

# Conduct Review Process

The Johnson & Wales University (JWU) Conduct Review Process, like the Student Code of Conduct, is designed to help the university maintain a safe, healthy, and positive environment for living, learning, and working, where students act lawfully and in compliance with university codes, practices, policies, procedures, or rules (collectively, "Rules"), and act with civility, honesty, integrity, and respect for themselves and others and the university community and the communities in which we live. The Conduct Review Process is used to support and enforce the Student Code of Conduct by providing procedures for determining whether a student is responsible or not responsible for a violation of the Student Code of Conduct. For the sake of simplicity, the Conduct Review Process refers to "students" as any persons who have applied to the university, have been admitted to the university, have moved into university housing, have started attending classes, or have taken a leave of absence from the university but may return without submission of an application for readmittance. Some such persons may not be students for other purposes, such as for purposes of the Family Educational Rights and Privacy Act (FERPA), pursuant to which a person is a "student" only once a person has started attending classes.

The Conduct Review Process applies to all violations by students of any Rules, except that it is subject to JWU's policy governing Academic Integrity, and it does not apply to certain types of issues outlined below and to claims that fall within the scope of JWU's Title IX Policy and Procedures. If any matter is dismissed as outside the scope of Title IX, then, in the sole discretion of the university, the university may bring charges and address such conduct under the Conduct Review Process, which will apply to matters outside the scope of Title IX. The university shall take such steps as needed to ensure compliance with any other university Rules, including the Student Code of Conduct. Such steps could include taking disciplinary action against respondents who are not subject to adjudication under the Title IX Policy and Procedures or are found not responsible for violations of the Title IX Policy and Procedures. For avoidance of doubt, a respondent may be found not responsible for Title IX violations but, thereafter, be found responsible for violations of any other university Rules, including, for example, violations of the Student Code of Conduct and Title VII.

Johnson & Wales University reserves the right to make changes to the Rules and any provisions contained in the Student Handbook at any time at its sole discretion. Notice of substantial changes will be shared via JWU email, which should be checked frequently for important updates from across JWU.

The university administers the Conduct Review Process in good faith, making every reasonable effort to be fair to all involved ("Fairness"); the concept of Fairness means the university will comply with the explicit provisions in the Conduct Review Process; the concept of Fairness does not give students any rights other than those in the explicit provisions of the Conduct Review Process. Further, the Conduct Review Process is not intended to, and does not, create a contractual agreement with any student or other individual, and it does not grant any student or other individual any contractual rights.

JWU may pursue any and all conduct charges against a respondent irrespective of whether there is any complainant, and references herein to complainants herein shall not be construed to mean that there must be a complainant or complainant participation as a condition of the procedures at issue.

Community Standards and Conduct generally follows the procedures contained in the JWU Communications with Students section of the Student Handbook whenever contact with students is necessary.

The university's Conduct Review Process does not replace the local, state, or federal civil or criminal court system. Generally, the outcome of civil or criminal proceedings concerning a violation will not control or be binding on the outcome of the Conduct Review Process for the same violation, subject to the exception articulated below.

There is an exception to that general rule in cases where students plead guilty to or are found guilty of crimes. The university has legitimate concerns if any of its students are convicted of crimes, even crimes that do not involve the university or other university students or personnel. In appropriate circumstances, the university may, in its sole discretion, impose sanctions, on the basis of the conviction alone, without following the Conduct Review Process, even in cases where the crime does not violate a specific provision of

the Student Code of Conduct. Sanctions may include university suspension, dismissal, or the revocation of an earned degree.

If a student is criminally charged with violation of any law, at any point during their time at the university, from acceptance to graduation, the student must notify the Community Standards and Conduct office immediately. Likewise, if a student pleads guilty to or is convicted of any crime at any point during their time at the university, from acceptance to graduation, the student must notify the Community Standards and Conduct office immediately. If a student fails to notify the Community Standards and Conduct office, the student may be charged with a violation of the Student Code of Conduct for failure to comply. Sanctions may include university suspension, dismissal, or the revocation of an earned degree. All students should be aware that it is the policy of the university to cooperate with local, state and federal law enforcement authorities in the investigation of crime. The university will not provide a sanctuary against criminal prosecution.

In accordance with the university's admissions application, any acceptance or subsequent enrollment to the university is conditioned upon the university's right to revoke such acceptance or subsequent enrollment at any time, before or after enrollment, (1) if a student provides false, misleading, or incomplete information or (2) if the university learns of any misconduct (whether past, present, or future) by the student that, in the university's sole judgment, would affect the student's ability to represent and uphold the standards of the university. Notwithstanding anything in the Conduct Review Process, any decisions to revoke acceptance or subsequent enrollment based on any conditions in the admissions application, as it may be updated from time to time, shall not be subject to the Conduct Review Process and, instead, shall be made by the applicable "Campus President" (i.e., the Providence campus president, for Providence or online students, and the Charlotte campus president for Charlotte students) or their designee ("Designee"). When the President or Designee determines that revocation of acceptance or subsequent enrollment is not warranted, then the Conduct Review Process shall apply. However, as to those students who are newly admitted or have applied for readmission to the university, the Conduct Review Process will apply in the case of misconduct that occurs after the earlier of (i) the date a newly admitted or readmitted student moves into on-campus housing (as applicable to students living on-campus) or (ii) after the official start of classes as applicable to a newly admitted or readmitted student's program, irrespective of whether such student has themselves attended any class.

In extraordinary or unusual cases, implicating health or safety of any student, employee, or anyone else in the university community, the Campus President or their Designee may bypass the Conduct Review Process as to any matter as such person determines appropriate in such person's discretion. In the case of a suspension or dismissal from the university, the affected student must immediately leave the campus, unless otherwise directed by the applicable Campus President or their Designee. In the case of a suspension or dismissal from the university, the affected student shall have 48 hours to appeal the decision to the university Chancellor through a written submission directed to the applicable Campus President or their Designee, who will forward the written submission to the Chancellor. The Chancellor will have full discretion to overturn the decision as the Chancellor deems appropriate in the Chancellor's full discretion.

## Recordings

To preserve the private nature of the Conduct Review Process, no participants may make their own recordings of any kind, at any stage of the process, which includes, but is not limited to: educational conversations, informational meetings, and hearings.

## Reports of Violations and Notification

Any individual who witnesses or becomes aware of an alleged violation of the Student Code of Conduct should report the violation to Campus Safety & Security, any professional staff member of Residential Life, the vice president of student affairs/dean of students, Equity & Compliance, or Community Standards and Conduct. Alleged violations may also be reported using one of the forms on the Report It page in jwuLink. Once an alleged violation is reported, an incident report will be prepared describing the nature and circumstances of the incident and the parties involved. Campus Safety & Security and other appropriate departments may conduct further investigation if additional or supplemental information is needed. All incident reports are reviewed in Community Standards and Conduct, and those that

warrant action are then referred for an informal warning letter, informal conflict resolution, an educational conversation or a hearing, depending upon the nature of the alleged concern or violation. The types of sanctions the university may impose are described on the Sanctions for Individuals page. They include, but are in no way limited to, removal from housing, suspension of privileges, suspension from the university, dismissal from the university, degree revocation, and payment of fines/restitution.

## Types of Resolution Options

### Informal Warning Letter

An informal warning letter is an email communication from a designated Student Conduct administrator identifying a concern or issue that can be remedied by informing or reminding the student of the university's Rules. Students who receive an informal warning letter will not be charged with any violations of the Student Code of Conduct or receive any sanctions.

### Informal Conflict Resolution

In some cases, in which a complaint is related to an interpersonal conflict, the parties may be offered the opportunity to resolve the matter through informal conflict resolution. Both parties must voluntarily agree to informally resolve the conflict. If informal conflict resolution is unsuccessful, the case may be referred back for resolution via an administrative hearing. When a student is referred for, and agrees to informal conflict resolution, the student will not be charged with any violations of the Student Code of Conduct or receive any sanctions.

### Educational Conversation

When a student is referred for an educational conversation, the student will not be charged with any violations of the Student Code of Conduct or receive any sanctions. However, a designated Student Conduct administrator will engage the student in a conversation to ensure that the student understands the behavioral expectations of Johnson & Wales University. Students who fail to attend an educational conversation will receive a hold on their account preventing future registration until they attend an educational conversation.

### Acknowledgement of Responsibility

Prior to a hearing, the student may be asked whether they wish to waive the hearing by acknowledging responsibility. In these cases, the student will receive an official notification describing the alleged violation(s), the associated charge(s), and the sanction(s) that will be imposed if the student acknowledges responsibility. If the student acknowledges responsibility for the violation(s)/associated charge(s) and agrees to the sanction(s), the student will not be entitled to an appeal. If the student does not acknowledge responsibility for the violation(s)/associated charge(s), an administrative hearing will proceed.

### Administrative Hearing

A student who is formally charged with violating the Student Code of Conduct will be entitled to an administrative hearing, unless the student accepts responsibility for the violation(s)/associated charge(s). Administrative hearings are held before a single hearing officer, designated by Community Standards and Conduct.

The role of the hearing officer is to consider information provided from the investigation, complainant, respondent and any witnesses, in order to make a finding of "responsible" or "not responsible."

When a student is referred for a hearing, the student will receive an official notification describing the alleged violation, the associated charge(s), and the time and place for the hearing. In cases in which a finding of "responsible" may result in university suspension, dismissal, or revocation of a degree, a Community Standards and Conduct staff member will notify the student of the possible outcome and offer them the opportunity to participate in an informational meeting, ahead of the formal notice of an administrative hearing by the hearing officer. Enrolled students will receive this notification via their JWU email account. Remember that it is the student's responsibility to check their JWU email account regularly.

### Generally Applicable Procedures

Community Standards and Conduct and/or the appropriate student conduct administrator will consult the student's academic schedule prior to scheduling any meetings or hearings. If there is a legitimate need to reschedule an educational conversation, informational meeting, or hearing, the student must contact Community Standards and Conduct as early as possible before the scheduled date to request rescheduling. Community Standards and Conduct will determine whether the request to reschedule is

reasonable. Depending on the circumstances, meetings and hearings may be held in person or via telephone/video conferencing.

When an incident report is received that involves a student respondent not currently enrolled in classes, the student will receive a hold on their account preventing future registration until the conduct matter is resolved. In the case of pending conduct proceedings, the university may place a hold on the student's account, preventing the conferral of a degree and withholding a respondent's diploma pending resolution of the conduct proceedings and application of sanctions, if any.

Students requesting an accommodation to fully participate in the Conduct Review Process must contact Accessibility Services on their respective campus. A representative from Accessibility Services will make a determination regarding the request.

### Protective or Interim Measures for all Matters

Protective or interim measures (such as No Contact Orders, room relocations, classroom relocations, interim suspensions, etc.) may be available at any point during the course of the investigation and hearing and will remain in effect until the conclusion of the Conduct Review Process, including any appeals process. The university will complete the Conduct Review Process within a reasonably prompt time frame, usually within 60 days, but this timeframe may be extended in certain cases, in which case written notice will be provided to all parties describing the reason for extension.

If a student violates any protective or interim measures or the directions of a university representative to avoid another person, the student will be charged with a violation of the Student Code of Conduct for failure to comply.

The university may temporarily discontinue student access to any part of the campus as an interim measure if it determines (1) the student has failed to comply with university directives or respond to university outreaches; (2) the student constitutes a threat to health and safety; or (3) the student is suspended or dismissed (pending any appeal).

### Administrative Hearing Procedures

Students have the right to participate in the Conduct Review Process without having past student conduct violations discussed or used when a decision of responsibility is being made concerning a current alleged violation; however, past violations may be considered when determining a sanction for an individual found to be responsible for a violation of the Student Code of Conduct. Students have the obligation to participate in the Conduct Review Process, as a witness, when asked by a university representative. Complainants are permitted to participate in the Conduct Review Process insofar as Community Standards and Conduct determines in its sole discretion that such participation is appropriate (e.g., in cases where it would be helpful to the Conduct Review Process). Community Standards and Conduct may disclose the outcome of the Conduct Review Process to the complainant as required or permitted by applicable laws.

*Complainants and respondents shall:*

- Be advised of the hearing process. For cases that may result in suspension, dismissal, or revocation of a degree, the student will be offered an opportunity to have an informational meeting with a Community Standards and Conduct staff member prior to the hearing. Students have the right to acknowledge responsibility — thus waiving their right to a hearing and appeal — during an informational meeting.
- Be permitted to review the incident report and/or allegations and any supplemental information. In cases that may result in suspension, dismissal, or revocation of a degree, if requested, the university will provide the student with a redacted copy of the unusual incident report related to the complaint; however, the student will be required to agree, in writing, to keep the report confidential.
- Be permitted to submit a written statement, responding to the incident report and/or allegations ahead of the hearing. If a student wishes to submit a statement, it must be sent directly to the hearing officer no less than one business day (and not less than 24 hours) before the hearing.
- Be accompanied by an advisor of their choice during the hearing and any related meetings. An advisor may not be any person who was involved in the investigation as a reporting party or who is a witness. If Community Standards and Conduct determines there is a conflict of interest related to the advisor, Community Standards and Conduct reserves the right to disqualify an advisor. The student would then be required to obtain a new advisor. Advisors may attend the hearing with the student but cannot participate in any manner. This means, among other things, an

advisor may not speak on the student's behalf, nor ask questions of others; the advisor may observe. If the student would like to consult their advisor during the course of the hearing, they may request a brief recess to speak with their advisor privately outside the hearing room. It is in the hearing officer's discretion whether to grant the request. When possible, the hearing officer will make reasonable adjustments in order to accommodate an advisor's schedule. However, the hearing officer is not obligated to reschedule meetings and/or hearings to accommodate the advisor. A student may select a new advisor in the event of a scheduling conflict. It is the student's responsibility to correspond with their advisor about the logistics of any meetings or hearings.

- Be permitted to present witnesses with personal, relevant knowledge of the incident; however, the statements of other witnesses, such as character witnesses, will not be considered. Personal knowledge means knowledge gained through firsthand observation or experience. Students must provide to the hearing officer the names, contact information, and a brief summary of the information that any witness will present during the hearing no less than 48 hours before the hearing date/time. The hearing officer may choose not to hear from the witness if the information is not relevant, is expressly addressed in the incident report or is redundant. The hearing officer has discretion to decide whether to hear from a witness directly or whether to consider only a written statement of the witness, if the witness is unable to participate in the live hearing. The hearing officer may ask questions of the witness if hearing the witness live. If hearing the witness live, the complainant and respondent may submit questions of the witness for the hearing officer to consider. The hearing officer will decide whether to ask the submitted question(s). Students will not have the opportunity to directly question witnesses or other parties. It is the responsibility of the complainant and respondent to arrange for the witness to attend the hearing or to have the witness submit a written statement. All written statements must be submitted directly from the witness, through the witness JWU email account or by a notary public, to the hearing officer no less than one business day (and not less than 24 hours) before the hearing date/time. Failure of a witness to participate in the hearing does not invalidate the hearing or outcome. The hearing officer may request the attendance of witnesses not proposed by the parties.
- Be permitted to offer relevant evidence. While most relevant evidence should be presented during the investigation, students may submit additional relevant evidence that supports or rebuts the allegations about whether or not there was a violation of the Student Code of Conduct for the hearing officer's consideration; students must submit such relevant evidence to the hearing officer at least 48 hours prior to the hearing date/time. Evidence is relevant if it has any tendency to make a fact more or less probable than it would be without the evidence and the fact is of consequence in determining a matter in dispute. Relevant evidence may include, for example, documents, emails, photographs, receipts, social media posts, texts, timelines, videos, etc. When applicable, any documents provided will be shared with the other parties. Evidence of character, habits, personality, or reputation are not generally relevant to whether a violation of the Student Code of Conduct occurred. The hearing officer has discretion to decide whether the submitted evidence is relevant.
- Be permitted to hear and provide a response to evidence presented during the hearing.
- Be permitted to request a reasonable delay to a hearing. This request will be reviewed by Community Standards and Conduct, which will make a decision in its discretion as to whether the request can be granted or denied.

#### *During the Administrative Hearing:*

- A recording of the hearing shall be made, but only if a finding of responsibility could result in suspension, dismissal, or revocation of a degree. The recording may be made available to the appellate officer but only if relevant to the appeal.
- Rules of evidence and/or procedures that are used in criminal or civil court proceedings will not apply.
- Complainants and respondents may, if they choose, provide opening statements, present any witnesses that have been identified and verified to have relevant knowledge, as outlined above, and provide closing statements. The hearing officer may ask questions of complainants, respondents, and their witnesses.

- Any unexcused failure to attend a hearing will result in the hearing being held in the student's absence. The hearing officer will then make a decision based on the available information, without the benefit of the student's participation in the hearing.

### **Outcome**

*Upon the conclusion of the Administrative Hearing (in which the outcome would NOT result in suspension, dismissal, or revocation of degree):*

- The hearing officer will determine responsibility for the alleged violation(s) using a "more likely than not" standard.
- If the student is found responsible for one or more violations of the Student Code of Conduct, the hearing officer will determine the most appropriate sanction(s) based on, but not limited to, the circumstances of the incidents and the student's past conduct history.
- The hearing officer or Community Standards and Conduct staff member will prepare the appropriate outcome notification that will outline the findings, sanctions, and information regarding the appeal process. This notice will be sent to the student's JWU email account.

*Upon the conclusion of the Administrative Hearing (in which the outcome MAY result in suspension, dismissal, or revocation of degree):*

- The hearing officer will determine responsibility for the alleged violation(s) using a "more likely than not" standard. If the hearing officer is not a Community Standards and Conduct staff member, the hearing officer will refer the case back to Community Standards and Conduct for sanction consideration.
- If the student is found responsible for one or more violations of the Student Code of Conduct, Community Standards and Conduct will determine the most appropriate sanction(s) based on, but not limited to, the circumstances of the incidents and the student's past conduct history.
- A Community Standards and Conduct staff member will prepare the appropriate outcome notification that will outline the findings, sanctions and information regarding the appeal process. This notice will be sent to the student's JWU email account.

### **Appeal**

Except as expressly indicated elsewhere herein, the decision of the hearing officer is final unless it can be demonstrated that one of the following has occurred:

- There is relevant, new information that was not available at the time of the hearing and that reasonably could have altered the outcome of responsibility.
- The Conduct Review Process, as outlined, was not followed.

However, no appeal shall be available for any violation of the prohibition against discrimination on the basis of any category protected under federal law. For cases involving student discrimination on the basis of any category protected under federal law, any finding shall not become final until reviewed by the applicable Campus President or Designee. Such Campus President or Designee shall review the full record, contact the parties or any witnesses if they deem it appropriate to do so, and either approve the finding, disapprove the finding, or approve it in part and disapprove it in part; if it is disapproved in whole or in part, the Campus President or Designee shall state the remedy (reversal, another hearing, etc.). The Campus President or Designee will issue a brief written statement for distribution to all parties, identifying their conclusions and remedies, if any. Generally speaking, the brief written statement shall issue within 15 days of the finding regarding responsibility but could take more time as needed in the discretion of the applicable Campus President or Designee.

To request an appeal, a student must submit a request in writing to Community Standards and Conduct. Written appeals must be submitted using the Appeal Request Form. **Only appeals submitted using the online form will be considered.** The request must be submitted within five business days after the date of notification of the outcome of the hearing. The appeal must state clearly the basis for the appeal, and explain how any of these grounds would have reasonably altered the outcome of responsibility. Students should include any supporting information or documentation that is relevant to their appeal request. **Disagreement with the sanctions imposed shall not constitute grounds for appeal.**

For cases in which the hearing officer was a Residential Life staff member, the director of Community Standards and Conduct or their designee will serve as the appellate officer. For cases heard by Community Standards and Conduct

staff, the vice president of student affairs/dean of students or their designee will serve as the appellate officer. For all Academic Integrity cases, the provost or the provost's designee will serve as the appellate officer.

Upon receipt of the appeal, the appellate officer will review the appeal and case file. There is no option to meet with or present information to the appellate officer. For this reason, it is important that students submit sufficient information and documentation along with their appeal. A decision concerning the appeal generally will be available within 10 business days after the appeal has been received. When the appeal review is unable to be completed within the 10-business day time frame, the parties will be notified of the delay and reason for the delay.

The sanction(s) outlined in the outcome notice will not go into effect until the conclusion of the appeal process. If interim measures were placed, those conditions will remain in effect until the conclusion of the appeal process. The appeal will either

- Be denied or
- Be granted, remanding the case back for a new hearing

The decision of the appellate officer will be final. The student will receive a final written decision from the appeal officer, which will set forth the outcome of the appeal.

### **Sanctions Approval**

Notwithstanding anything to the contrary herein, after the appeal process, if any, is completed or expires, any sanction shall be approved as follows: (1) for a sanction of dismissal or revocation of a degree, by the applicable campus vice president of student affairs/dean of students, or such person's designee, (2) for any Grade Sanction, by the provost or such person's designee, and (3) for any other sanction, by the director of community standards and conduct or that person's designee. If the applicable campus vice president of student affairs/dean of students, provost, or director of community standards and conduct, or any such person's designee does not approve the sanction, they have full authority to modify it in any fashion they see fit. It is expected that the sanctions decision will rarely be modified, and the presumption shall be that no modification shall be made. The decision of the applicable campus vice president of student affairs/dean of students, the provost, or the director of community standards and conduct, or any such person's designee shall be made in no more than fifteen (15) days and need not be accompanied by any reasoned decision.

**At any time in the Conduct Review Process, Community Standards and Conduct or any other university employee involved in this process, may consult with other appropriate university personnel, including a university dean, an associate dean, or some other appropriate personnel.**

### **Complaints of Sexual Harassment, Sexual Assault, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking**

For complaints of sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence and stalking, the following procedures will apply in connection with the Conduct Review Process, in addition to the procedures outlined above:

- University officials involved in the investigation and hearing will receive annual training on issues related to sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence and stalking, and how to conduct such an investigation.
- Both parties will be simultaneously informed in writing of the outcome of the hearing and any appeal, including when such results become final. This includes disclosure to the parties of any sanction imposed that pertains to a sex offense and any sanction imposed that directly relates to the complainant with respect to other alleged sexual harassment violations. The parties do not need to submit a request for such information.

### **No Retaliation for All Matters**

Retaliation, including intimidation, threats, coercion or discrimination, against any individual who has made a good faith complaint, or who has participated in the Conduct Review Process, is unlawful and in violation of university policy. Anyone found to have engaged in retaliation will be subject to disciplinary action up to and including dismissal or termination from the university.