

# Preparing for a Formal Hearing

## **NORTHERN VIRGINIA COMMUNITY COLLEGE**

**Student Integrity & Conduct**

*Integrity. Civility. Responsibility.*

## Introduction

### *Purpose of this document*

This document is designed to assist students in preparation for a formal administrative hearing.

This document is not an exhaustive list of all possible hearing preparations, nor does it replace any information contained within the Code of Student Conduct, which is located in the *Student Handbook* <http://www.nvcc.edu/students/handbook/conduct.html>

If there are any questions regarding the information presented in this document please contact the Dean of Students Office. Each campus has its own Dean, be sure to contact the one assigned to the case.

# Table of Contents

|                                  |    |
|----------------------------------|----|
| Introduction.....                | 2  |
| Getting Started .....            | 3  |
| Before the Hearing .....         | 4  |
| At the Hearing.....              | 6  |
| Hearing Procedures.....          | 7  |
| Terms Used in a Hearing.....     | 8  |
| After the Hearing .....          | 10 |
| Appeal Process.....              | 10 |
| Frequently Asked Questions ..... | 12 |
| Resources on Campus .....        | 18 |

# Getting Started

## *Focus on your classwork*

Preparing for a hearing can be stressful, especially when balancing a full course load and possibly working during the semester. Before getting started it is important to remember to still focus on classwork during this period. Students in this process are presumed “not responsible” until proven otherwise, therefore classes should remain a priority during this period.

## *Seek Support*

Sometimes students feel overwhelmed when going through this process, it is important to find individuals who can provide support. This may include parents/guardians, family members, friends, a counselor, faculty member or whomever. If you need additional assistance please refer to the list of resources shared in this document.

## *Prepare*

Waiting until the last minute is not recommended when preparing for a hearing. A hearing is something to take seriously. As soon as the meeting with the Dean of Students or Coordinator for Student Conduct and Integrity have taken place, it is imperative to begin preparation for the case. This document has been made to support students in this process.

# Before the Hearing

## *Steps to Prepare*

- ❑ Read and reread the hearing notification that includes the charge(s). Make sure you understand the charge(s).
- ❑ Set a reminder with the date, time and location of the hearing (that information is located in the hearing notification) in your phone or planner.
- ❑ Are there any witnesses that observed the alleged incident? If so contact those individuals and request that they attend. If they cannot make it, ask them if they could be available via phone or submit a written statement of their account. **Please submit in writing the names and contact information of the witness(es) that will be present three business days prior to your hearing.**
- ❑ You're permitted one advisor into the hearing. This could be a lawyer, parent, guardian, friend, etc. However please note they may not speak during the hearing. You are not required to have an advisor. **Please submit in writing if you will have an advisor present three business days prior to your hearing.**
- ❑ Prepare any relevant evidence (if applicable) to present during the hearing.
- ❑ Have your witnesses prepare to be questioned.
- ❑ Be prepared to enter a response to each charge (responsible or not responsible).

## *Narrative Account*

During the hearing participants will be asked to present a narrative account. This is not required. However, the benefit of presenting an account is that it provides an opportunity to share your account of what happened.

## *Things to include or consider in your narrative account*

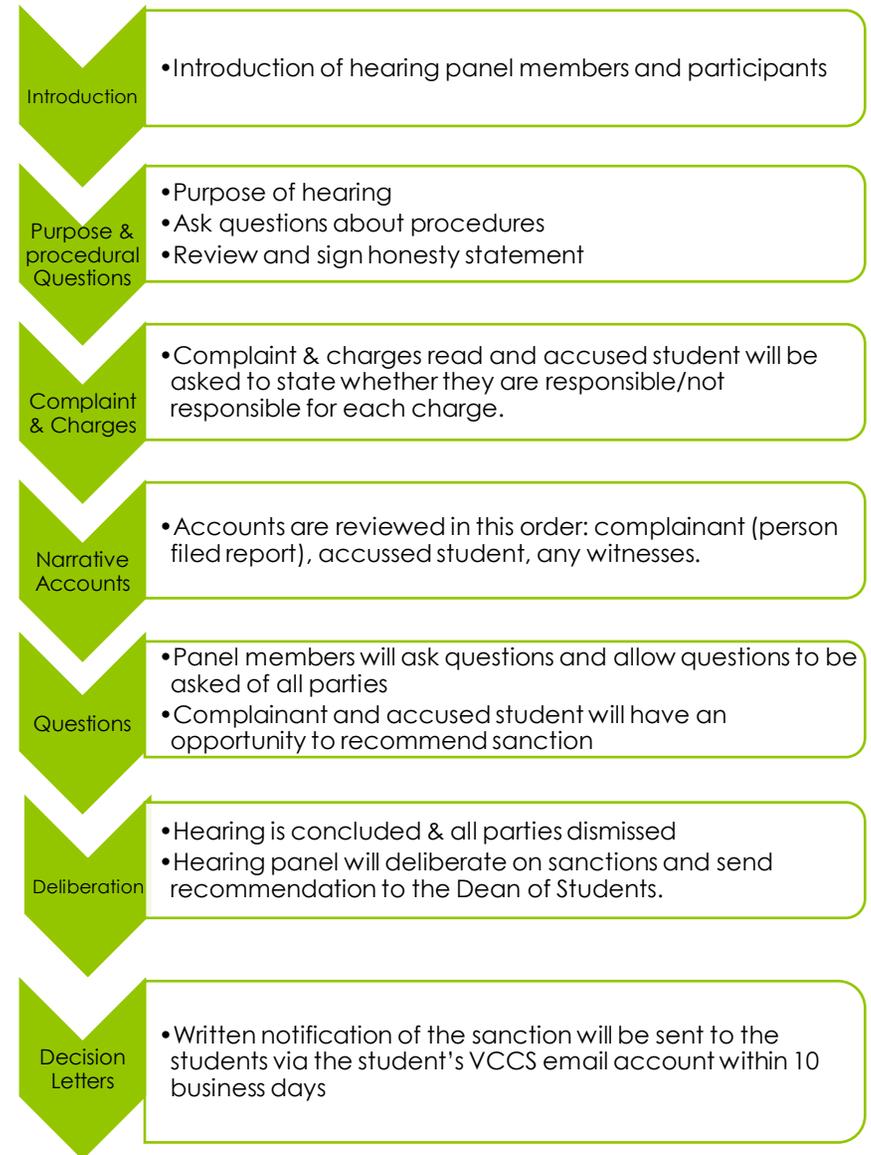
- ❑ Introductory comments about yourself such as: your major, career plans, how you like NOVA, where you are from, when and where you plan to transfer, etc.
- ❑ Describe what occurred from your perspective. It is most helpful to use chronological order in preparing your narrative.
- ❑ Try not to go off topic and avoid undue repetition.
- ❑ Explain any mitigating factors such as what you were feeling at the time, stresses you were dealing with, past experiences, what/who influenced you, etc.
- ❑ Determine appropriate times to introduce the evidence you have prepared (if applicable).

# At the Hearing

The hearing is an informal proceeding not comparable to a criminal trial. The hearing should be seen as an educational process. During the hearing, the panel or Dean of Students' objective is to determine the facts of the case, to make a determination of responsibility regarding the alleged violations of College regulations, and to recommend appropriate disciplinary sanctions, if necessary.

- ❑ This is a professional meeting be sure to be on time and prepared.
- ❑ If absent, the hearings may be conducted and the information pertaining to a hearing will be reviewed without your participation.
- ❑ Be truthful. A pattern of lying and fabrication may be considered when sanctions are determined.
- ❑ Be courteous and respectful.

# Hearing Procedures



## Terms Used in a Hearing

|  |  |
|--|--|
| <b>Accused Student</b>                                     | Any student accused of violating the student code of conduct   |
| <b>Complainant</b>   | Any individual that submits a complaint alleging that a student violated the Student Code of Conduct.  |
| <b>Allege/ Allegation</b>                                  | A claim or assertion that someone has done something wrong   |
| <b>Responsible</b>   | Accused student is found in violation of the Student Code of Conduct.  |
| <b>Not Responsible</b>                                     | Accused student is cleared of violating the code of conduct  |
| <b>Informal Hearing</b>                                    | A meeting between the accused student and the Dean of Students/Conduct Officer to discuss the allegations. Accused student will have an opportunity to hear the charges against them and enter a plea of responsible or not responsible  |
| <b>Formal Administrative Hearing with Dean of Students</b> | The Formal Hearing is an audio recorded hearing in which all parties have a chance to share their evidence with the Dean of Students. After listening to all sides the Dean of Students will determine if the accused student is responsible for violating the code of conduct |

## Terms Used in a Hearing

|  |   |
|--|---|
| <b>Evidence</b>  | Use of testimony (oral or written statements), exhibits (physical objects), and documentary material related to the incident.   |
| <b>Due Process</b>   | Guarantee that all students will be given notice of the proceedings and an opportunity to be heard.   |
| <b>Burden of Proof</b>                                       | The complainant must provide sufficient evidence to prove more likely than not that the accused party violated the code of conduct  |
| <b>Sanction</b>  | Penalty imposed in response to a violation of the code of conduct. There are two types of sanctions: Administrative and Educational   |
| <b>Appeal</b>  | To make a request to a higher authority to request a formal change to an official decision.   |
| <b>Formal Administrative Hearing with Disciplinary Panel</b> | A Disciplinary Panel includes three individuals- a faculty member, staff and (when possible) a student to hear a case, After hearing all parties the panel will determine the facts, renders a decision and recommends sanctions to the Dean of Students. |
| <b>Preponderance of the Evidence</b>                         | The standard is satisfied if there is greater than 50 percent chance that the proposition is true. In other words, Preponderance means "more likely, than not".   |



# After the Hearing

- ❑ The notification of the final outcome of the hearing will be sent within 10 business days after the hearing.
- ❑ Wait patiently and continue to focus on your academics.

## Appeal process

In the event of a finding of responsibility, you have the right to an appeal. Appeals must be submitted in writing and must include a basis for the appeal. All appeals must be in writing and received within 5 business days of written notification from the Dean of Students Office. *Note an appeal is not a "rehearing" in person which means that all correspondence will be in writing.*

The reasons for appeal are listed below:

- ❑ Procedural error occurred that impacted the outcome of the hearing.
- ❑ To consider new evidence unavailable during the original hearing or investigation.
- ❑ The sanctions imposed are too severe for the violation.

Submit your appeal to the appropriate Administrative Council official before the appeal deadline.

Once you submit the appeal with documentation supporting your appeal it will be reviewed first by the Provost, Vice President, or the Executive Vice President as defined by the Code of Conduct. The Provost's or Vice President's decision of an appeal is final. The information listed below are the possible outcomes of an appeal:

1. Find the Appeal is not timely or substantive and dismiss it.
2. The finding of responsibility is affirmed and the sanction imposed in the original decision is affirmed.
3. The sanction may be lessened.
4. Remand the case to the Dean of Students or panel for consideration of new evidence or a procedural error leads to the appointment of a new panel.

Please note with an appeal, you will never receive an increased sanctions. Pending the outcome of the appeal hearing, the disciplinary actions stipulated in the original hearing outcome shall not be imposed.

**Please refer to**

**<http://www.nvcc.edu/students/handbook/conduct.html>**



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# Frequently Asked Questions

## *Am I innocent before proven guilty?*

Yes, all students are given the presumption of innocence. Your hearing is not a criminal case therefore the College does not use the terms innocent or guilty. Instead, the College uses the terms responsible or not responsible.

## *Why can't my advisor speak for me?*

As this is an educational process, it is important that you participate in the hearing. The hearing panel or Dean of Students/conduct officer wants to hear your perspective and not the perspective of your advisor. However, keep in mind your advisor may advise you throughout the hearing. They simply may not speak for you.

## *Can't I just withdraw from NOVA to avoid this situation altogether?*

You certainly may withdraw from NOVA, however the hearing will be held in your absence and disciplinary sanctions may be imposed without your participation. Therefore it is advised that you participate in this process fully.

## *What are my rights?*

Your rights and responsibilities as a student may be located in the Student Handbook.

## *How will a disciplinary record impact transferring or my career goals?*

A disciplinary record is only maintained if a student has been found responsible for violating the Code of Student Conduct which may impact your ability to transfer and career aspirations.

## *What happens if I get kicked out of NOVA during the middle of the semester?*

If suspended or expelled in the middle of the semester it is imposed immediately or until the appeals process has been concluded. Your assigned grades in the class will be contingent on whether this takes place before or after the census date. In addition, you will not receive a refund for your classes except with extenuating circumstances.

## *What if I know one of the panel members?*

Please inform the hearing panel chair and provide information on how you know the panel member. The chair will determine next steps in the process.

# Frequently Asked Questions

## *What type of evidence is admissible?*

As this is not a criminal court, most forms of evidence are accepted. The types of evidence that may be presented are listed below:

**Direct Evidence:** Personal observations or experiences.

**Circumstantial Evidence:** Information that would lead a reasonable person to the conclusion that a student did what s/he is alleged to have done.

**Documentary Evidence:** Any supportive writings or documents including statements, reports, etc., that support or deny a fact at issue.

**Second Hand or "Hearsay" Evidence:** While it is acceptable to present second hand information, decisions will not be based solely on second hand information.

## *But I'm an adult and this process doesn't apply to me.*

Most students at NOVA are considered adults. Per your Rights and Responsibilities listed in the Student Handbook "By enrolling at NOVA, a student accepts its policies and procedures and acknowledges the right of NOVA to take action, up to and including suspension or expulsion in response to misconduct. Therefore you are considered a student and the code applies to you.

## *Will my parent or guardian be informed?*

Educational records are protected by the Family Educational Rights and Privacy Act (FERPA).

If a parent/guardian contacts us without your permission, we will not speak about the case with them as it is considered to be confidential. If you would like your parent/guardian or a lawyer to discuss the incident with us please have them complete a FERPA waiver form and submit it to our office.

# Frequently Asked Questions

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*This is causing me a lot of stress and anxiety. Is there someone I may speak with during this process?*

We certainly understand this may be a stressful process for you at this time. Below are some tips to assist you through this process. Please note this list is not extensive, page 18 provides a list of offices that may support you during this time.

- Set up an appointment to talk with a NOVA Counselor.
- Confide in individuals you can trust to discuss what you are going through. This could include parents, relatives, siblings, friends, faculty members, co-workers, etc.
- Make sure you continue to perform well academically. You may not know what the outcome will be, so your academics should remain a focus during this time.
- If you have health insurance that covers mental health counseling consider setting up an appointment with a provider in the area. If you do not have health insurance, set up an appointment with a NOVA Counselor they may be able to set you up with a program on campus.

*How long are hearings?*

This depends on the case, number of individuals involved (witnesses, respondents, complainants), and details of the case. Typically we recommend that you free up a good portion of the day for a hearing to prevent conflict with your class or work schedules. It is recommended you discuss this further with your hearing officer.

*I haven't been enrolled for the past two years. This shouldn't apply to me!*

NOVA considers individuals who have attended NOVA within the past three years to be a student. Therefore even if you are not enrolled, but an incident occurs that involves you while you are on campus or if a violation of College policies occurred while you were enrolled, then the institution may proceed with disciplinary action.

*But my incident took place off-campus. NOVA is not responsible for my behavior off-campus.*

Infractions of federal, state or local laws occurring off campus shall be the sole concern of the civil authorities except when such actions directly affect the health, safety, or security of the College community, affect the College's pursuit of its educational purposes, or occurs as a direct result of a College-connected disruption." Infractions that fall within these categories may be investigated by the College.

# Resources on Campus

## **NOVACares**

Connects students with community resources

<http://www.nvcc.edu/novacares>

## **NOVA Sexual Assault Services**

**(Sexual Assault, Dating/Partner Violence, Sexual Harassment,  
Stalking, Family Abuse)**

703.338.0834

Available 24/7

<https://www.nvcc.edu/novacares/sas/index.html>

## **Student Services**

Every campus has a Student Services Office. Please refer to the NVCC website to find specific office locations.

<https://www.nvcc.edu/student-services/>

## **Veteran's Services**

Every Campus has a Veteran's Counselor

Please refer to the NVCC website for more information.

<https://www.nvcc.edu/military/>

## **Office of International Student Services**

Every campus has an International Students Office. Please refer to the NVCC website to find specific office locations

<https://www.nvcc.edu/international/students.html>

## **Dean of Students Office**

Every campus has a dean of student's office. Please refer to the NVCC website to find specific office locations.

"It's the sum of all of your decisions over time; when you choose each day to live according to the standards you set for yourself, you build integrity on the inside and in the minds of the people around you.

Integrity is essential for a leader, because people will not willingly follow someone they cannot trust."

-John Maxwell

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**NOVA** | Northern Virginia  
Community College