



# **Judicial Board Code**

Effective August 5, 2022

## **Preamble**

The Judicial Board shall hear cases concerning alleged violations by members of the student body of the Honor Principle, community rules or college policies, rules, regulations, or contracts, except for allegations involving sexual assault, sexual harassment, stalking, relationship abuse, including dating or domestic violence which shall be heard by the Sexual Misconduct Board or adjudicated according to the Title IX Grievance Procedure for Students. These Boards shall hear cases brought by current or former members of the Reed Community against any individual who has allegedly committed a violation while a member of the student body. Separate grievance procedures are available to community members for cases concerning alleged violations by members of the faculty or staff of the college.

For the purposes of the Judicial Board Code, the Reed College Community shall be defined as consisting of all currently employed faculty, administration and staff members, and student body members who are either currently enrolled, registered, on leave, or are eligible to enroll. Except where specified, all rules and procedures for the Judicial Board also apply to the Sexual Misconduct Board.

## **Section 1. Composition and Selection Procedure for the Judicial Board**

**1.A.** The Judicial Board should consist of at least twelve members of the student body.

**1.B.** The Student Senate shall choose members of the Judicial Board after it has interviewed those applying. Current members of the Judicial Board who are not themselves applicants under consideration shall assist the Senate in making these appointments. To be eligible for service on the Judicial Board, students must have been enrolled at Reed College for one or more years and must never have been found responsible, under the processes described in this code, for a violation of the Honor Principle or college policies (except for findings of responsibility for minor academic misconduct).

**1.C.** Appointments to the Judicial Board should normally be made at the end of each academic semester; terms begin the semester following the appointment, and run the length of two contiguous semesters.

**1.D.** “Hearing Board” is the set of individuals chosen to hear a given case; “hearing” is the Judicial Board process for individuals to give testimony to the Hearing Board; “deliberation” is the process by which the Hearing Board discusses among itself its fact finding, recommendations, and proposed sanctions. “Parties” to a case include the complainant and respondent, whereas “participants” include the parties and any witnesses, seconds, and Hearing Board members.

**1.E.** The Chair(s) of the Judicial Board shall be chosen by the outgoing Judicial Board from among the appointed members at the end of each academic year, for a term beginning at the close of that academic year.

**1.F.** Should any member of the Judicial Board resign, be removed because they have been found responsible for a violation of the Honor Principle or college policies (except for findings of responsibility for minor academic misconduct) or be removed under 1.G, the Student Senate shall schedule an appointments process and fill the vacated seat as quickly as possible. If the need to fill a vacancy arises, the Judicial Board Chair(s) may

appoint a temporary member until such time as the Student Senate appoints a regular member. If a Chair of the Judicial Board resigns from the Judicial Board or resigns as Chair but remains on the Board, the Judicial Board shall choose another Chair from its ranks.

**1.G.** After consultation with its Board Advisors (see 1.M), the Judicial Board may remove any member for negligence of duty by a simple majority vote. The vacated position shall be filled in accordance with 1.F.

**1.H.** Should any current member of the Judicial Board participate in a hearing as a witness, complainant, or respondent, or be successfully challenged for bias by a complainant or respondent according to 4.F.i, that member shall not serve on the Hearing Board for that case, and a replacement shall be chosen (if none is available, see 1.F).

**1.I.** The Student Senate shall interview applicants from the student body and appoint qualified candidates in order to form a pool of Secretaries. A Secretary shall keep minutes of the Judicial Board hearings. The Secretaries shall not be present at Judicial Board deliberations (see 4.M).

**1.J.** The Chair of the Hearing Board shall be responsible for the maintenance of complete files, including a transcript for any in-person hearing, correspondence to and from the Hearing Board, and all recommendations of the Hearing Board. The Chair of the Hearing Board shall forward the case file to the Dean of Students immediately after the Board concludes its work on the case.

**1.K.** During periods in which the College is not officially in session or the Judicial Board is unable to convene, the Vice President for Student Life shall appoint a Temporary Hearing Board in order to hear a case if it does not involve academic misconduct. This board shall be composed of five members of the Sexual Misconduct Board (or at least three members of the Sexual Misconduct Board if more trained members are not available), one of whom shall serve as Chair of the Temporary Hearing Board.

**1.K.i.** If a Temporary Hearing Board with such membership cannot be appointed due to unavailability or ineligibility, as outlined in 1.H, then the Vice President for Student Life shall appoint another community member(s) to serve as Chair and/or member(s) of the Temporary Hearing Board.

**1.K.ii.** At least one student shall be appointed to the Temporary Hearing Board.

**1.K.iii.** The Temporary Hearing Board shall follow the procedures of the Judicial Board as set forth in Section 4; however, a Board Advisor to the Judicial Board (see 1.M) shall perform the duties of the Procedural Aide. If a Board Advisor is not available, the Chair of the Temporary Hearing Board will appoint a Procedural Aide.

**1.L.** If a case of academic misconduct must be heard while the College is not officially in session or due to unavailability or ineligibility of a Hearing Board as outlined in 1.H, the case shall be heard by the faculty members of the Administration Committee. The Administration Committee shall follow the procedures of the Hearing Board as set forth in Section 4, with the following exception: an administrative member of the Administration Committee shall also perform the duties of the Procedural Aide.

**1.M.** The Judicial Board should have two Staff Board Advisors and two Faculty Board Advisors. These Advisors will not be participants in any part of the judicial process except as specified in 1.K.iii, but will be informal educational representatives of the College. The Board Advisors will be responsible for working with the Judicial Board

Chair(s) to arrange training during the first weeks of each semester, consulting with the college legal counsel on behalf of the Judicial Board, and advising the Judicial Board on procedural and substantive questions that arise during the year.

**1.M.i.** In choosing the Staff Board Advisors, the Vice President for Student Life, in consultation with the Judicial Board Chair(s), shall propose their selection to the Student Body President, who shall, after consulting with the Judicial Board Chair(s), present the selection to the Student Senate for approval by vote.

**1.M.ii.** In choosing the Faculty Board Advisors, the Dean of the Faculty, in consultation with the Judicial Board Chair, shall propose their selection to the Student Body President, who shall, after consulting with the Judicial Board Chair(s), present the selection to the Student Senate for approval by vote.

## **Section 2. Duties and Responsibilities of the Judicial Board**

**2.A.** Unless it concludes that a case is not within its proper purview as stated in Section 3, the Judicial Board shall have the responsibility to hear, investigate and determine the facts about every complaint brought before it and to recommend action appropriate to the circumstances of the case.

**2.B.** All members of the Judicial Board should meet for training at least once during the first two weeks of each semester with both the Staff Board Advisor(s) and the Faculty Board Advisor(s).

**2.B.i.** The Judicial Board Chair(s) may consult with the Board Advisors both before proceeding with any case and before making its recommendation.

**2.B.ii.** In addition to the annual training meetings, the entire Judicial Board should meet with the Advisors at least once a semester.

**2.C.** The Judicial Board may hold regular, weekly closed meetings.

**2.D.** The Judicial Board should publish an article in the Quest at the beginning of each semester stating the purpose of the Judicial Board and the processes involved in bringing a case. The article shall include the names of and contact information for the Judicial Board and the Sexual Misconduct Board. Any member of the Reed Community may discuss the judicial system and procedures with a member of the Judicial Board at a mutually convenient time.

**2.E.** After consultation with its Board Advisors, the Judicial Board Chair(s) may update or revise procedural documents and those documents that convey to the parties involved their rights and obligations.

## **Section 3. Reporting Violations to the Judicial Board**

**3.A.** Any current or former student(s), faculty member(s), or staff member(s) of Reed College may bring a complaint on behalf of themselves, other individual(s) or the community as a whole to the Judicial Board or the Sexual Misconduct Board for an apparent student violation of the Honor Principle, community rules or College policies, rules, regulations or contracts. Both the complainant and the respondent must have been members of the Reed Community at the time when the alleged violation occurred. The Sexual Misconduct Board shall concern itself with all complaints that essentially involve an accusation of sexual assault, sexual harassment, stalking, or relationship

abuse, including dating or domestic violence, as construed in 10.A. The Judicial Board shall concern itself with all other complaints, with the exceptions of allegations of academic misconduct (which may be adjudicated by the Administration Committee) and of minor violations of the Alcohol and Other Drug Policy (which may be adjudicated by the Alcohol and Other Drug Review Panel).

**3.B.** The Vice President for Student Life, or in case of the Vice President's absence, the Dean of Students may, in case of emergency, take immediate action against a student for an alleged violation as specified in 3.A, but in most cases must forward a complaint to the Judicial Board or the Sexual Misconduct Board within six working days, counting only days while the college is in session, or be required to withdraw such action. In no such case will such a delay be longer than ten working days. The Vice President's or Dean's emergency action shall remain in force until the conclusion of the judicial process.

**3.C.** Any complaint alleging sexual assault, sexual harassment, stalking, or relationship abuse, including dating or domestic violence can be submitted to the Title IX Coordinator for Reed College or the Chair(s) of the Sexual Misconduct Board. If the Sexual Misconduct Board Chair(s) receive the complaint, they must share the information with the Title IX Coordinator for Reed College so that the Title IX Coordinator can determine if the complaint will be handled according to the process described in the Title IX Policy, Section V (and later) and the Title IX Grievance Procedure for Students, or if the complaint will instead be handled by the Sexual Misconduct Board according to the procedures described in this Judicial Board Code. For complaints where the Title IX Coordinator determines that the alleged behaviors are not covered by the college's Title IX Policy and the definitions therein (Section II), then the Sexual Misconduct Board Chair(s) will determine if the complaint meets the definitions required by this Judicial Board Code so that it will be heard by the Sexual Misconduct Board. If the Chair(s) of the Sexual Misconduct Board concludes that the alleged violations do not fall under the purview of the Sexual Misconduct Board, the Sexual Misconduct Board Chair(s) will inform the complainant that the complaint should instead be filed with the Judicial Board. If a complaint is initially filed with the Judicial Board and the Chair(s) of the Judicial Board determines that it is a complaint that alleges any of the previously mentioned violations regarding sexual misconduct, the Chair(s) will inform the complainant that the complaint should properly be filed with the Sexual Misconduct Board. If there is a disagreement between the Chair(s) of the Judicial Board and the Chair of the Sexual Misconduct Board whether a complaint alleges sexual assault, sexual harassment, stalking, or relationship abuse, including dating and domestic violence, the position of the Sexual Misconduct Board Chair shall prevail. Once a complaint has been submitted and accepted, the Chair(s) of the Board accepting the complaint shall file a copy of the complaint with the Dean of Students before the case is heard.

**3.D.** The written complaint must include: (1) a statement of the grounds on which the complainant(s) believes that a violation has occurred under 3.A; (2) a list of the names of the persons believed to have committed a violation as specified in 3.A, if those persons are known to the complainant(s); (3) a brief description of the actions that the complainant(s) believes do constitute a violation as specified in 3.A; (4) a list of witnesses with a statement indicating the expected relevance of their testimony; (5) in cases that can be mediated, a statement of why non-judicial resolution or mediation was unsuccessful or did not occur; (6) a statement that consents to the disclosure of the complaint to the respondent(s). Beginning with the written complaint and continuing

through the entire adjudication process, participants are expected to act honorably in their communications with the Hearing Board.

**3.E.** For cases that can be mediated, the Judicial Board and the Sexual Misconduct Board reserve the right to recommend alternative resolution to the parties of a case as specified in Article V sec. 1 of the Community Constitution. Cases referred to the Judicial Board by the Academic Misconduct Review Panel or the Alcohol and Other Drug Review Panel are not subject to referral to formal mediation. If alternative resolution is refused or fails, the appropriate Board shall take up the case.

**3.F.** The Judicial Board and the Sexual Misconduct Board reserve the right to proceed with cases also being adjudicated outside the College. The Judicial Board and the Sexual Misconduct Board can defer a case pending resolution of an investigation and/or adjudication outside the College. In case of deferral, after notice from the complainant that the process outside the College has concluded, the Board shall determine whether it is necessary to proceed with the case in accordance with any relevant legal requirements. If the Board decides to proceed with the case, it will do so using the procedures outlined in this policy. The Judicial Board and the Sexual Misconduct Board can refuse to proceed with a case if the Board determines the case has been resolved through faculty or administrative means, by previous Board cases, or adjudication outside the College.

**3.G.** The Chair(s) of the Judicial Board shall normally report each written complaint to all members of the Board within seven calendar days. The complaint, any response, all submitted testimony, and all deliberations and recommendations of the Student Judicial Board shall be held confidential by all participants, except as provided for in 8 below. Participants may divulge their role in a case, but not the subject matter of the case or any other participant involved in the case.

**3.H.** If parties accuse each other of unrelated violations, generally the charges should be addressed in separate hearings. The Judicial Board may join two or more cases if the Judicial Board determines that there is substantial overlap due to the cases having the same complainant(s) or respondent(s) or involving the same alleged incident(s). This determination cannot be appealed.

## **Section 4. Hearing Board Procedure**

**4.A.** Upon receipt of the complaint the Judicial Board shall meet to discuss the specific procedures for handling the case. The Judicial Board Chair should announce the meetings of the Judicial Board to the Judicial Board members at least 24 hours in advance. The Chair(s) shall assign one member of the Judicial Board to each case on a rotating basis as a "Procedural Aide" to provide information about procedure to respondents, complainants, and witnesses, and to keep respondents and complainants informed of the status of the case. Their function shall be to inform complainants, respondents, and witnesses about the hearing process and the Judicial Board Code. The Procedural Aide shall attend but not participate in the hearing, shall not attend the deliberations, and shall not vote. If the Procedural Aide is removed or removes themselves from the case, the Chair(s) of the Judicial Board shall replace them by the process outlined in 4.E.i below.

**4.B.** The Procedural Aide shall be responsible for reserving rooms for the hearing. The Procedural Aide should reserve sufficient rooms for the time of the hearing, in an attempt to provide three separate rooms for the complainant(s), respondent(s), and

witnesses, as well as a hearing room. Furthermore, the Procedural Aide should attempt to limit contact between parties and witnesses outside of the hearing room while the hearing is taking place.

**4.C.** The Procedural Aide should provide each person requested to appear before the board notice of that request at least two calendar days (witnesses) and seven calendar days (parties) before they are scheduled to appear.

**4.D.** The Procedural Aide should inform the respondent(s) of the grounds on which they have allegedly committed a violation as specified in 3.A by providing the respondent(s) with a copy of the written complaint submitted to the Judicial Board at least seven calendar days before the hearing.

**4.E.** For each case:

**4.E.i.** The Chair(s) of the Judicial Board shall assign five members as a Hearing Board, including one member who will serve as the Hearing Board Chair. Should a member of the Hearing Board wish to be disqualified, that member shall inform the Hearing Board Chair and a replacement will be chosen. Should a Chair of the Judicial Board wish to be disqualified for a particular case, the Chair shall inform the Judicial Board, which shall appoint a Chair from its ranks for that case. If the disqualification occurs after the hearing has concluded, the Judicial Board may choose to not replace the member.

**4.E.ii.** The Hearing Board reserves the right to set reasonable limits on the length of hearings, testimony, and opening and closing statements.

**4.E.iii.** The Hearing Board, not individual parties, is responsible for calling witnesses to a hearing.

**4.E.iv.** The Hearing Board reserves the right to decline to accept the testimony of any witness who lacks direct knowledge of the alleged violation or whose testimony the Board believes would in all material aspects duplicate that of another witness.

**4.E.v.** The Hearing Board shall inform all parties of their rights and responsibilities as listed in 4.F.

**4.E.vi.** The Hearing Board may, upon receiving a written request from alleged persons harmed in the same incident, accept them as co-complainants to a case prior to a hearing. Respondents must be provided reasonable notice as necessary to defend the allegations of additional co-complainants. Normally this notice should be provided no later than five calendar days before the hearing.

**4.F.** The Procedural Aide shall make an effort to inform the complainant(s) and the respondent(s) of the following at least four calendar days before the hearing:

**4.F.i.** That each party may request the removal of a member of the Hearing Board and/or the Procedural Aide for a particular case on the grounds of personal bias. The request shall take the form of a written statement to the Chair of the Hearing Board setting forth the basis for the challenge of bias. The request must be submitted no later than three calendar days prior to the hearing. The Hearing Board shall determine whether to sustain or deny the challenge. This determination cannot be appealed prior to the Hearing Board hearing the case.

**4.F.ii.** That the hearing board will schedule an in-person hearing that is closed to the community and that each party has the right to appear before the Hearing Board and to be present for all testimony. That the hearing board will be responsible for setting the date of the in-person hearing. That requests from the party for alternate in-person

hearing dates will be considered, but the hearing board shall determine whether or not to change the date of the in-person hearing. That reasonable accommodations will be made if a party wishes not to be in the same room as the opposed party (complainant opposed to respondent), consistent with the abilities of both parties to have the same access to all testimony that the Hearing Board has. That if a party informs the hearing board that they will not attend the in-person hearing, then the hearing board can request written testimony from the party. That if, 24 hours prior to the scheduled in-person hearing, all parties have informed the Procedural Aide that they will not attend the hearing, the in-person hearing may be canceled and all testimony will be submitted in writing.

**4.F.iii.** That each party may choose one other member of the community to be present as a “second” during the entire hearing. Seconds cannot otherwise be participants in the case. Although the parties may communicate privately with their second(s), the second(s) may not address any other participant in the case during any part of the hearing. As outlined in Section 10.F, in the case of Sexual Misconduct Board hearings, the parties may also select an advisor of their choice to be present during the hearing and related meetings.

**4.F.iv.** That each party may have copies of the Judicial Board Code made available to them prior to the hearing.

**4.F.v.** That, except as precluded by applicable law, each party has the right to inspect, at least two calendar days prior to the hearing, all submitted evidence, as well as a list of witnesses. Any evidence submitted or witnesses added within two calendar days of the hearing should be available for inspection as soon as is practicable. Parties also have the right to inspect all records and documentary material of the proceeding, including the Hearing Board’s determinations of fact and recommendations.

**4.F.vi.** That each party has the right to present testimony and to request the Hearing Board’s consideration of testimony by witnesses; and, that the Hearing Board may request the written testimony or responses to questions from complainants, respondents, or witnesses prior to or during the hearing. Additionally, that they have the right to present written and signed testimony in lieu of oral testimony before the Hearing Board if it is submitted to the Hearing Board Chair before the inception of the hearing. However, any party failing to appear at a Judicial Board hearing relinquishes their right to submit questions to the Hearing Board for the cross-examination of other witnesses.

**4.F.vii.** That parties should not submit testimony that could be considered dishonorable or retaliatory. That, if a party does so in written testimony, the Procedural Aide may give the party the opportunity to revise their written statement before sharing it with the Board. That, if a respondent does so during an in-person hearing, the Board may elect to notify the respondent that their testimony will be added to the potential policy and honor violations being considered in the current case. That, if a complainant does so in an in-person hearing, the Board may elect to notify that party that their testimony can be the subject of a new complaint filed by one of the other parties in the current case.

**4.F.viii.** That each party has the right to be informed of the status of the case. To this end, the Procedural Aide will send notification of all hearings at least seven calendar days prior to the hearing, and written notice of the status of the Hearing Board’s determinations of fact and recommendations within ten working days of the hearing.

**4.F.ix.** That each party has must consent to the disclosure of their oral and written testimony, other documents, the Hearing Board’s findings and recommendations, and the decision of the Vice President for Student Life (or of their designee) to the parties, and that without that consent, that party’s rights, as described in 4.F, are forfeited.



**4.F.x.** That each party should not discuss the procedural aspects of the case or information learned during the hearing process with community members other than their “second”, their advisor in a Sexual Misconduct Board hearing, and/or appropriate support resources, except as is necessary for the honorable development of the party’s testimony, the identification of appropriate witnesses or other evidence, or to assist with law enforcement. This does not prevent either party from discussing with anyone the underlying facts and circumstances giving rise to the complaint.

**4.F.xi.** That there is no requirement to answer any question put by a Hearing Board member during a hearing.

**4.F.xii.** That each party has the right to appeal in accordance with Section 7.

**4.F.xiii.** That prior to the hearing the Hearing Board may defer a case pending a response from a party to the case.

**4.G.** The Hearing Board may, on a case-by-case basis, impose a reasonable time frame in which the respondent must respond to the complaint provided by the Procedural Aide as required in 4.D.

**4.G.i.** Failure to contact the Hearing Board within the prescribed period of time shall be understood as a waiver of the right to be present for the entire hearing. However, the Procedural Aide should make an effort to keep the absent party informed of the case’s proceedings.

**4.G.ii.** An individual who has waived their right to attend, or chosen not to attend a hearing may still submit written testimony in lieu of oral testimony, if it is submitted in accordance with the Hearing Board’s prescribed time frame. However, they relinquish their right to submit questions to the Hearing Board for the cross-examination of other witnesses.

**4.H.** The Hearing Board may request testimony from any member of the community with knowledge of or expertise bearing on the case. The complainant(s) and/or the respondent(s) may also submit a request to the Hearing Board not later than two calendar days previous to the hearing to have a witness from outside the community testify. The Hearing Board shall evaluate the request for such a witness and decide whether or not the witness shall appear.

**4.I.** The Procedural Aide for the case shall inform any person appearing as a witness before the Hearing Board of the following before the hearing:

**4.I.i.** That there is no requirement to answer any question put by a Hearing Board member during a hearing.

**4.I.ii.** That they have the right to present written and signed testimony in lieu of oral testimony before the Hearing Board.

**4.I.iii.** That all hearings are closed to the community, except that the complainant(s), the respondent(s), seconds, and in the Sexual Misconduct Board cases the parties’ advisors may be present at all testimony.

**4.I.iv.** That they are to contact the Hearing Board prior to the hearing if they are unwilling to appear as a witness.

**4.I.v.** That they should maintain confidentiality and not discuss the procedural aspects of the case, or information learned during the hearing process, with community members other than their “second”, their advisor in a Sexual Misconduct Board hearing, or to assist with law enforcement. This does not prevent a witness from discussing with anyone the underlying facts and circumstances giving rise to the complaint.

**4.I.vi.** That they may choose one other member of the community to be present as a “second” during the entire hearing. Although a witness may communicate privately with their second, the second may not address any other participant in the case during any part of the hearing.

**4.I.vii.** Before taking the testimony of a witness in the case, the Hearing Board shall require them to sign a statement that affirms that their testimony shall be truthful to the best of their knowledge, that they consent to the release of their testimony to the parties, and that they agree to the confidentiality requirement specified in 4.I.v. Failure to abide by said statement could result in disciplinary processes including an honor case.

**4.I.viii.** That witnesses should not submit testimony that could be considered dishonorable or retaliatory. That, if a witness does so in written testimony, the Procedural Aide may give the witness the opportunity to revise their written statement before sharing it with the Board. That, if a witness does so in an in-person hearing, the Board may elect to notify that witness that their testimony can be the subject of a new complaint filed by one of the parties in the current case.

**4.J.** Should a participant in a case entirely fail to contact the Hearing Board within the prescribed period of time, the Hearing Board will proceed with the case in the absence of their testimony.

**4.K.** At the conclusion of the hearing, the Hearing Board shall deliberate in closed meeting to arrive at the Hearing Board's determinations of fact and recommendations.

**4.M.** In deciding if a violation has occurred, voting members of the Hearing Board will apply a preponderance of the evidence (“more likely than not”) evidentiary standard, using a unanimity minus-one vote decision rule.

**4.N.** If the proposed sanctions of the Hearing Board require the involvement of Reed community members or offices, the Chair of the Hearing Board shall consult with them prior to the finalization of the Hearing Board's recommendations. Caution shall be taken to avoid unnecessary communication of confidential information.

**4.O.** If additional violations by the respondent(s) not listed in but directly related to the complaint are discovered during testimony, the Hearing Board may issue findings of fact and recommend sanctions accordingly, but only after providing reasonable notice to the respondent(s) of the potential additional violations and an opportunity to provide testimony or other related evidence related to the additional violations.

**4.P.** Violations by the complainant and witnesses directly related to the complaint shall not be subject to disciplinary sanctions, unless reportable offenses such as sexual assault, sexual harassment, stalking, and relationship abuse, including dating and domestic violence.

## **Section 5. Determinations of Facts and Recommendations by the Judicial Board**

**5.A.** If the Hearing Board finds a respondent to have committed a violation as specified in 3.A, it may recommend sanctions the nature and severity of which shall be appropriate to the violation, its circumstances, and the history of offenses by the respondent. Recommended sanctions may include community service, exclusion from campus, disciplinary probation, suspension, or expulsion.

**5.A.i.** Recommendations shall take into account any pertinent information in the records held by the Dean of Students regarding the disposition of those formal complaints and/or mediated disputes that have resulted in a finding of or acknowledgment of a violation. For the purpose of viewing records, the members of the Hearing Board, the Administration Committee of the Faculty, any temporary board or the Appeals Board shall be considered officers of Reed College. This information from the Dean of Students will be consulted after deliberations regarding violations of honor and/or policy have been concluded by the Hearing Board but before a final decision regarding proposed sanctions has been reached.

**5.A.ii.** In cases involving allegations of academic misconduct, the Hearing Board may consult with the faculty member(s) in the case about the faculty member's academic penalty and the Hearing Board's recommended sanction. However, the faculty member(s) directly involved in the case makes the ultimate decision concerning the grade for the assignment and/or course for the student.

**5.A.iii.** If it finds a respondent to have committed a violation, the Hearing Board shall append to its statement of recommended sanctions a recommendation as to whether the violation is serious enough to warrant release of pertinent information to another institution upon request.

**5.B.** Each finding of fact and recommendation of the Hearing Board must be ratified using a unanimity-minus-one-vote decision rule. The findings and recommendations, together with the case file, shall be forwarded to the Vice President for Student Life or their designee for a decision. If the decision of the Vice President for Student Life or designee departs from the recommendations of the board, justification for the departure shall be given to the board and the parties.

**5.B.i.** The Hearing Board shall inform the Vice President for Student Life or their designee of its determinations of fact and recommended sanctions.

**5.B.ii.** Prior to finalizing the Hearing Board's recommended sanctions, the Hearing Board may forward for comment a draft of the recommendations to the Vice President for Student Life or their designee.

**5.B.iii.** The Vice President for Student Life or their designee shall communicate the decision about violations and sanctions to the parties and the Hearing Board.

**5.C.** Should the implementation of sanctions involve the aid of Reed community members not party to the case, the Hearing Board, Dean of Students, and/or the Vice President for Student Life shall use their best judgment in communicating relevant information about the case.

Caution should be taken to avoid unnecessary communication of confidential information. Any individual informed of a decision of the Hearing Board is required to maintain strict confidentiality regarding the case, unless otherwise specified in this policy. A party to the case may disclose their own role in a case. They may also disclose the final outcome of the case, if disclosure is specified in the final letter from the Vice President for Student Life. A party may not disclose the role of other participants in the case without written permission from those participants (filed with the appropriate Board), except where allowed by law.

**5.D.** All sanctions remain in effect during the appeal process unless the Vice President for Student Life waives them. The respondent may submit a written petition to the Vice President for Student Life for such a waiver; however they must do so within five working days of filing the appeal.

## **Section 6. Composition and Selection Procedure for the Appeals Board**

**6.A.** The Appeals Board shall consist of three students (including the President of the Student Body and a Student Senator who is not a member of the Judicial Board), and three members of the faculty. One of the faculty members shall serve as Chair. Each appeal will be heard by four members of the Appeals Board (including the Chair), one of whom must be a student.

**6.B.** If the Chair is a party or witness to the case brought to the Appeals Board, resigns, or is disqualified for any reason, the Vice President for Student Life shall select a temporary Chair for the case from the ranks of the Appeals Board. For the replacement procedure see 6.D.

**6.C.** If the regularly appointed Chair or member(s) of the Appeals Board is not available during the period when the College is not officially in session, then the Vice President for Student Life shall appoint another community member(s) to serve as Chair or member(s) of the Appeals Board for the duration of the appeal. In such cases, the Appeals Board should normally include at least one student member.

**6.D.** Appointed members of the Appeals Board shall be appointed for a term of one year. The Student Senate shall appoint the student body members. To be eligible for service, students must never have been found responsible, under the processes described in this code, for a violation of the Honor Principle or college policies (except for findings of responsibility for minor academic misconduct). Vice President for Student Life, in consultation with the Committee on Academic Policy and Planning, shall appoint the faculty members to the Appeals Board, as set forth in the Faculty Bylaws. The same procedures are followed should an appointed Appeals Board member need to be replaced.

**6.E.** Should any appointed member of the Appeals Board resign or recuse themselves in a particular case, they shall be replaced in accordance with 6.D.

**6.F.** Should any member of the Appeals Board be a party to the case brought to the Appeals Board, they shall be disqualified, and a temporary replacement shall be appointed as in 6.D to serve for the duration of the appeal.

**6.G.** Should any member of the Appeals Board wish to be disqualified for a particular case, that member shall inform the Chair of the Appeals Board, and a temporary replacement shall be appointed as in 6.D to serve for the duration of the appeal. The complainant or respondent may also request the removal of a member of the Appeals Board on the grounds of personal bias by submitting a written statement to the Appeals Board setting forth the basis for the challenge of actual bias no later than two calendar days prior to the meeting of the Appeals Board. The Appeals Board shall determine whether to sustain or deny the challenge. This determination cannot be appealed. If the request is sustained, a replacement shall be appointed to serve temporarily on the Appeals Board as in 6.D.

**6.H.** Should any student member of the Appeals Board be found responsible for a violation of the Honor Principle or college policies (except for findings of responsibility for minor academic misconduct), that member shall be removed from the Appeals Board and be ineligible to serve again.

**6.I.** When the College is in session, a Secretary of the Judicial Board shall act as Secretary of the Appeals Board. When the College is not in session, the Chair of the Appeals Board shall select a Secretary. The Secretary shall keep minutes of the Appeals Board hearings. The Secretary shall not be present during deliberations.

## **Section 7. Appeals**

**7.A.** Ordinarily, the appeals process is not a rehearing of the case. The basis for an appeal shall be limited to the following grounds:

**7.A.i.** The sanctions are believed to be excessively lenient or severe.

**7.A.ii.** There was a procedural error that significantly affected the outcome of the hearing.

**7.A.iii.** New or newly discovered evidence is of a character that it could have significantly affected the outcome of the hearing or the decision of the Vice President for Student Life or of their designee.

**7.B.** Jurisdiction.

**7.B.i.** In all cases, every respondent or complainant has the right to appeal the decision of the Vice President for Student Life (or of their designee). In cases not involving academic misconduct, appeals shall be made in writing to the Chair of the Appeals Board who should contact the members of the Appeals Board within five working days of receiving the appeal in order to schedule a meeting time, generally within no more than a further five working days. A faculty or staff advisor to the Judicial Board will assist the Chair of the Appeals Board with communications and keep respondents and complainants informed of the status of the appeal.

In cases involving academic misconduct, the appeal shall be made following the procedures described in Sections 7.B.ii and 7.B.iv. If a decision resulting from an Alcohol and Other Drug Review Panel recommendation is appealed by either party, the appeal shall be made to the Judicial Board when classes are in session, or shall be made to a Temporary Hearing Board (constituted according to Section 1L of the Judicial Board Code) when classes are not in session.

**7.B.ii.** In cases involving academic misconduct, the appeal must normally be made, in writing, to the Administration Committee of the Faculty in accordance with the Faculty Code and the Reed College Community Constitution.

**7.B.iii.** Should a decision be appealed, the Appeals Board (or, if the appellant(s) desire an out-of-session appeal, a duly-appointed Appeals Board [See 6.A & 6.C]) shall hear the appeal in accordance with the procedures of the Appeals Board as set forth in Sections 6 and 7.

**7.B.iv.** When the Administration Committee has primary jurisdiction in a case involving academic misconduct as in 1.L, the appeal of its decisions shall be brought before the four member 'out-of-session' Appeals Board as described in 6.C.

**7.B.v.** An appeal must be made in writing within ten working days of the notification of the decision of the Administration Committee or the Vice President for Student Life or their designee, unless good cause is shown for filing the appeal later, and shall contain a statement of the grounds of appeal. The Vice President for Student Life or their designee will decide whether or not a late appeal will be heard.

**7.C.** At the time of the appeal, the complete case file shall be forwarded to the appropriate appellate body.

**7.D.** The appropriate appellate body should decide within seven calendar days of notice of an appeal whether to entertain it.

**7.E.** The appellate body shall work from the case file, and may hear testimony as it deems fit, or call for new evidence and testimony. Each appeal document will be shared with all parties in the original case, and the appellate body will provide the parties a period of five working days to provide a written statement to the Appeals Board responding to the issues described in each written appeal. The written responses received by the Appeals Board will be shared with all parties in the case. If the appeal is based on a claim of procedural error, the appellate body may consult the Procedural Aide for that case.

**7.E.i.** If the appellate body chooses to base its decision solely on the documentary record, it shall conduct its deliberations in closed meeting.

**7.E.ii.** If evidence and testimony is reheard or new evidence is heard, the appellate board shall follow the procedure of the Judicial Board as described in Section 4, except that if the appeal is heard by the Appeals Board, a faculty or staff advisor to the Judicial Board shall perform the duties of the Procedural Aide, and if the appeal is heard by the Administration Committee, an administrative member of the Administration Committee shall also perform the duties of the Procedural Aide.

**7.E.iii.** Decisions of the Appeals Board require the agreement of the voting members of the board with no more than one dissenting vote and shall take the form of recommendations to the Vice President for Student Life or their designee. The decider of the appeal shall be a Reed staff member different from the person who made prior decisions in the case. If the decision of the Vice President or designee departs from the recommendations of the board, justification for the departure shall be given to the board and the parties.

**7.F.** The Chair of the appellate board shall send a copy of that board's file to the Chair of the original adjudicating body. The Chair of the appellate board shall be responsible for assembling all appeals files, including the minutes of any hearings or meetings, correspondence to and from the board, and official conclusions and recommendations of the board, and forwarding them to the Dean of Students for deposition.

**7.G.** The Appeals Board shall make a determination regarding any dispute or disagreement over an interpretation of the Judicial Board Code or any other community or college document pertaining to judicial procedures affecting students.

## **Section 8. Publicity**

**8.A.** The Judicial Board, the Sexual Misconduct Board, and each Temporary Hearing Board shall arrange for the publication of a summary report, not violating confidentiality, regarding any matter affecting the College Community, excluding unresolved cases and those cases still subject to appeal, every semester. The report should contain summary statements of the findings and sanctions, recommended by the Boards, as well as the resulting Vice Presidential decisions, as in 5.B, for the previous semester's cases. It shall contain the results of completed appeals processes, including recommendations made by the Appeals Board, and associated Vice Presidential decisions, as in 7.E.iii, or directly by the Vice President for Student Life, as in 7.B.vi. Individual parties may consent to have their names published through a written request filed with the appropriate Board. A copy of the report shall be sent to the Editor of the Quest and to any other regular campus publication that requests the report. The Judicial Board

Advisors shall assist the Chairs of the Judicial Board, the Sexual Misconduct Board, and the Temporary Hearing Boards, in coordinating and publishing their contributions to the report.

**8.B.** Public copies of the reports required by 8.A should be deposited in the College Archives to provide a cumulative record of community judicial decisions of general concern.

## **Section 9. Disposition of Confidential Records**

**9.A.** All records regarding the disposition of those formal complaints and/or mediated disputes which have resulted in a finding of or acknowledgment of a violation shall be placed in confidential disciplinary files, separate from all other records pertaining to a respondent. These files shall be kept, maintained, and protected by the Vice President for Student Life. Each Board may also keep a copy of the file of each particular case it handles, which it shall protect as confidential. When requested to do so, and unless prohibited by law, the Vice President shall open an individual's file for inspection by the Chair of any Board. At their discretion, the Vice President may release summaries of the records or details of a particular case to any faculty member or other officer of the College whom the Vice President believes has a legitimate need to know. Disciplinary records, including any files in the keeping and protection of any Board, shall be maintained for the duration of a student's enrollment at the College, and for seven years thereafter, and should be destroyed at the end of that period.

**9.B.** Should the recommendation to release records pertaining to a Board decision not appear in a Board's determinations of fact and recommendations of sanctions to the Vice President for Student Life, the decision as to whether to release information about violations to other institutions shall be made by the Vice President for Student Life at their discretion. The College shall release any information or records at the written request of the student involved, unless otherwise prohibited by law.

## **Section 10. Sexual Misconduct Board**

**10.A.** The Sexual Misconduct Board shall hear and decide complaints involving sexual assault, sexual harassment, stalking, and relationship abuse, including dating and domestic violence, as defined by the College's Discriminatory Harassment and Sexual Misconduct Policy. For complaints where the Title IX Coordinator determines that the alleged behaviors are covered by the college's Title IX Policy and the definitions therein (Section II), the complaint will instead be addressed by the procedures described in the Title IX Policy, Section V (and later) and the Title IX Grievance Procedure for Students.

**10.B.** The Sexual Misconduct Board should consist of all members of the Student Judicial Board. The chairs of the Student Judicial Board will serve as the Sexual Misconduct Board Chairs. No person shall be permitted to serve as a member of the Board once it is determined via the appropriate adjudicative mechanism that said person has violated the Honor Principle, any law, college policy or civil process.

**10.C.** Each Sexual Misconduct Board hearing shall have a Hearing Facilitator. In choosing the Hearing Facilitator, the Vice President for Student Life shall consult with the Student Body President and Vice President and Judicial and Sexual Misconduct Board Chair(s) before making a final appointment.

**10.D.** All members of the Sexual Misconduct Board and the Hearing Facilitator shall receive training regarding sexual assault, sexual harassment, discriminatory harassment, stalking, relationship abuse, including dating and domestic violence, investigation and adjudication, as well as general training concerning the adjudication of violations of the Honor Principle, community rules and college policies.

**10.E.** Each in-person hearing by the Sexual Misconduct Board shall be conducted by the Hearing Facilitator and a Hearing Board of five members of the Sexual Misconduct Board, appointed by the Chair. The standards and procedures for disqualification of a member of a Hearing Board of the Judicial Board specified in 1.H shall also apply to members of a Hearing Board of the Sexual Misconduct Board. The Chairs of the Sexual Misconduct Board shall appoint one member of the Hearing Board as Chair and an additional member of the Sexual Misconduct Board to serve as the Procedural Aide in the cases. During the hearing, the Hearing Facilitator shall be responsible for questioning all parties and witnesses. The rest of the Hearing Board shall not address the parties or witnesses in any capacity during hearings except for introductions.

**10.F.** In addition to a second, each party may bring an advisor of their choice to a hearing or to any meeting with a Procedural Aide or Facilitator. There shall be no limitations on who may serve as an advisor. While parties may communicate with their respective advisors during the hearing or in meetings, and with their seconds during the hearing, advisors and seconds may not provide testimony or directly address anyone else at the hearing or in any related meeting.

**10.G.** Each witness providing testimony to the Sexual Misconduct Board may bring an advisor and a second to any meeting with a procedural aide and to a hearing. Each witness may communicate with their advisor and second during the hearing. The advisors and seconds may not provide testimony or directly address anyone else at the hearing.

**10.H.** The Procedural Aide and the Hearing Facilitator shall be responsible for communicating information about the hearing process to the parties, and the parties' or witnesses' seconds. The Hearing Facilitator shall be responsible for communicating information about the hearing process to the parties' or witnesses' advisors.

**10.I.** In addition to Section 4.F.x, participants in any case being heard by the Sexual Misconduct Board are permitted to discuss the case with college staff (including student staff) who have been designated as confidential resources. Parties and witnesses shall also be permitted to communicate with college staff designated by the Dean of Students as support resources in the Honor Process. The Procedural Aide will provide parties with the names and contact information of the support resources.

**10.J.** The Board reserves the right to remove from a hearing any parties, witnesses, their seconds or advisors who fail to abide by the limits and procedures as described here or set by the Hearing Board.

**10.K.** At the conclusion of a hearing, the Hearing Board shall deliberate in a closed meeting to arrive at the Hearing Board's determination of fact and recommendations. The Hearing Facilitator shall not be present or participate.

## **Policy History**

Approved at the March 10, 1997 faculty meeting.



Amended by the senate and CAC and approved by the faculty on September 23, 1997.  
Amended by the senate, approved by the CAC, and approved by the faculty on March 4, 1998.

Amendments proposed by the 2002 Judicial Documents Review Committee, approved by the CAC and the Senate in spring 2005, and approved by the faculty on September 26, 2005.

Amendments proposed by the Judicial Board, approved by the CAC and Senate in spring 2011 and approved by the faculty on May 27, 2011.

Amendments proposed by the CAC, approved by the Senate October 31, 2011, and approved by the faculty on November 7, 2011.

Amendment proposed by the CAC, approved by the Senate in May 2012, and approved by the faculty on May 18, 2012.

Amendments proposed by the CAC, approved by the faculty on November 3, 2014, and approved by the Senate November 7, 2014.

Amendments proposed by the CAC, approved by the Senate on April 23, 2015, and approved by the faculty on May 15, 2015.

Amendments proposed by the CAC, approved by the Senate on May 3, 2019, and approved by the faculty on May 17, 2019.

Amended under the authority of the College President to conform with the newly enacted college Title IX Policy, August 14, 2020.

Amended under the authority of the College President as an interim measure to ensure ongoing access to adjudication while staff service on boards is reviewed, August 5, 2022.