

Judicial Board Guidelines

Delta Upsilon

Authority:

In all matters pertaining to discipline, it is the responsibility of the Chapter Judicial Board, under the Bylaws, to conduct hearings and determine sanctions according to the disciplinary authority granted by the Chapter. At such time when the Judicial Board's decision requires further approval, it shall at that time be referred to the appropriate bodies.

Statement of Purpose:

The Judicial Board is a committee established for two purposes. First, the committee shall assist the Vice President of Membership Development in the education of all chapter members, including associate members, as to the information in the Delta Upsilon Constitution and Bylaws, Standing Rules, House Rules and Policies, and the Chapter Code of Conduct. Additionally, the Judicial Board will assist the executive board officers and housing manager in enforcing rules, sanctions levied and policies.

Membership:

The Judicial Board shall be composed of the Vice President of Loss Prevention, serving as Chief Justice, and four members appointed at large by the Chapter President. All members appointed by the President must be approved by the Chapter with a two-thirds majority vote. When the vote is taken, a quorum of the Chapter must be present. At least one member of the Board should be of junior status (four semesters) with the Chapter (it is best if each member is from a different new member class). At least one of the appointed members should live in the house and at least one member should live outside the house. With the exception of the Vice President of Loss Prevention, all members of the Executive Board should be exempt from serving on the Judicial Board.

A member of the Advisory Board should always attend all Judicial Board meetings, hearings and elections for chapter approval of appointed members.

The members of the Judicial Board must remain in good standing while serving as a judicial officer. They must share the discretion and trustworthiness of the Executive Board of this Chapter. Each member should be dedicated to the preservation of the reputation and standards of the Chapter. The Chief Justice will serve as the liaison between the judicial board and the Executive Board.

Responsibilities:

The Judicial Board is responsible of maintaining the high standards of the chapter and chapter members, undergraduate and graduate, including associate members by providing educational programs pertaining to the Chapter Code of Conduct and Bylaws on a semester basis during new member education.

The board is entrusted with the responsibility of making sound and fair judgments while making certain the reputation of the Fraternity and the cooperative spirit of the chapter is maintained.

Members of the Board must be willing and able to take responsibility for their actions and to accept the consequences of their decisions. Such consequences may include a misunderstanding of the role and/or good intentions.

It is the responsibility of the Judicial Board to voice and evaluate the concerns of the chapter members to a brother or associate member in possible violations of the Constitution and Bylaws, the Chapter Bylaws or the Code of Conduct. Members of the Judicial Board are bound by duty and honor to keep all matters which may come to their attention in strict confidence.

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They are charged with the responsibility of being fair to all members while keeping the reputation of Delta Upsilon foremost in their minds at all times.

Functions:

The Judicial board shall meet every week in a scheduled location, unless no complaints are being considered. Written documentation of each meeting or hearing shall be kept.

The Judicial Board shall be responsible for the following:

1. Review and revise the Chapter Code of Conduct on an annual basis.
2. Explain Delta Upsilon standards to the associate members as part of their associate member education program

Additionally, the Board shall discuss any problems or concern and methods to eliminate problems or potential problems. Concerns or infractions which may be addressed by the Judicial Board include, but are not limited to the following:

1. Violation of the Delta Upsilon Constitution and Bylaws and the Chapter Bylaws.
2. Violation of the Chapter Code of Conduct.
3. Violation of Chapter policies.
4. Violation of House rules or policies.
5. Grievances between brothers.
6. Excessive unexcused absences from chapter meetings and required chapter activities.

When written complaints or concerns are submitted, the Judicial Board and Advisor must decide

1. whether the issue warrants investigation and if a hearing with the individual(s) is in order

Judicial Sanctions:

1. Under the authority of the Judicial board with the approval of the Chapter:
 - a. Non-statutory fines of \$100.00 or more.
 - b. Suspension for three months or more.
 - c. Expulsion from the Fraternity with final appeal to the Assembly of Trustees (Article VI, Section 6 and 8 Delta Upsilon Constitution and Article VII, Section 10, 11, and 12 Delta Upsilon Bylaws).
2. Under the authority of the Judicial Board with the approval of the Housing Corporation:
 - a. Sanctions requiring restitution for damage to corporation owned/controlled property.
 - b. Sanctions prohibiting access to corporation owned/controlled property.
 - c. Sanctions requiring removal form corporation owned/controlled property.
3. Under the authority of the Judicial Board:
 - a. Non-statutory fines less than \$100.00.
 - b. Suspension for a period of time less than three months.
 - c. Probation with or without restrictions.
 - d. Behavioral contracts stipulation specific performance guidelines and time frames not to exceed sanction limitations as prescribes in (a) through (c).

The Chapter Judicial Board shall be responsible for follow-up and enforcing of sanctions. Sanctions shall be recorded in the Judicial Sanction Books along with actions taken for compliance.

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Suspension or Expulsion:

For cases involving suspension of three month or more or expulsion, an open hearing before the chapter will be convened after twenty days' notice to the member charged. In hearings where said sanctions become apparent during a closed hearing, the hearing will reconvened within the time requirements established in Article VII of the Delta Upsilon Bylaws which allows the Chapter and/or the Alumni Corporation notice to assemble for an open hearing. Following the open hearing, the Judicial Board will recess for executive session to prepare their statement of recommendation for sanctions to the Chapter and/or Alumni Corporation. Following which, a secret ballot vote will be taken of those eligible members present to accept or reject the recommendation for sanctions by the Judicial Board. Such voter shall be binding with a majority vote in cases of suspension and with a three-fourths majority in cases of expulsion with option for appeal except those specified in the Constitution and Bylaws of Delta Upsilon Fraternity

Procedures for Disciplinary Hearings:

1. A Behavioral Complaint form, stating alleged violation, is submitted to the Vice President of Loss Prevention
2. The Vice President of Loss Prevention will then notify both the defendant and the complainant of the hearing time, date and location by letter. Included with the letter shall be a copy of the Behavioral Complaint and hearing forms. If a hearing is requested with an associate member, it is recommended that the Associate Member Educator attend for advice and guidance.
3. Once the hearing is convened, the guidelines as described in the Judicial Hearing Procedure Checklist will be followed.

Actions to be taken for Disciplinary Purposes:

The Judicial Board shall decide upon the action to be taken based on the severity of the offense.

1. If the violation is minor, the member or associate member will be informed by the Judicial Board that the bearing is considering a warning and that any subsequent violation will result in disciplinary actions.
2. Based on the facts of the hearing, the Judicial Board may impose disciplinary action affecting a member's or associate member's membership privileges or may recommend action to the Chapter regarding a member's or associate member's membership status.
 - a. Discipline affecting membership privileges may include, but are not limited to social probation, restriction of participation in chapter activities, additional house duties, fines, attending additional out-of-house educational programs, preparation/coordination of special chapter programs, etc.
 - b. Recommendations affecting membership status may include definite or indefinite suspension, withdrawal or expulsion. (Note: In cases involving suspension for a period greater than three months or expulsion, the case must come before the Chapter)
3. If a member or associate member feels the need to appeal the disciplinary action of the Judicial Board, such action may be appealed to the Chapter and overturned by a two-thirds vote of attending membership (with quorum in attendance). Only guilt or innocence may be appealed to the Chapter, and not the penalty decided upon. Appeals should be made in writing to the President.

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Appeals Procedures:

The Judicial Board shall hear all complaints filed and impose sanctions as deemed appropriate by the members of the Board. All sanctions will be final unless appealed is submitted within seventy-two hours after rendering of the decision and notification. It is the responsibility of the defendant to file a letter of appeal to the appropriate body or bodies with a copy of said letter filed with the Chief Justice (Vice President of Loss Prevention) within the same time frame. At such time the Chief Justice will surrender all necessary materials to the appeal body or bodies within twenty-four hours of receiving the appeal letter. Pending outcome of the appeal, all sanctions originally stated will remain in effect. Anyone not abiding by the decision as stated in the Notification of Judicial Actions form may be subject to further action for contempt of the Judicial System.

Approval:

These guidelines shall be approved or amended by concurrent action of the Judicial board and Chapter Executive Board

Approved: [Date]

Amended: [Date]

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Outline of Rights in Judicial Proceedings

The basic philosophy of Delta Upsilon discipline is one of education. As such, it focuses on the growth and development of the individual member by encouraging self-discipline and by fostering respect for the rights and privileges of others. It should be understood that there is a fundamental difference between the nature of member discipline and criminal law. The disciplining of members must be consistent with the educational mission of the Fraternity. For this reason, the procedures employed and types of sanctions used within the chapter do not resemble those used in the criminal process. Fair play, human understanding, and careful observance of basic due process rights are the foundation of the Chapter's judicial system.

Rights of the Accused

Any member who is charged with violating the Delta Upsilon Constitution and Bylaws or Chapter policies is entitled to the following:

1. A written notice, at least 72 hours prior to a hearing, of the rules or regulations the members has been accused of violating.
2. A written copy of the charge being brought.
3. A written notice of the time, date and location of the hearing.
4. The right to be accompanied by an advisor of his choice during the judicial hearing.
5. The right to present witnesses to offer testimony on one's behalf (All witnesses must be affiliated with Delta Upsilon).
6. The right to an expeditious hearing.
7. The right to refuse to answer questions of an incriminating nature.
8. The name(s) of the person(s), or group filing the charges.
9. The right to an appeal.

Closed Hearings - Judicial Board hearings are closed to all except parties directly involved in the proceeding (accused member and advisor, Judicial Board members, appropriate chapter advisors, and witnesses during the time of testimony). If the accused member requests others to attend and the Judicial Board approves, then the hearing may be opened to these specified parties.

Failure to Appear - No recommendation for the imposition of sanctions may be based solely upon the failure of an accused member to answer to charges or to appear at a hearing. Evidence in support of the charges will be presented and considered, even in the absence of the accused.

Recordings of the Hearings - A recording of all Judicial Board hearings will be made. The recording is considered a verbatim transcript of the proceeding and may be reviewed in the case that an appeal is filed. These may be stored in a secured online directory or on a storage drive stored within the chapter's safe.

Judicial Panel Hearing Checklist

1. The Chief Justice introduces the panel members and self; identifies the defendant and complaint; and the date and time of the bearing.
2. The Chief Justice reads the following statements:

Purpose Statement:

"The Purpose of this Chapter's Judicial Panel Hearing is to preview all relevant information and the circumstances pertaining to a behavioral complaint filed by _____ against _____.

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This hearing is an informal proceeding and is not comparable to a criminal trial. All participants are expected to be courteous and treat each other with respect.

Privilege Statement:

"The opportunities to have your case reviewed by a judicial panel, to be assisted by an advisor, and to appeal the outcome of this hearing are not constitutional requirements in disciplinary proceedings. These privileges are granted to Delta Upsilon members and its associated members as a matter of Chapter policy."

Honesty Statement:

"The following statement pertains to all persons who will be providing information in today's hearing. It is expected that all information presented will be true and correct. Be advised that if you provide any false information judicial action will be taken against you."

3. The Chief Justice asked the following procedural questions:

"Before proceeding further, I would like to ask both the complainant and defendant to respond to a series of procedural questions."

- ***"Are you being assisted by an advisor?"*** Have the advisors identified themselves for the record.
- ***"Is there anyone on the panel that you feel should not serve during this hearing?"*****
- ***"Are there any reasons the panel should not review the case at this time?"*****

**If either party responds in the affirmative, the petitioner should be asked to justify the response. The Judicial Board should move into a private executive session to consider the grounds and determine if:

- (1) the Panel member should be removed, or
- (2) the hearing should be continued to a later date.

4. The Chief Justice reviews the hearing procedures.
5. The Chief Justice will excuse all witnesses.
6. The Chief Justice will read the general and specific charges.
7. The Chief Justice will request that the defendant enter a plea to each charge.
8. If the plea is ***"not in violation"*** to any charge:
 - a) The Chief Justice should ask the complainant to present his case.
 - i. The panel members may ask questions of the complainant.
 - ii. The defendant may cross examine the complainant by asking questions through the Judicial Board.
 - b) The Chief Justice should ask the defendant to present his case.
 - i. The panel members may ask questions of the defendant.
 - ii. The complainant may cross examine the defendant by asking questions through the Judicial Board.
 - c) The Chief Justice should ask, ***"Are there any additional questions the panel would like to direct toward either party?"***
 - d) When this process is completed, the Judicial Board may recess to executive session to discuss what questions they would like to ask witnesses.

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- e) Beginning with the complainant, witnesses will be called one at a time. Witnesses are to state their names clearly for the record.
 - i. After witness presentation, the Judicial Board members may ask questions of the witness.
 - ii. The complainant may direct questions to the witness through the Judicial Board
 - iii. The defendant may cross examine each witness by asking questions through the Judicial Board.
 - f) Defense witnesses will be called one at a time. Witnesses are to state their name clearly for the record.
 - i. After witness presentation, the Judicial Board members may ask questions of the witness.
 - ii. The defendant may direct questions to the witness through the Judicial Board.
 - iii. The complainant may cross examine each witness by asking questions through the Judicial Board.
 - g) Summary statements. The complainant bears the burden of proof and will go first followed by the defendant.
 - h) The Judicial Board may ask final questions of either party.
 - i) The Judicial Board will adjourn for determination of finding, and if necessary, sanction.
 - j) The Notification of Judicial Action form is completed and given to the Chief Justice.
9. If the plea is "***in violation***" to all charges:
- a) Allow the complainant first and then the defendant to make statements. You may set a reasonable time limit in advance.
 - b) The defendant is to remain silent while the complainant gives his statement, and vice versa.
 - c) The Judicial Board may ask questions either party for clarification.
 - d) The Judicial Board deliberates and determines the sanction.
 - e) The Notification of Judicial Action form is completed and given to the Chief Justice.
10. All Notification of Judicial Action