Carolina Judicial Council
Abusive Conduct or Sexual Misconduct
Full Hearing Guide

Case #: CASE NUMBER
Date: DATE
Time: TIME
Chair: STUDENT MEMBER

Respondent(s):
1. RESPONDENT 1
2. RESPONDENT 2
3. RESPONDENT 3

Respondent(s) Advisor(s):
1. __________________________

Complainant(s):
1. COMPLAINANT 1
2. COMPLAINANT 2

Complainant(s) Advisor(s):
1. __________________________

University Representatives:
1. HEARING OFFICER
2. HEARING OFFICER

Council Members:
1. FACULTY MEMBER
2. FACULTY MEMBER
3. STUDENT MEMBER
4. STUDENT MEMBER
5. STUDENT MEMBER

Witnesses:
1. __________________________
2. __________________________
3. __________________________
4. __________________________
I. Introductions

Good MORNING/AFTERNOON. My name is HEARING CHAIR and my role as chair is to facilitate today’s hearing. For the purpose of introductions, please state your name and role, whether you are the respondent, advisor, university representative, council member, witness, or observer.

Note to chair: If the charged student is not present at the hearing, please read the following statement:

Please note that the practice of the Office of Student Conduct and Academic Integrity allows this hearing to proceed for a period of 15 minutes after the scheduled start time without the charged student present. If the charged student does not enter the hearing room within 15 minutes of the hearing start time, the findings and sanctions imposed by the original conduct administrator will stand and the hearing will adjourn.

Note to chair: Keep an eye on the time. If the hearing has proceeded for a full 15 minutes and the charged student has not arrived, please make the following statement:

Because the charged student has not entered the hearing room within 15 minutes of these hearing proceedings, the findings and sanctions imposed by the original conduct administrator will stand.

Then, skip to XX and read the “Statement Regarding Confidentiality” and “Adjournment” sections.

II. Pre-Hearing Remarks

Today, DATE at TIME, members of the Carolina Judicial Council are here to consider case number CASE NUMBER. This hearing is being recorded by the university and is the only recording permitted. All responses to questions and statements must be verbal and be preceded by your name. If engaged in dialogue, it is not necessary to continually restate your name. Please speak loudly and clearly.

III. Warning of Contempt/Confidentiality

Behavior which disrupts the orderly progression of the hearing or intimidates or harasses the hearing participants will not be tolerated. Panel members, witnesses, university representatives, and advisors, please remember that information shared during this hearing is confidential.

Oath/Honors Statement

All persons participating in this hearing are obligated to tell the truth at all times. The student code of conduct prohibits misrepresenting the truth or making false statements before a university hearing panel. Students who violate this policy may face additional charges.

Amnesty

Amnesty will be granted to students who may have violated the Alcohol and/or Drug Policies at the time of the incident when they became involved in an incident of sexual assault, sexual harassment or interpersonal violence. Therefore, a charge of violating the Alcohol and/or Drug Policy will not be
applied to a student who reports that they were under the influence of alcohol or drugs at the time of the suspected interpersonal violence.

IV. Witness Excusal

All witnesses will be excused momentarily. You are to refrain from discussing this incident until called. When witness testimony begins, you will be called into the hearing one at a time to provide your information. At this time, all witnesses are excused.

Note to chair: If witnesses look confused, direct them to wait in the lobby. Let them know that someone will be out to get them shortly in order to provide testimony.

V. Challenge of Impartiality

Does RESPONDENT believe that any member of the hearing panel would be unable to impartially review this case?

Write the respondent’s response below. If they have no concerns, write “none”.

Response: 

Does COMPLAINANT believe that any member of the hearing panel would be unable to impartially review this case?

Write the complainant’s response below. If they have no concerns, write “none”.

Response: 

VI. Establish Quorum

Note to chair: A quorum is three students, and two faculty and/or staff members. The university representative will provide the respondent with a waiver if/when quorum is not present.

IF A QUORUM DOES EXIST:
We have five Council members available to hear this case. A quorum has been established and we will now proceed.

IF A QUORUM DOES NOT EXIST:
Because this is not the appropriate composition needed to establish a quorum, RESPONDENT may choose to either have the case heard now with the current panel, or can request to reschedule this hearing to allow for a full panel. RESPONDENT, how would you like to proceed?

Respondent (s)’ Response

VII. Process Review

I want to take a moment to go over today’s hearing. All parties and the council members have had an opportunity to review the incident report and the university policies which RESPONDENT is alleged to have violated. The proceedings will begin with a personal introduction from RESPONDENT. During personal introductions, COMPLAINANT may elect to participate, but is not required to do so. This will be followed by readings of the Incident Report. Council members will
have an opportunity to ask questions to learn more about RESPONDENT and the incident. All parties will also have the opportunity to ask questions of any witnesses.

In accordance with federal guidelines the respondent will not have the opportunity to directly question the student who brought forward the information leading to the charge. Instead, any questions RESPONDENT has for COMPLAINANT will be presented in writing to the Office of Student Conduct representative. The representative will present the questions to COMPLAINANT if deemed relevant and appropriate. Likewise, if COMPLAINANT has any questions for RESPONDENT, they are also to be conveyed in writing through the Office of Student Conduct representative. This procedure is in place to prevent the intimidation or harassment of any hearing participants.

Finally, we will ask for a summation of the case to be provided by both the university representatives and RESPONDENT. Again, COMPLAINANT may elect to speak during the university’s summation, but is not required to do so. Following the presentation of the case, we will ask all parties to step out while the council deliberates. Once the council has reached a decision we will reconvene.

In order for RESPONDENT to be found responsible, information presented must show that it is more likely than not that RESPONDENT violated the student code of conduct. If there is a finding of responsibility, the council will request information regarding sanctioning from the both RESPONDENT and the university representative. During this time, COMPLAINANT may also make an Impact Statement, addressing how the incident has affected them. If there is no finding of responsibility, this council will adjourn.

All disputes are to be settled by the hearing chair. The decision to allow or exclude certain evidence, testimony, questions, or behaviors will be settled by the hearing chair. If at any point any hearing participants would like a recess to regain composure, please direct that request to the hearing chair. Likewise, the hearing chair may call recess at any point throughout the proceedings. Please understand that our process is designed to be educational in nature.

VIII. Statement of Charges

RESPONDENT, you are charged with allegedly violating the following university policies:

- **CHARGE 1**, which reads ... *(read policy)*
- **CHARGE 2**, which reads ... *(read policy)*
- **CHARGE 3**, which reads ... *(read policy)*

Do you, RESPONDENT, understand the charges as they have been read? Please respond yes or no. *(Circle one)*

For the record, please verify the findings you contest by responding either “Responsible” or “Not Responsible” to each charge as it is read: *(Circle R or NR)*

<table>
<thead>
<tr>
<th>Charge:</th>
<th>Responsible</th>
<th>Not Responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHARGE 1</td>
<td>R</td>
<td>NR</td>
</tr>
<tr>
<td>CHARGE 2</td>
<td>R</td>
<td>NR</td>
</tr>
<tr>
<td>CHARGE 3</td>
<td>R</td>
<td>NR</td>
</tr>
</tbody>
</table>
IX. Personal Introductions of Involved Parties

RESPONDENT, will you begin by telling the panel about yourself? This statement can include hometown, major, hobbies, future goals/plans, etc.

(Response)

Note to complainant: A response to the following question is optional. If you do not wish to respond, please state as such to the hearing chair when prompted.

COMPLAINANT, will you begin by telling the panel about yourself? This statement can include hometown, major, hobbies, future goals/plans, etc.

(Response)

X. Incident Information

Thank you. I will now read the incident report.

Note to chair: at this time, read the incident report. If there are multiple incident reports, discuss with the hearing officer prior to the hearing which one(s) to read.

Does the university wish to call a representative from EOP as a witness to discuss their investigative report?

The university wishes to call EOP REPRESENTATIVE.

Note: For the University Witness:
The council calls __________________________. Please loudly and clearly state your name.
(Response) You have been called to provide truthful information regarding this case. Do you agree to tell the truth? (Response)

a. Does the university have any questions for the witness?

b. Does COMPLAINANT have any questions for the witness?

c. Does RESPONDENT have any questions for the witness?

d. Does the council have any questions for the witness?

Note to chair: Continue to ask these questions, in order, until all parties have responded in the negative.

Does anyone have any final questions for the witness? If there are no more questions, this witness is excused. This witness is returning to work however they have left their cell phone number and can be reached via phone if anyone has any additional questions for them.

The council would now like to ask questions of the respondent. You may opt not to answer questions, but please understand that a decision will be made with the available information regardless of whether or not you contribute to it.

RESPONDENT, will you please tell us what happened? (if they ask where to start, suggest at the beginning)

(Response)

Does the university have any questions for respondent?

Does COMPLAINANT have any questions for respondent?

Does the council have any questions for respondent?

Does anyone have any further questions for respondent?
The council would now like to ask questions of COMPLAINANT. You may opt not to answer questions, but please understand that a decision will be made with the available information regardless of whether or not you contribute to it.

COMPLAINANT, will you please help us understand what you remember about your experience?  
(Response)

Does the university have any questions for COMPLAINANT?  
Does RESPONDENT have any questions for COMPLAINANT?  
Does the council have any questions for COMPLAINANT?  
Does anyone have any further questions for COMPLAINANT?

XI. Witness Statements

Does the university wish to call any witnesses?  
The university wishes to call ________________________.

Note: For each University Witness:
The council calls _________________________. Please loudly and clearly state your name.  
(Response) You have been called to provide truthful information regarding this case. Do you agree to tell the truth? (Response)

Note to chair: Only read this statement if the witness is a university student.  
Please note that providing false information is a violation of the student code of conduct and may result in disciplinary action.

a. Does the university have any questions for the witness?  
b. Does COMPLAINANT have any questions for the witness?  
c. Does RESPONDENT have any questions for the witness?  
d. Does the council have any questions for the witness?  
Note to chair: Continue to ask these questions, in order, until all parties have responded in the negative.

Does anyone have any final questions for the witness? If there are no more questions, this witness is excused. We would ask that you please remain nearby should you be recalled. The witness is reminded to not discuss this hearing with any other party after they leave this room.

Does the University wish to call any more witnesses?  
(Response)

If yes, return to the table above and follow the procedure.

Does COMPLAINANT wish to call any witnesses?  
(Response)

Note: For each Complainant’s Witness:
The council calls _________________________. Please loudly and clearly state your name.  
(Response) You have been called to provide truthful information regarding this case. Do you agree to tell the truth? (Response)

Note to chair: Only read this statement if the witness is a university student.
Please note that providing false information is a violation of the student code of conduct and may result in disciplinary action.

a. Does COMPLAINANT have any questions for the witness?
b. Does the university have any questions for the witness?
c. Does RESPONDENT have any questions for the witness?
d. Does the council have any questions for the witness?

Note to chair: Continue to ask these questions, in order, until all parties have responded in the negative.

Does anyone have any final questions for the witness?

If there are no more questions, this witness is excused. We would ask that you please remain nearby should you be recalled. The witness is reminded to not discuss this hearing with any other party after they leave this room.

Does COMPLAINANT wish to call any more witnesses?
(Response)
If yes, please return to the table for complainant’s witnesses.

Does RESPONDENT wish to call any witnesses?
(Response)

Note: For each Student Witness:
The council calls __________________________. Please loudly and clearly state your name.
(Response) You have been called to provide truthful information regarding this case. Do you agree to tell the truth? (Response)

Note to chair: Only read this statement if the witness is a university student.
Please note that providing false information is a violation of the student code of conduct and may result in disciplinary action.

a. Does RESPONDENT have any questions for the witness?
b. Does the university have any questions for the witness?
c. Does COMPLAINANT have any questions for the witness?
d. Does the council have any questions for the witness?

Note to chair: Continue to ask these questions, in order, until all parties have responded in the negative.

Does anyone have any final questions for the witness?

If there are no more questions, this witness is excused. We would ask that you please remain nearby should you be recalled. The witness is reminded to not discuss this hearing with any other party after they leave this room.

Does RESPONDENT wish to call any more witnesses?
(Response)
If yes, please return to the table for respondent’s witnesses.

This is the last opportunity to recall any witness. Does anyone, including members of the council, wish to recall any witnesses?
If yes, return to the appropriate table and follow the procedure.

If it is necessary to break for a short recess, due to a large number of witnesses or emotional distress among the participants, please read the following.

If there are no more witnesses, we will take a short recess. We will reconvene in (an appropriate amount of time) to proceed with summations.

XII. Summations
Prior to Summations, does any party wish to clarify any information that has been discussed today?

Prior to Summations, does any party have any final questions?

Would the university like to make a final statement regarding this case?
(Response)

Would COMPLAINANT like to make a final statement regarding this case? (This can include any facts, key points, or statements strictly regarding the incident or the policy violation which will help the panel while deliberating responsible or not responsible)
(Response)

Would RESPONDENT like to make a final statement regarding this case? (This can include any facts, key points, or statements strictly regarding the incident or the policy violation which will help the panel while deliberating responsible or not responsible)
(Response)

Does the council have any final questions for any parties?
(Response)

XIII. Council Deliberation

The council will now deliberate to decide if the respondent is responsible or not responsible for the charges. If the council has a procedural question, they will call an Office of Student Conduct and Academic Integrity staff member to answer those questions. Once the council reaches a decision, we will reconvene.

Everyone, except for members of the council, is now excused for deliberation. 
Note to chair: The council must find the respondent either “Responsible” or “Not Responsible” for each charge. A “Responsible” decision needs to be based on a preponderance of the evidence (more likely than not). In determining responsibility, consider only what actions occurred and whether they constitute a violation of university policy. Mitigating circumstances are only relevant during sanctioning.

XIV. Statement of Findings

Once the council has reached a decision, bring the respondent, any advisors, and university representatives back into the hearing room. Call the hearing to order and read one of the following.

IF RESPONDENT IS “NOT RESPONSIBLE”
The council has found RESPONDENT “Not Responsible” for all charges on the grounds that sufficient evidence was not presented. This hearing is confidential and should not be discussed by anyone present after they leave this room. Thank you for your participation.

Note to Chair: skip now to section XIX on page 10.
XV. Statement of Findings

IF RESPONDENT IS “RESPONSIBLE”

The council has determined that RESPONDENT is responsible for the following charges:

1. __________________________
2. __________________________
3. __________________________

The council’s rationale is: ____________________________________________
_______________________________________________________________
_______________________________________________________________

XVI. Prior Record

At this point the council would like to ask for any prior records pertaining to RESPONDENT. Federal regulations prevent any other parties from being present for this portion of the hearing. At this point COMPLAINANT is excused momentarily for all discussions pertaining to prior records for the respondent.

Note to chair: Have one of the university representatives walk the complainant outside and wait in the lobby while prior record discussions take place.

Will the university present any prior records for RESPONDENT?

Note to chair: If the respondent has no prior record, move on to “Recommended Sanctions”

Would RESPONDENT like to comment briefly on their prior record?

Does the council have any questions regarding the prior record?

Note to chair: Bring the complainant back into the room and proceed with recommended sanctions.

XVII. Recommended Sanctions

Would COMPLAINANT like to make an impact statement?

What are the university’s recommended sanctions?
(Response)
Does the council have any questions for the university?

What are RESPONDENT’s recommended sanctions?
(Response)
Does the council have any questions for RESPONDENT?

Does the university wish to respond?
Does the council have any final questions it wishes to ask?

When there are no more questions the council wishes to ask, please read the following:

RESPONDENT , the panel is required to consider suspending any student found responsible for Interpersonal Violence, however the panel may impose any sanction that it finds to be fair and proportionate to the violation. Members of the council will now determine the sanctions for RESPONDENT . The committee will refer to precedent and University policy, while maintaining the educational mission of the Office of Student Conduct. If the council has any procedural questions they will call an Office of Student Conduct and Academic Integrity staff member. Everyone else is excused.

XVIII. Deliberation to Determine Sanctions

Note to chair: At this point the council must determine sanctions for the respondent. The panel is required to consider suspending any student found responsible for sexual assault, however the panel may impose any sanction that it finds to be fair and proportionate to the violation.

Additionally, the panel should consider the requirements of the University under Title IX. These requirements include that the University will:

a. Work to immediately stop the harassment
b. Remedy the effects of the incident
c. Prevent its recurrence

During this deliberation, consider the student’s prior record, as well as the severity of the offense and university precedent. Feel free to consult the sanctioning grid and ask questions of Office of Student Conduct and Academic Integrity staff members as appropriate. Keep in mind that at its core, the hearing process is designed to be educational, rather than merely punitive, and that each sanction given should fall into one of the following categories.

a. Have a specific learning outcome.
b. Be designed to protect the safety of members of the Carolina Community
c. Be a university standard fine

When the council has come to a consensus on sanctioning, bring the respondent, any advisors, and university representatives back into the hearing room. Call the hearing to order and read the following.

The council has reached a decision. RESPONDENT will be required to complete the following sanctions:

1._____________________________________________________________
2._____________________________________________________________
3._____________________________________________________________
4._____________________________________________________________
5._____________________________________________________________
The committee’s rationale is:

______________________________________________________________________________________________
______________________________________________________________________________________________
______________________________________________________________________________________________

We hope these sanctions will promote personal growth and learning, as well as serve as a means of reflection on how to better meet community obligations.

XIX. Title IX Compliance

In order to comply with Title IX requirements, cases involving sexual assault, hazing, discrimination, harassment, stalking, or relationship violence will contain the following stipulation. The University of South Carolina will notify all parties of the proceedings at or near the same time. This includes both the respondent and complainant. Written notification will occur for outcomes, sanctions, and appeal procedures or updates will also occur at or near the same time.

XX. Appeal Procedure

Students shall have five university business days from the date the decision letter is received to submit a written request for an appeal. If there is no appeal within this time limit, the decision of this council shall be implemented.

To appeal the findings of this council, you must do so via the appeals form located on the OSC website. The Office of Student Conduct will forward it with a response memorandum to the Title IX Appellate Committee. An appeal may be made for the following reasons:

(a) A procedural error was committed that has significantly prejudiced the findings of the Hearing Council; or
(b) new evidence which could not have been available at the time of the hearing AND would have a significant effect on the outcome of the case is now available.

The Title IX Appellate Committee will review the appeal and may decide one of the following:

(a) Affirm the decision of the hearing authority, in which case the decision is final, or
(b) Remand the case to the original hearing authority for further proceedings with directives to attend to procedural errors or new evidence.

When an appeal is submitted, the other student involved in the incident will be notified, given a copy of the appeal, and is permitted to submit his or her own appeal within five days. Both appeals will be considered simultaneously. Once a decision is made, both parties will be notified.

XXI. Statement Regarding Confidentiality

I must emphasize again to the panel members, witnesses, university representatives, and advisors that this hearing is confidential and should not be discussed after they leave this room. Thank you for your participation in this hearing.

XXII. Adjournment

This hearing is adjourned at ____________ (TIME).