Students in accordance with the University's Fraternity and Sorority Recognition Policy.

Even though the aggrieved party may not desire that formal disciplinary action be taken, the matter will be resolved through one of these means. Action taken or pending by a chapter's internal judicial body, the national/international office, or by the University Judicial Administrator may run concurrently with the action of the Associate Dean of Students; one type of judicial action does not necessarily affect or preclude the other.

Cases may be resolved informally through mediation with the Associate Dean of Students (or his/her designee) or through a Board hearing. If the Associate Dean of Students feels that a hearing is in the best interests of the Greek system or the University, the case may be referred to the Greek Judicial Board even though the aggrieved party may not desire that formal disciplinary action be taken. Actions taken or pending by a chapter's internal judicial body, the national/ international office or the chapter, or by the State of New York Court System will not necessarily affect the determination of whether or not a case is referred to the Greek Judicial Board, Chapter Review Board or to the University Judicial Administrator. The actions taken by other bodies may, however, be considered as a mitigating factor in determining how the Greek Judicial Board will handle a particular case.

In the event that a serious violation of one or more of the Greek policies has occurred, where a possible outcome of the judicial process may be to remove the chapter's recognition at Cornell University, the Associate Dean of Students reserves the right to involve/refer the matter to the Vice President for Student and Academic Services or his/her designee(s).

1.3 FRATERNITY AND SORORITY JUDICIAL PROCESS

A. Judicial Complaint

The Associate Dean of Students for Fraternity and Sorority Affairs ("Associate Dean") or another member of the community may lodge a complaint with the Office of Fraternity and Sorority Affairs (OFSA) against a chapter by completing a *Judicial Complaint Form*, outlining the alleged violation(s) of policy/ies (The Fraternity and Sorority Expectations for Membership, The Recognition Policy for Fraternities and Sororities, The Strategic Plan, The Fraternity and Sorority Event Management

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Guidelines, The Anti-hazing Policy, and any other related Greek policies). In addition, the complaint should include, but is not limited to the following: a summary of the incident leading to the charges, a description of the alleged misconduct, date, time, place, organization involved, number of participants, estimated damage, and witnesses.

B. Chapter Notification

- a. The Associate Dean or Vice President for Judicial from the respective governing council will notify the accused chapter via the chapter president and apprise the chapter of the charges. The Associate Dean (or his/her designee) will consult with the Vice President for Judicial from the respective governing council to determine if the judicial matter will be resolved through an informal resolution meeting or Greek Judicial Board hearing. **In the event that a serious violation of one or more of the Greek policies has occurred, where the misconduct may result in removal of the chapter's recognition at Cornell University, the Associate Dean reserves the right to schedule a Chapter Review Meeting or to refer the matter directly to the Vice President for Student and Academic Affairs or his/her designee(s).**
- b. If a case is referred to the Greek Judicial Board, the Vice President for Judicial from the respective governing council will arrange a time and place for the hearing. Notice of a Greek Judicial Board hearing should normally be given in writing or by e-mail to all parties involved at least 72 hours prior to the hearing. The notice to the President of the chapter charged with misconduct should include a brief, but clear, description of the alleged offense and the time and location of the hearing.

C. Interim Suspension

As a general rule, the status of an accused chapter will not change while a case is pending against it. However, the Associate Dean reserves the right to temporarily suspend activities, including but not limited to new member and social activities, of an accused chapter whenever necessary to promote the best interest of the accused chapter and the University. The Associate Dean, or his/her designee, will notify the chapter president if such action is necessary.

D. Resolving the Complaint

a. Informal Resolution

The informal resolution is a meeting with the chapter president, the Associate Dean (or his/her designee), and may include the Vice President for Judicial from the respective governing council to review all evidence and to question the chapter president about the judicial matter in order to determine the facts, and if necessary, impose sanctions. An informal resolution implies that the parties will resolve the matter through discussion and agree upon an outcome. If an agreement is reached, the Associate Dean and Vice President for Judicial will confirm the informal resolution in writing and provide a copy to the chapter president. The chapter may rescind its agreement within forty-eight (48) hours of receiving the decision in writing and the matter will then be referred to the Greek Judicial Board.

b. Chapter Review Board

A Chapter Review Board is a meeting with the chapter president, Associate Dean, Assistant Dean of Students, the president and vice president for judicial from the respective governing council, and may include the Dean of Students, alumni advisors, and representatives from the Fraternity and Sorority Advisory Council. The purpose of the meeting is to review the chapter's history of misconduct, including any current allegations of misconduct, the overall health of the organization, and the organization's ability to comply with local, State, University and Greek policies. The goal of a chapter review meeting is to determine the chapter's status with the

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University and conditions for continued University recognition. A chapter may appeal the Review Board's decision to the Vice President for Student and Academic Services or his/her designee.

c. Greek Judicial Board

- i. There will be **one student Greek Judicial Board** designated for the Greek system. Each of the governing councils (IFC, MGLC and PHC) will select a pool of members from their community to serve on the Greek Judicial Board and to resolve cases of chapter misconduct. Interested candidates will forward a letter of intent to the VP Judicial of their respective council following council executive board elections each year. The VP Judicial from each council will spearhead a review of interested candidates and the most qualified applicants will be selected to serve on the board.

The IFC, MGLC and PHC should recruit at least four (4) students per council to serve on the Greek Judicial Board throughout the year. The Associate Dean (or his/her designee) may assist the governing council VP Judicial in selecting board members through application and review.

- ii. For each case referred to the Greek Judicial Board, a panel of five (5) board members and one (1) Chair will be selected to hear the case from the pool of students recruited by each governing council. The composition of the Board will vary depending upon the case at hand. The Vice President of Judicial Affairs for the respective council will Chair the hearing, and three (3) members from the respective council's pool of board members, and one (1) member from each of the remaining two councils will be selected. For example, if an IFC chapter is accused of violating a policy, the case will be heard by a Board composed of the following: the IFC Judicial Chair, three members from the IFC pool of board members, and one member from both the PA and MGLC pool of board members to comprise a panel of five (5) Greek Judicial Board members and one (1) Chair. A board member will not be permitted to hear a case related to his/her chapter. In the event that a Chair's chapter is accused of misconduct, that Chair will step down and one of the other two Chairs will step in to hear the case.
- iii. The Greek Judicial Board will meet weekly with the Associate Dean (or his/her designee). Under the Associate Dean's advisement, the board will undergo training, review judicial activity, and resolve cases of chapter misconduct.
- iv. The Chair of the Board will rotate depending upon the case at hand. The IFC, MGLC, PA Vice President of Judicial Affairs, hereafter referred to as "Judicial Chair", will chair hearings that involve an organization of his/her respective council. In the event that the Judicial Chair's chapter is accused or the Judicial Chair is unable to preside, a Judicial Chair from another council will preside over the hearing.
- v. The Greek Judicial Board shall appoint one Recorder for the year to take the minutes of proceedings and to draft the Board's written decision, which includes the findings of fact, rationale for the Board's decision, and the outcome of the hearing. The Recorder is responsible for consulting with the Associate Dean (or his/her designee) related to the Board's decision and emailing this information to the Associate Dean and Judicial Chair **within 48 hours**. Also, the Recorder will update the judicial summary of the Board's decisions on a monthly basis and forward it to the OFSA.
- vi. Following consultation with the Associate Dean, the Recorder will email the Board's decision to the chapter president of the accused chapter **within fifteen (15) days of a**

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hearing and copy related parties (e.g. the chapter advisor, national headquarters, Dean of Students, the complainant, and the Judicial Administrator).

- vii.** Board members must be initiated, **dues-paying members of their chapters for at least two semesters**, and must be registered Cornell undergraduate students. Members of a chapter that is not recognized by the University are ineligible. No more than one representative from any one chapter shall serve as Board members at any given time.
- viii.** In the event that a Board member ceases to be a registered student of Cornell University, ceases to be an initiated, undergraduate, dues paying member of his/her chapter, or if his/her chapter is placed on suspension or loses recognition, the member shall resign his/her board position. The Judicial Chair of the respective Council shall appoint qualified applicants in the event a vacancy arises.
- d.** Greek Appeals Board
The Greek Appeals Board is composed of six (6) members and advised by the Dean of Students. The three presidents of the governing councils (IFC, MGLC, PHC) and three representatives from the appealing chapter's governing council, which totals six (6) Appeals Board members. The Chair may be the council president of the appealing chapter's respective council or a Vice President for Judicial who was not involved in the original Greek Judicial Board hearing. The Recorder shall take minutes for proceedings, draft the Board's findings, rationale, and prepare the written decision. In addition, the Recorder is responsible for emailing the decision to the Dean of Students or his/her designee **within forty-eight (48) hours** of the Board's decision. Following consultation with the Chair of the Board and the Dean of Students, the Recorder will forward the decision to the chapter president of the accused chapter **within fifteen (15) days** of a hearing.
- e.** Hearing Process for the Greek Judicial Board

 - i.** The purpose of the hearing is to provide the opportunity for complainants and accused chapters to present all relevant testimony and evidence with regard to the alleged violations of Greek-related policies. It is the responsibility of the hearing board to consider impartially all relevant testimony and evidence, determine the facts, and (if a violation is found) impose appropriate sanctions. University officials, as outlined in Section V (Roles of Judicial Chairs and Administrators), are consulted regarding decisions of the respective hearing boards.
 - ii.** Judicial System hearings are administrative, rather than criminal or civil, in nature. The strict rules of evidence do not apply, and the Board shall endeavor to evaluate all of the relevant facts of a given case.
 - iii.** The agenda for a typical hearing includes:

 - 1.** Introductions
 - 2.** Review of the judicial process.
 - 3.** Explanation of the charges.
 - 4.** Presentation of evidence and testimony against the chapter by the Judicial Chair.
 - 5.** Presentation of evidence and testimony of witnesses on behalf of the accused and complainant.
 - 6.** The hearing board members may ask questions at anytime subject to limitations of relevance, as determined by the Chairperson. The parties may ask questions indirectly through the board Chairperson subject to reasonableness and relevance, as determined by the Chairperson.
 - 7.** Concluding statements by the spokespersons for the parties involved.

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8. Deliberations in closed session by Board members.
 9. Announcement of preliminary decision.
 10. Consultation with the Associate Dean (or his/her designee) or Dean of Students (for Appeals).
- iv. The agenda may be modified at the discretion of the Chair.
- v. During the questioning of witnesses, a person must be recognized by the Chairperson before a question may be asked. Normally, the Chairperson will permit committee members to ask their questions first. The president of the fraternity or sorority charged with misconduct has the right to examine all evidence during the hearing, including all written documentation presented to the Board.
- vi. Greek Judicial System hearings are closed to persons not directly related to the case. The results of hearings may be shared within the University with other faculty, staff, students, or administrators or their agents or representatives, where such disclosure serves a legitimate educational purpose. **The Greek Judicial System aims to promote a safe fraternity and sorority community that promotes student health and well-being. Therefore, the Greek community supports a "Sunshine Policy" related to chapter misconduct that exhibits hazing and/or a threat or disregard for students' mental and physical health and safety.** Such violations that result in a sanction will be publicly disclosed. In addition, the results of hearings are subject to subpoena by appropriate civil and criminal court authorities. The University reserves the right to correct any misinformation with regard to Greek Judicial System actions that may be circulated in the media when the well being of the community so requires. The Office of Fraternity and Sorority Affairs will publish data related to the activity of the Greek Judicial System on a periodic basis without disclosure of names or other personal identifiers. Given the public notoriety that is often associated with misconduct by Greek organizations, the University cannot and does not promise that such data will always preserve the anonymity of chapters or individuals involved.
- vii. Complainants, accused chapters, and the respective hearing boards, are the principal participants in the Greek Judicial System proceedings. All parties are expected to be discrete given judicial system proceedings are closed. The outcome of judicial proceedings may be shared within the University with other faculty, staff, students or administrators or their agents or representatives, where such disclosures serve a legitimate educational purpose.
- viii. The Greek Judicial System supports a self-governed student community, and as such is a student-centered judicial process. Advisors, and attorneys when applicable, have no standing in the fraternity and sorority judicial system hearings, except to provide advice to their respective parties in a quiet manner. Advisors, and attorneys when applicable, may not actively represent or speak for their respective parties, except at the request of the board Chairperson.
- ix. If a fraternity or sorority fails to appear at a hearing after being given proper written notice, the evidence in support of the charges shall be presented, considered, and the case adjudicated.
- f. Witnesses
The Greek Judicial Board may request that fraternity or sorority members appear as witnesses. A chapter's members should normally be served with a notice to appear at least seventy-two

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(72) hours before the scheduled hearing. This notice period, however, may be shortened if circumstances warrant.

Faculty/Staff members, students who are not members of a Greek-letter organization(s), and others may be requested to appear as witnesses at hearings. Although witnesses are not placed under oath during hearings, every witness is expected to speak the truth. If the judicial board has reason to believe that any witness has provided false testimony, the Board may refer that individual to the Judicial Administrator. If the Board determines that any member of a Greek organization has provided false testimony, the Board may take action against the fraternity or sorority.

g. Standard of Proof and Decisions

The threshold for determining chapter responsibility for the alleged violation must be "preponderance of the evidence". The strict rules of evidence do not apply, and the Board shall endeavor to evaluate all of the relevant facts of a given case. In all cases, the complainant shall have the burden of producing a sufficient quantity of evidence to sustain the complaint and shall have the burden of persuading the hearing panel that the evidence is sufficiently credible to justify a ruling in favor of the complainant.

A decision of the judicial board will be derived by members coming to consensus about a course of action and not by majority rule. The decision must be based upon evidence brought out during the hearing. In the case that the judicial board cannot come to consensus, the Chairperson shall determine the outcome.

The Chairperson will consult with the Associate Dean (or his/her designee) regarding the outcome of the case, and the Recorder will prepare the written decision. The written decision will contain a brief statement of the facts of the case, the outcome imposed, the rationale, and the notice of the right to appeal. The Recorder will forward the written decision to the Chairperson and the Associate Dean (or his/her designee) **within forty-eight (48) hours after the decision is made available**. All parties will be notified in writing or by e-mail **within fifteen (15) business days** following the Chair's consultation with the Associate Dean (or his/her designee).

E. **Roles of Judicial Chairs, Recorders, and Administrators**

- a. The responsibilities of the MGLC, IFC, and PHC Judicial Chairs as they pertain to the judicial process are to:
 - i. Assist the Associate Dean of Students in investigating reports of alleged misconduct.
 - ii. Assist the Associate Dean of Students in resolving complaints.
 - iii. Suggest an informal resolution meeting to the Associate Dean (or his/her designee) when a Judicial Board hearing is not practical or warranted given the nature of the chapter violation.
 - iv. Present information to the Greek Judicial Board. Make procedural rulings.
 - v. Be available for presenting information at Appeals Board hearings.
 - vi. Coordinate Greek Judicial Board hearings and appeals, including mailing notices, complaints, and findings to the chapter president.
 - vii. If the Chair's chapter is involved in the incident, the judicial responsibilities as they pertain to that case shall be assumed by a Vice President of Judicial from one of the other two councils.
 - viii. Approve Judicial Board Minutes.
- b. The role of the Recorder

F. Sanctions

Below is a list of educational sanctions that the Greek Judicial Board will utilize when determining an appropriate outcome for chapter misconduct.

a. Educational/Remedial

The primary goal of the Greek Judicial System is educational in nature. The Fraternity and Sorority Judicial Board and respective judicial officers may design sanctions that are specific to an individual case when it is determined that educational or remedial value may result and the interests of the University community are maintained.

b. Warning

In instances of less serious deviations from the University norms of conduct, the chapter may be formally warned of the possible consequences of continuing such behavior. No other specific action is taken unless further misconduct occurs. A "Warning" will remain active in a chapter's disciplinary file for one calendar year.

c. Social Probation

This status is applied as a result of a breach of specific event management guidelines. Its primary effect is to suspend a privilege related to the nature of the offense and/or restrict access to specific campus facilities or programs.

d. Fine/Restitution

A fine may be levied to help support educational programs in the Greek community or to sponsor an intervention designed for chapter improvement. Restitution may be required for chapters that deface or steal property.

e. Disciplinary Reprimand

This action is a formal admonition on behalf of the fraternity and sorority community and is intended to clearly document in a chapter's disciplinary file that its behavior has been deemed unacceptable.

f. Disciplinary Probation

This action constitutes a change in status where the organization is no longer in good standing, but continues to be recognized by the University. The chapter is permitted to retain recognition at the University, but under certain stated conditions depending upon the nature of the violation and upon the potential learning value that may derive from such a restrictive measure.

g. Loss of Recognition

The Associate Dean and the Greek Judicial Board always reserve the right to refer serious chapter misconduct to the Vice President for Student and Academic Services or his/her designee to review whether the chapter should be allowed to maintain its status as a recognized chapter. The Greek Judicial Board can recommend to the Vice President for Student and Academic Services that a chapter loses privileges associated with University recognition (Probationary Recognition) or that a chapter lose Full Recognition. Such determinations will be made pursuant to the *Cornell University Recognition Policy for Fraternities and Sororities*.

G. Appeals Procedures

a. Period for appeal

Decisions of the Greek Judicial Board are effective immediately, unless the Office of Fraternity and Sorority Affairs has received a written notice of appeal within forty-eight (48) hours after the written decision of the Greek Judicial Board is made available.

b. Basis for appeal

Appeals must be based on one or more of the following:

- i. New evidence not reasonably available at the time of the original hearing, the absence of which can be shown to have had produced a fundamentally unfair result.
- ii. Procedural error that can be shown to have produced a fundamentally unfair result.
- iii. Errors in the interpretation of University policy so substantial as to deny either party a fair hearing;
- iv. Grossly inappropriate sanction having no reasonable relationship to the charges.

c. Procedures

When an appeal has been filed, the appropriate parties may be requested to respond in writing to the matters in question before a decision about the appeal is made. The Associate Dean of Students will determine whether the grounds for appeal have been satisfied and whether further proceedings are necessary to resolve the appeal.

Appeals of an informal resolution meeting will be forwarded to the Greek Judicial Board. Appeals of the Greek Judicial Board will be forwarded to an Appeals Board, and an appeal of the Chapter Review Board will be forwarded to the Vice President for Student Affairs.

For all appeals, findings of fact will be accepted as determined initially by the hearing board or informal resolution meeting unless it is determined that the initial decision was made in an arbitrary, capricious, or unfair manner. Decisions related to appeals will be based on written submissions and arguments of the accused chapters and the respective person/board that heard the case initially.

The accused chapter shall submit a written argument to the OFSA. The decision of the informal resolution, Greek Judicial Board, or Chapter Review Board shall also be submitted in writing to the person/board hearing the appeal. A "Recorder" must be selected to take minutes, prepare a written decision, the outcome of the appeal, and the rationale for the decision.

Appeals Board hearings are held in closed session. The accused chapter and initial hearing board will each be given 15 minutes for oral argument. The Recorder shall forward the decision to the involved parties within fifteen (15) working days. Advisors, accused chapters, and the inter/national fraternity shall receive copies of the final decision. Decisions following the appeals process will be final.

H. **Disciplinary Records**

The Office of Fraternity and Sorority Affairs retains disciplinary files of the Greek Judicial System. Disciplinary files may be shared within the University with other faculty, staff, or administrators or their agents or representatives where such disclosure serves a legitimate educational purpose, as determined by the Associate Dean or his/her designee. **The Greek Judicial System aims to promote a safe fraternity and sorority community that promotes student health and well-being. Therefore, the Greek community supports a "Sunshine Policy" related to chapter misconduct that exhibits hazing and/or a threat or disregard for students' mental and physical health and safety. Such violations that result in a sanction will be publicly disclosed.** In addition, the results of hearings are subject to subpoena by appropriate civil and criminal court authorities. Disciplinary files are maintained for five (5) years from the issuance of a decision in the Office of Fraternity and Sorority Affairs.