

## **Information and Frequently Asked Questions for attorney/advisors to students adjudicated through the Office of Student Conduct & Civility Education**

The student conduct process promotes learning and student development by adjudicating alleged student misconduct; contributes to the educational mission and core values of the university community through adjudication of the Code of Student Conduct; and assures standards of acceptable behavior that protects students' health, safety, welfare, and property (taken from Student Conduct & Civility Education mission statement)

The student conduct process is not comparable to a court of law, criminal proceeding or civil proceeding and therefore the role of the attorney is also dissimilar. The role of the attorney/advisor is one of a friendly observer. This friendly observer is not an active participant and may not participate in the hearing. They can attend the hearing as a support to the student and can guide or advise the student on what questions to ask or answer during their university hearing.

Attorneys or advisors assisting students as they navigate the student conduct process are encouraged to familiarize themselves with the Code of Student Conduct (found at [www.towson.edu/judicialaffairs](http://www.towson.edu/judicialaffairs)). This document describes in detail, the scope of the code of conduct, procedures, prohibited conduct, and possible sanctions.

“...The attempted analogy of student discipline to criminal proceedings against juveniles and adults is not sound. The nature and proceedings of the (campus) disciplinary process...should not be required to conform to federal processes of criminal law, which are far from perfect, and designed for circumstances and ends unrelated to the academic community.” 44F.R.D. (142) (W.D. Mo.) General Order on Judicial Standards of Procedures and Substance of Student Discipline in Tax Supported Institutions of Education

Pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), and the implementing regulations, the Office of Student Conduct & Civility Education cannot discuss a student's record with an outside agent without written permission granted by the student. This Disciplinary Record Authorization Form can be found at: [www.towson.edu/judicialaffairs](http://www.towson.edu/judicialaffairs). Absent this form, staff members are limited to discussing university policies and procedures and not the specifics of any student's disciplinary record.

## **Frequently Asked Questions**

**Q: I have been asked to represent a student in the conduct process. How do I establish this with the university?**

A: It is the practice of the Office of Student Conduct & Civility Education to correspond at all times directly through the student and not through any third party. In order for the Office of Student Conduct & Civility Education to speak with you, we first need a signed Disciplinary Record Authorization Form (see above) from the student. Once this has been submitted, we can speak with you about any charges against your student and their status in the student conduct process.

**Q: What happens if my client refuses to participate in the student conduct process?**

A: As per the Code of Student Conduct, if the accused student refuses to participate in the student conduct process, the university hearing will take place in the absence of the accused student. If a student chooses not to attend or not to speak during the hearing, the hearing board will make a decision based on information presented during the university hearing by witnesses on behalf of the university and on behalf of the accused student. The student may not use his or her refusal to participate as a later ground for appealing a decision.

**Q: Why isn't my client afforded the same protections that he/she would receive in the criminal process?**

A: The student disciplinary system is not judging criminal guilt, but rather whether a student has violated campus policies. The courts have long recognized the differing interests of the University community from that of the criminal justice process. Although there are basic concepts of fairness that apply to student disciplinary proceedings, the student disciplinary system serves administrative and educational functions relating to the mission of Towson University. Therefore, many of the intricate rules and processes found in a court system are not applicable to university disciplinary procedures.

**Q: The incident took place off campus. What interest does the university have in the incident?**

A: The behavior demonstrated by Towson University students reflects not only on themselves but also the university community. Therefore, students are subject to action taken against them by the University off-campus behavior as well as for on-campus behavior.

**Q: My client is charged with a crime off campus. Can I get the proceedings delayed until the criminal matter is concluded?**

A: The University's disciplinary process will normally proceed independently of pending criminal charges. Students charged with a violation of local, state, or federal laws for off-campus behavior may be disciplined by the university without a university hearing. If a request is made by a student with pending criminal charges to delay the university's disciplinary process, the university reserves the right to take interim or emergency action against the student pending the outcome of the disciplinary process.

**Q: What is the burden of proof in the conduct process?**

A: The burden of proof in the student conduct process is preponderance of the evidence.

**Q: Who makes the decision regarding my client's innocence or guilt?**

A student can be found responsible by either a university hearing board (for cases that could typically result in suspension or expulsion from the university) or a staff member within the Office of Student Conduct & Civility Education (for cases that typically result in any lesser sanction).

**Q: What is the appeal process?**

A: Students found responsible for a violation of the Code of Student Conduct will be given a deadline for appeal within their decision letter. Appeals are made in writing to the Office of Student Conduct & Civility Education and will be considered by the appropriate party. The basis for appeal must be one of the following:

- a. A flaw in the student's right of due process
- b. Evident bias in the decision of the hearing board or the individual conducting an informal investigation.
- c. Inconsistent or overly severe sanction imposed
- d. New evidence or insufficient consideration of all aspects of the situation.

Students who have been suspended or expelled from the university may appeal to the Student Appeals Committee via the Office of Student Conduct & Civility Education, and then, if necessary, to the president of the university. Any disciplinary decision resulting in removal from university housing can be appealed to the Student Appeals Committee. Any decision resulting in a lesser sanction may be appealed to the Office of Student Conduct & Civility Education.

Students will be informed in writing as to the status of their appeal once a decision has been rendered.

**Q: What other resources available for me to learn more about the law as it relates to campus conduct proceedings?**

A: Here is a list of publications that may be useful:

Kaplin, William A. & Barbara A. Lee. (2006). *The law of higher education*, (4th ed.). San Francisco: Jossey-Bass.

Bickel, Robert D. & Lake, Peter F. (1999). *The rights and responsibilities of the modern university: Who assumes the risk of college life?* Durham, NC: Carolina Academic Press

Paterson, B.G. & Kibler, W.L. (1998). *The administration of campus discipline: Student, organizational, and community issues*. Asheville, NC: College Administration Publications, Inc.