

# The Investigation and Resolution Process

## Preliminary Investigation

1. The Director of Residential Life and Student Conduct serves as the primary Resolution Coordinator (RC).
2. Resolution Coordinator (RC) or designee will investigate reports of alleged violations of the Code of Student Conduct or local, state, or federal laws.
3. After completing a preliminary investigation and if the information supports an alleged violation, the student/respondent will be notified by email and/or in writing of the alleged violation(s) and given notice to appear at a Pre-Mediation Conference.

## Pre-Mediation Conference

- A. The Resolution Coordinator (RC) will conduct the conference. The complainant may or may not be present.
- B. This conference will occur as soon as possible after the report or complaint is received. The RC will inform the respondent of these facts:
  - a. The alleged violation(s) of policy;
  - b. The disciplinary hearing options; and
  - c. Possible action plans involved.
- C. At the Pre-Mediation Conference, the RC will provide the respondent:
  - a. A written notice of the alleged violation(s) of policy and an outline of rights. In the event that additional alleged violations come to light, a further written notice must be forwarded to the student. A notice may be mailed, hand-delivered, or electronically mailed.
  - b. A review of all available information, documents, exhibits, and a list of witnesses. The choice not to appear at the hearing. In that case, the hearing will be conducted in the student's absence.
  - c. Assistance by a Personal Advisor. The Personal Advisor provides the student with moral support and may only be a member of the University community that is on the list of approved Personal Advisors. The University has the right to disqualify a particular Personal Advisor when the participation of that Personal Advisor may disrupt the student conduct process.
    - i. Upon request of a student, the Personal Advisor may:
    - ii. Advise the student concerning the preparation and presentation of the case.
    - iii. Accompany the student to all student conduct proceedings whenever possible.
  - d. The Personal Advisor may not:
    - i. Speak for the student, except in exceptional circumstances with the discretion of the RC or Civitas Chair.
    - ii. Serve as a witness.
    - iii. Disclose any information about the process. The Personal Advisor is expected to maintain confidentiality and not discuss the case with others.
- D. At the conclusion of the Pre-Mediation Conference, the RC will determine if further investigation is needed, or if the case will proceed through one of the three options below:

## OPTION I: Restorative Justice/ Conflict Resolution Process

Restorative justice repairs the harm caused by infractions to the Converse Student Code of Conduct through conversation, collaboration, and mediation. When victims, offenders, and community members meet to decide how to resolve issues, the results can be transformational. This process emphasizes accountability, making amends, and—if the parties are interested—facilitating meetings between victims, offenders, and other persons. This process is led by the Converse Resolution Coordinator or their designee.

## The Resolution Process

The RC will meet with the respondent to explain the complaint and the resolution process. The student may be accompanied by a Personal Advisor at any point in the resolution process. The student will have the opportunity to ask questions and make a statement. The RC will inform the respondent (1) that the student does not have to make a statement at the initial meeting, (2) that all records are confidential to the extent permitted by law, (3) that students have a right to know the potential sanctions/interventions they may be facing, and (4) that students may consult with an advisor at any point in the resolution process.

The respondent has a choice of the following methods of dispute resolution:

1. **Acceptance of Responsibility and Entering into an Agreement**

If the respondent is in general agreement with the allegations in the complaint and is in general agreement with the complainant and/or community (as represented by the RC) about how to resolve the conflict and restore the community, the respondent has the option of entering into an agreement. In a resolution by agreement the respondent accepts responsibility for the alleged violation(s) of this Code of Conduct and agrees to fulfill sanctions/interventions that are developed with the input of the respondent, the complainant, and the RC. The respondent has the right to discuss potential sanctions/interventions before entering into an agreement. Once an agreement has been reached, it may not be appealed.

2. **Adaptable Conflict Resolution**

Adaptable conflict resolution (ACR) processes such as conflict coaching, mediation, facilitated dialogue, and restorative justice circles allow individuals involved in a conflict to have significant influence over the resolution process and complete control of any outcome. If (1) all persons personally and directly affected by the conflict agree to attempt resolution through one of these processes, and (2) the RC believes that the process is an appropriate form of resolution, then the RC will make arrangements for the chosen ACR pathway. The nature of some conflicts, especially those involving violence, may render ACR inappropriate. Participation in an ACR process is voluntary and may or may not result in an agreement or resolution. When a mutually satisfactory resolution is reached by the parties, the matter is deemed resolved and the parties are encouraged to use the RC as a resource for future questions. Resolutions reached through ACR may not be appealed. If a resolution is not achieved through an attempt at ACR and the matter involves a pending violation of this Student Code of Conduct, the respondent has the choice of accepting responsibility and entering into an agreement as set forth in the previous section or proceeding to a hearing.

## OPTION II: Sanction Hearing

If the student admits responsibility, they may choose to present their case for administrative review and be sanctioned by a subset of the Civitas Council which will include the advisor to the board, one staff representative of the board, and two of the executive members of the Civitas Council comprised of either the chair, vice-chair, secretary or treasurer. In some cases, an elected representative to the Council may be used in place of an executive member to resolve the case in a timely manner.

## Procedural Overview

The Civitas Chair, Vice-Chair, or Advisor will provide an opportunity to meet with the respondent student to cover their rights and procedures and will use their best efforts to clarify charges, exchange names of witnesses, and review evidence related to the case. This meeting is not required but provides an opportunity to answer questions and prepare a student for the process.

## Rights of the Respondent

A student-respondent who is charged with a violation of the Converse Student Code of Conduct are advised of the following:

- Converse may act as the complainant; and
- Neither the respondent nor the complainant has a right to external representation or legal counsel.

The respondent student, whether requesting a sanction hearing or a board hearing, has the right to:

- have specific charges outlined and explained;
- address the charges and confront the complainant indirectly through the hearing Chair;
- be treated in a civil and respectful manner by the administrators of this process; and
- seek advice and assistance from any member of the Converse Faculty or Staff; however, the respondent must present their case by themselves.

If the case is resolved by a hearing, the following rights are also implied:

- The right to have specific charges outlined in a letter that will be delivered at least 72- hours in advance of scheduled hearing procedures;
- The right to have at least 48-hours notice of any scheduled hearing;
- The right to hear all evidence presented during the hearing and to question witnesses indirectly;
- The right to call material witnesses deemed necessary and as approved by the Civitas Council Chair at least 24-hours prior to the hearing; and
- The right to call up to two character witnesses during the sanctioning process.

Following the outcome of a hearing the respondent has the following rights:

- To know the outcome of the hearing;
- To receive documentation of the decision, and if found responsible, documentation of all sanctions imposed;
- To request a meeting with the Civitas Council Chair and Advisor to understand the outcome of the hearing; and
- To appeal the decision or sanctions to the Dean of Students who will call together members of the University Appeals Board, subject to the limitations and procedure as set forth in the Appeal Process as documented below.

## Responsibilities of the Respondent

As a member of the Converse Community, a respondent-student has the following responsibilities:

- To tell the truth;
- To read and understand the charges presented;
- To read and understand University policies and hearing procedures;
- To notify the Chair of any conflicts 24-hours prior to the hearing time (restrictions on the number of times of conflicts or reasonableness of the request to move a hearing will be determined by the Chair);
- To participate in the case hearing;
- To not take any retaliatory action either directly or indirectly against the complainant, any witness to the hearing, or any Civitas Panel Member;
- To complete sanctions by the stated deadline; and
- To act in a civil and respectful manner.

## OPTION III: Hearing Process

If it is requested by the student, or determined through an initial review of the evidence, that a hearing is necessary, the Civitas Council chair will convene the board in a timely fashion to hear the case. The respondent and the complainant each have a right to an advisor from the approved list. The following procedures will guide the process.

1. The chair of the Civitas Council, or his/her/their designee, will forward a complete listing of the charges, a copy of the student rights and procedure information, and the time and location of the hearing to the respondent student at least 72-hours prior to the time of the hearing.
2. The respondent student has a right to call material witnesses as long as they have been approved by the Civitas Council chair at least 24-hours prior to the hearing. A list of witnesses should be exchanged 24-hours prior to the hearing.
3. The hearing board should consist of seven Civitas Council members: two staff representatives and five student representatives; and will be chaired by the Civitas Council chair (or vice-chair or secretary in the case of a conflict of interest).
4. If the respondent student fails to appear and has not notified the chair of their absence or need to reschedule that has been approved by the chair, the case may be heard in his/her absence.
5. All testimony given and evidence presented are bound by the Honor Tradition. The hearing proceedings, but not deliberation, will be recorded.
6. Appropriate witnesses (e.g. complainant student) are strongly encouraged to be present at the hearing. The respondent student is strongly encouraged to be present during the entire proceeding. Witnesses will be called by the chair as needed, and at the appropriate time, during the hearing. Board members and the respondent student will have the opportunity to ask questions of each witness. The respondent may not directly ask questions of the complainant.
7. All evidence that will be considered for determining responsibility must be presented during the hearing. The respondent student will have the opportunity to address the evidence.
8. The procedure will conclude with the respondent student being given the opportunity to make a final statement to the hearing board.
9. Two character witnesses may be called during the sanctioning aspect of the hearing.

The Civitas Council will have 48 hours from the conclusion of the hearing to make a determination of “responsible” or “not responsible” and, if it finds the respondent student “responsible,” to determine the appropriate sanction to be imposed.

1. The Civitas Council chair or his/her/their designee will communicate the outcome of the hearing by letter, electronic communication, and/or in-person to the respondent.
2. The individual responsible for the accusation will be informed of the Civitas Council’s decision.
3. A student found responsible for violations of the Student Code of Conduct will have documentation placed in her/his student file.
4. All information related to the student, the evidence, the testimony, and the outcomes are to be kept confidential by all involved in the case.

If the respondent student withdraws or takes a leave-of-absence from the University while a charge is being reviewed, the student’s record will continue to reflect the charge until the case and/or sanction are resolved. Students who graduate while a charge is pending may have the charge reflected on their transcript or, in serious cases where the student would have been expelled, the sanction may include revocation of the student’s degree from Converse.

### Hearing

*The standard of review for all cases is a preponderance of the evidence. The respondent is presumed not responsible unless the evidence presented demonstrates that it is more likely than not that a violation of the Code of Conduct has occurred.*

In cases that involve more than one respondent, the students will have the option of choosing whether to participate in the same or separate hearings. If the students cannot agree, the hearings will be separate.

Each party may be accompanied at the hearing by a Personal Advisor from the approved advisor list, however, the advisor may not participate directly in the proceedings, but may only advise the party. For example, the advisor may not question witnesses or make presentations.

All parties may have prior access to any written information that will be presented at the hearing, including the names of witnesses the parties intend to call. The RC will prepare and distribute this information prior to the hearing.

During the hearing, the RC, respondent, and complainant have the right to question the parties and witnesses indirectly through the Chair. Silence by the respondent will not be interpreted as evidence of responsibility for a violation. Witnesses may be present in the hearing room only when they are presenting information. At any time during the hearing, the respondent may request a recess to consult with his/her Personal Advisor. The respondent and the complainant may call any witness with information that is relevant to the case, but the Chair may exclude a witness if the information is redundant.

The respondent, complainant, and RC may also present written reports to the RC. The respondent and complainant may make statements at the beginning and end of the proceeding, with the complainant making a statement first, then the respondent making a statement, then the complainant will be allowed a short rebuttal at the conclusion of the hearing.

To ensure the privacy of the parties and to maximize the educational potential of the process, all parties must agree to the admission of any other people (except witnesses or advisors) to the hearing. An audio recording will be made of Statement hearings and will be made available to the respondent or complainant upon request during the period in which an appeal may be filed or is pending. In all cases, the RC will issue a written decision containing findings of fact, conclusions as to responsibility, and rationales for all sanctions/interventions imposed.

All arbitrated resolutions will result in findings of fact. The Civitas Council will also make recommendation(s) regarding sanctions/interventions to the Dean of Students during the sanctioning portion of the hearing. The Dean of Students may accept or modify the recommendation(s). The Dean may not modify sanctions/interventions of suspension or expulsion; except that when expulsion is recommended, the Dean may instead suspend the student.

## Sanctions

As an educational institution, Converse University has the responsibility and the opportunity to equip respondents with an education on the impact of their actions, effective coping skills, and reflection to improve future behavior. These objectives are primary and objections that are meant to punish are secondary. However, the University must also protect the rights of other students to an education without being subject to a discriminatory environment. With this in mind, the Civitas Council imposes sanctions that are relevant to the particular situation and that will promote growth for the individual involved. At times, however, the severity of the offense, or repeat offenses, may also require punitive action.

Possible sanctions for all violations include but are not limited to: official warning, educational tasks, restitution and/or fines, work and/or service hours, counseling evaluation, housing relocation or suspension from campus housing, a note in the student's record, denial of participation in a particular program or major, suspension for a period of time (while on suspension they may not return to the campus to participate in events or programs), expulsion from the University, or revocation of degree. These sanctions may be combined as deemed appropriate.